

DATE ISSUED: April 19th, 2023

CAPE FEAR PUBLIC UTILITY AUTHORITY
REQUEST QUALIFICATIONS FOR:
SOUTHSIDE WASTEWATER TREATMENT PLANT REPLACEMENT & CAPACITY
UPGRADE



Time and Date of Pre-Submittal Conference

May 5, 2023 @ 1:00 PM

Deadline for Inquiries

May 23, 2023 @ 2:00 PM

Time and Date Set for Submittal

June 1, 2023 @ 2:00 PM

REQUEST FOR QUALIFICATIONS (RFQs)
FOR
DESIGN-BUILD SERVICES

SOUTHSIDE WASTEWATER TREATMENT PLANT REPLACEMENT & CAPACITY UPGRADE
INFORMATION AND INSTRUCTIONS TO DESIGN-BUILDERS

1 GENERAL INFORMATION

- 1.1 Cape Fear Public Utility Authority (CFPUA) intends to procure a qualified Design-Builder (DB) to provide design and construction services for the replacement and capacity upgrade of the M’Kean Maffitt (Southside) Wastewater Treatment Plant (SWWTP). The project is located at 3436 River Road, Wilmington, NC 28412.
- 1.2 Sealed Statement of Qualifications (SOQ) must be received by the Finance Department at 235 Government Center Drive, Wilmington, NC 28403 no later than June 1, 2023 at 2:00 PM.
- 1.3 CFPUA will address questions regarding the RFQ until 2:00 PM on May 23, 2023. Questions submitted after this time will not be addressed. Questions should be directed to Ben Guerrieri, Procurement Manager, Cape Fear Public Utility Authority, at bids@cfpua.org.
- 1.4 CFPUA shall not be held responsible for any oral instructions. Any changes to this Request for Qualifications (RFQ) will be in the form of an addendum, which will be furnished to all registered RFQ holders. Please register by email at bids@cfpua.org and provide company name and contact information.
- 1.5 CFPUA reserves the right to reject any or all SOQ’s to waive any informality or irregularity in any SOQ received, and to be the sole judge of the merits of the respective SOQ received.
- 1.6 A pre-submittal conference for the Project will be held May 5, 2023, at 1 p.m. local time at SWWTP located at 3436 River Rd, Wilmington, NC 28412. CFPUA staff will discuss the scope of work, general contract issues and respond to questions from the attendees. Because staff will not be available to respond to individual inquiries regarding the project scope outside of this pre-submittal conference, attendance at this pre-submittal conference is not required, however, highly recommended.
- 1.7 Project Site Visit: A project site visit will be conducted May 5, 2023 at 1 p.m. local time at the WWTP located at 3436 River Road, Wilmington, NC 28412. If additional site visits are needed the design-builder shall request via bids@cfpua.org
- 1.8 Project Description: The Southside Wastewater Treatment Plant was originally constructed in 1972 with a permitted treatment capacity of 6 million gallons per day (mgd). In 1986, the plant was expanded to 12 mgd. Much of the Southside plant’s infrastructure has been in service over fifty years and is approaching the end of its



lifecycle. The Southside WWTP Replacement & Capacity Upgrade project will replace the plant and increase treatment capacity from 12 to at least 16 mgd.

This project will entail design, permitting, and construction for a replacement and a capacity upgrade. The selected DB will form a team with CFPUA and execute preliminary and final comprehensive agreements for design and construction along with the plant replacement and capacity upgrade for a total project cost not to exceeding the approved budget amount. This project may receive SRF funding and Federal Appropriations.

Total Estimated Design-Build Project Budget: \$220,000,000 - \$240,000,000

The project's anticipated schedule is to be **substantially complete in July of 2029**.

- 1.9 The DB will be selected by proposal that is most advantageous to CFPUA and based on qualifications as outlined in Section 3 of this RFQ.
- 1.10 The Design Build services will be performed using Design Build Institute of America (DBIA) contract documents with one entity identified as the DB. Services will include all necessary activities to design and construct the project.
- 1.11 The DB will be an integral member of the Project Team, consisting of the DB, representatives from CFPUA, and other consultants required. It will be the responsibility of the DB to integrate the design and construction phases, utilizing skills and knowledge of design and general contracting, to provide design, code analysis, value engineering and constructability reviews, develop schedules, prepare detailed project construction estimates, study labor conditions, and, in any other way deemed necessary, to contribute to the development of the Project during the pre-construction/design phase. Planning of maintaining existing plant operations during construction shall be a critical portion of the pre-construction/design phase.
- 1.12 The DB assumes design and construction risk and has direct authority over the sub-consultants and subcontractors. The DB will act as the CFPUA's fiduciary and have a relationship of trust and confidence between itself and CFPUA. CFPUA intends to enter into a Preliminary Design-Build Agreement with the selected Design-Build firm utilizing standard DBIA contract documents. Upon completion of the preliminary design-build scope of work, the DB firm will provide a Guaranteed Maximum Price (GMP) proposal. The Project will be an "open book" job whereby CFPUA may attend any and all meetings of the DB firm relating to the Project and have access to any and all books and records of the DB relating to the Project.
- 1.13 Given the size and scope of the project, CFPUA has selected HDR Engineering, Inc. of the Carolinas ("HDR" or "Owner's Advisor") as an Owner's Advisor to assist CFPUA staff in the Design-Build Procurement process.

CFPUA is evaluating multiple funding options for the project, including federal funds. All federal Uniform Guidance requirements will apply if federal funds are utilized in addition to all State requirements. These terms and conditions can be found at the end of this solicitation. Additionally, based on funding sources, MWBE outreach goals may differ from CFPUA's standard goals found here: <http://www.cfpua.org/DocumentCenter/Home/View/370>

2- ANTICIPATED SCOPE OF WORK

2.1 The scope of work will be generally delivered in a two phased Progressive DB approach as described below.

- Phase 1 – Design and Pre-Construction Services: It is anticipated that the scope of services for Phase 1 will be negotiated on a lump sum basis and will require approval by CFPUA. During this phase, the scope of services will include overall project scoping, design workshops, development of an initial opinion of cost, design services through a 30% submittal package (with cost opinion update), and design completion to 60% or greater (with cost opinion update), development of a plan for CFPUA to maintain plant operation during construction, and with the preparation and delivery of a Guaranteed Maximum Price (GMP) and schedule for Phase 2.

In addition, the CFPUA will work with the Design-Builder to finalize the terms of the Design-Builder Agreement for Phase 2. If the parties can negotiate the Agreement for Phase 2 including, but not limited to: scope, schedule, contract terms, and GMP then the Design-Builder will be authorized to proceed with Phase 2. It should be noted that the CFPUA must be able to demonstrate that execution of the Phase 2 work is cost-effective, allows for local sub-contractor competition, achieves schedule milestones, and meets the needs of the CFPUA. If a Phase 2 Agreement is not reached, then CFPUA will have no further contractual responsibility to the Design-Builder and may seek alternatives to project completion.

- Phase 2 – Design-Build Services Agreement: Phase 2 Design-Build work will include completion of design services, construction, start-up, training, testing and final project completion as outlined in the Design-Build Agreement.

2.2 In general, the project scope of work includes design and construction for the following key elements:

- Headworks Facility – Including fine screens, grit removal equipment, and supporting equipment (washer compactors for screenings, grit pumps, grit classifiers, and separate collection bins for screenings/grit).
- Primary clarifiers and primary sludge pump station.
- Biological treatment process with blowers, recirculation pumps, mixers, and aeration equipment.
- Secondary and waste activated sludge pump station.
- Filters with new backwash and air scour components.
- Ultraviolet Disinfection Facility.
- Provide new outfall infrastructure capable of 16 mgd or greater.
- Biosolids and gas handling Facility – Including new digesters, digester control building, odor control, belt filter press dewatering, cake conveyance, and expanded cake storage

area. Evaluate the existing solids handling process and incorporate into the new design if viable.

- Provide planning and space for a potable and non-potable water reuse facility.
- Chemical feed facilities.
- Provide new power generators to accommodate power demands.
- Expand and retrofit Operations Building and Laboratory Facility.
- Sustainability solutions - Provide sustainable solutions with a balance of cost and benefit, determine best-fit solutions for beneficial reuse of biogas, solids, and potential non-potable reuse of effluent water, and options for reserving space for future potable reuse of effluent water.
- Other miscellaneous improvements.

The Owner's Advisor is currently developing the Owners Project Criteria (OPC) which will include a more defined scope of work. The OPC will be incorporated into the DBs the prime agreement.

2.3 After being selected, the DB will execute a contract with CFPUA to provide design and construction services of the project including, but not limited to:

- Project management and administration through project leadership and overall team coordination.
- Implement a job specific safety plan for design and construction related activities.
- Lead interactive design workshops with CFPUA staff and the Owner's Advisor.
- Complete all preliminary and final design engineering efforts for the project with design document submittals at 30%, 60%, 90%, and 100%.
- Develop an initial opinion of cost and then update that cost opinion during design development with submittals at the 30% design stage, 60% design stage and GMP. An updated cost opinion should be maintained throughout Phase 1 effort. Develop construction cost models, estimates based on marketplace conditions, and cash flow analyses.
- Complete all surveying, SUE, and geotechnical engineering required for successful design and construction and development of construction pricing.
- Evaluate and complete any early work packages or early equipment procurement packages that benefit the overall project.
- Provide interdisciplinary coordination, review of codes and standards, perform value engineering, offer cost savings suggestions, and best value recommendations.
- Perform constructability review, construction sequence planning and scheduling.

- Obtain permits required for project construction.
- Coordinate with the CFPUA's operations, maintenance, and management team to provide maintenance of plant operations during construction.
- Develop design drawings for critical processes utilizing Building Information Modeling (BIM) software is preferred however not required.
- Provide quality assurance and quality control plan for both design and construction.
- Provide engineering services during construction to include RFIs, shop drawing reviews, Design Builder change order requests, factory witness equipment testing observation and reports, preparation of record drawings, and project management support.
- Provide all construction management services related to the DB's scope of work.
- Evaluate the lead containment in the firing range berm and remove/dispose if required.
- Lead start-up, performance testing, and any necessary training of CFPUA staff in successful operation of the Wastewater Treatment Plant.
- Complete project close-out activities including final punch-lists, operations and maintenance manual production, training, project certifications, documentation for asset management, and warranty efforts.
- Provide conformed record drawings, O&M Manuals, training and test results.
- The DB will assume the risk of delivering the Project and will be responsible for construction means and methods.

3 - STATEMENT OF QUALIFICATIONS SELECTION CRITERIA

- 3.1 Firms interested in providing design build services must submit a Statement of Qualifications (SOQ) that addresses the following evaluation criteria. Applicants are encouraged to organize their submissions in such a way as to follow the general evaluation criteria listed below. Information included within the SOQ may be used to evaluate your firm as part of any criteria regardless of where that information is found within the SOQ. Information obtained from the SOQ and from any other relevant source may be used in the evaluation and selection process.
- 3.2 Cover Letter (1-page) containing at a minimum:
Company name, contact name, address, fax number, and email address
- 3.3 Qualifications Criteria

For the development of a shortlist, a rating system will be utilized by CFPUA to score and rank each proposal. Proposers are encouraged to keep their proposals concise and to



include a minimum of marketing materials. At a minimum, each proposal must address the following criteria:

Item	Evaluation Criteria	Maximum Points
1	General Information	5
2	Relevant Firm Experience and References	20
3	Project Team Qualifications and Availability of Resources	20
4	Project Understanding and Implementation	10
5	Approach to Project Management, Communications and Schedule Adherence	10
6	Innovative Ideas	15
7	Approach to Safety	5
8	MBE, WBE, SBE, DBE and Small Business Participation Outreach Plan	5
9	Price Factors	5
10	Other Factors	5
11	Financial & Legal	Pass/Fail
Total Possible Points		100

*Interviews are optional. If interviews are conducted, both the SOQ and interview will be considered in the final score for each criterion.

Evaluation Criteria 1 - General Information

- a. Description of firm/team
- b. Legal company organization; organizational chart with names. The organizational chart shall also include major subcontractors.
- c. Identify the Project Manager for the DB firm who will be assigned to this project.
- d. Each Proposer shall submit in its response to this RFQ an explanation of its project team selection consisting of either of the following team selection options:
 - I. A list of the licensed contractors, licensed subcontractors, and design professionals whom the design-builder proposes to use for the project's design and construction. If this project team selection option is used, the design-builder may self-perform some or all of the work with employees of the design-builder and, without bidding, also enter into negotiated subcontracts to perform some or all of the work with subcontractors, including, but not exclusively with, those identified in the list. In submitting its list, the design-builder may, but is not required to, include one or more unlicensed subcontractors the design-builder proposes to use. If this project team selection option is used, the design-builder may, at its election and with or without the use of negotiated subcontracts, accept bids for the selection of one or more of its first-tier subcontractors; or,
 - II. A list of the licensed contractors and design professionals whom the design-builder proposes to use for the project's design and construction



and an outline of the strategy the design-builder plans to use for open subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes. If this project team selection option is used, the design-builder may also self-perform some of the work with employees of the design-builder, but shall not enter into negotiated contracts with first-tier subcontractors.

Evaluation Criteria 2 - Relevant Firm Experience and References

- a. Applicant's service capabilities and quality as it relates to this project.
- b. List and briefly describe 3 comparable projects completed by your firm or currently in progress; include your firm's role, and discuss contract amendment history, if applicable. For each project, include contract value and construction value (original value plus contract amendments, if applicable), project owner, project location, contact name and title, address, current and accurate telephone number, and email address (if available). Projects involving Design-Build and construction of wastewater treatment facilities expansions at or over 16 MGD will have an increased weight in the evaluation process.
- c. A minimum of three referrals and references from other agencies and owners. If possible, references should be from the projects listed above.
- d. Type and amount of total self-performed work that was completed (for completed projects) or is anticipated (for on-going projects).

Evaluation Criteria 3 - Project Team Qualifications and Availability of Resources

- a. Provide an overall organizational chart (showing Team Members, Key Team Members, and their firm affiliation) for all phases of the Project from design through final acceptance and warranty maintenance period with names, including subcontractors.
- b. Briefly describe each team member's role on this project.
- c. Provide "team" experience working together on similar projects.
- d. Explain your understanding of, and experience with, the Progressive Design-Build Delivery Method.
- e. Provide information regarding teaming history and working relationship between the DB and the DB's consulting engineering firm(s).
- f. Provide information regarding teaming history and working relationship between the DB and any proposed major construction subcontractor(s).
- g. Explain the DB team's current workload and ability to proceed promptly with the project. Provide a statement regarding your assurance that your team has the necessary resources available to complete this project within the schedule provided in this RFQ.

Evaluation Criteria 4 - Project Understanding and Implementation

- a. Describe your understanding of the project.
- b. Methodology and approach to the design, permitting, and construction services including creative alternatives that could be proposed to add value or cost saving measures.



- c. Identify and discuss any potential risk during design and construction and possible mitigation measures.
- d. Provide an anticipated project schedule with ideas to accelerate the overall duration.
- e. Describe approach to maintaining operations at the existing facilities during construction activities.

Evaluation Criteria 5 - Approach to Project Management, Communications and Schedule Adherence

- a. Describe your overall Project Management Approach.
- b. Describe your planning, scheduling, estimating, and construction management tools.
- c. Describe your communications approach to CFPUA and their Owner’s Advisor.
- d. Describe your quality control plan during design and construction.

Evaluation Criteria 6 – Innovative Ideas

- a. Describe any innovative ideas, alternative design and/or construction concepts that will provide CFPUA added value. For each proposed idea, provide adequate information, concepts, estimated cost information, and schedule impacts, if any, in sufficient detail to allow the CFPUA to determine whether the proposed idea is in CFPUA’s best interest.

Evaluation Criteria 7 - Approach to Safety

- a. Describe approach to safety management. Provide documentation verifying that proposer has an acceptable safety record, including Experience Modification Rate (EMR) for the last three years. Note, proposers are directed not to submit full safety plans just the approach to safety management.

Evaluation Criteria 8 - MBE, WBE, SBE, DBE and Small Business Participation Outreach Plan

- a. Describe your approach to MBE, WBE, SBE, DBE, and Small Business Participation Outreach Plan.
- b. Describe how you will comply with the Federal requirements as per 2 C.F.R. § 200.321.
- c. Review and sign Exhibit A – MBE/WBE (DBE) Compliance Form

Evaluation Criteria 9 – Price Factors

- a. Per S.L. 2021-189, Section 1.6, we are requesting price factors. Please fill-in and provide the following table with your SOQ.

Price Factors Form (Include in SOQ)	
Design-Builder’s Fee (%) for Phase 2 Services – as defined in DBIA Standard Document 545 or 525	%



Design-Builder's Fee (%) for additive Change Orders as defined in DBIA Standard Document 545 or 525	%
Design-Builder's estimated amount of self-perform work as a percentage of the total contract value	%
Proposers 2023 Rate Table for Key Personnel	\$/hr.
<i>Construction Staff</i>	
<i>Design Staff</i>	

Evaluation Criteria 10 – Other Factors

- a. Provide statement regarding your willingness to abide by CFPUA's standard form Agreements with few or no objections or changes. CFPUA accepts the latest version of DBIA Standard Documents with appropriate modifications agreed upon by both parties.
- b. Provide a statement regarding your assurance that this engagement will not result in a conflict of interest.
- c. Describe relevant factors impacting the quality and value of work.

Evaluation Criteria 11 – Financial & Legal

No points will be allocated for Evaluation Criteria No. 11; Proposers will be rated as acceptable (pass) or unacceptable (fail)

- a. The selected DB firm will be required to provide a Performance and Payment Bond in the full amount of the contract. For this submittal, proposers shall provide evidence of their ability to provide and maintain the following:
 - I. A Performance and Payment Bond in the amount of at least \$5M
 - II. General Liability Insurance at \$5M per occurrence and \$10M aggregate. Authority must be additional insured and endorsement required.
 - III. Umbrella Liability Insurance at \$5M per occurrence. Authority must be additional insured and endorsement required.
 - IV. Workman's Compensation \$1M Each Accident, \$1M Disease-Each Employee, \$1M Disease-Policy Limit. Waiver of Subrogation against the Authority and endorsement required.
 - V. Professional Liability at \$2M per occurrence.
 - VI. Auto Liability Insurance \$1,000,000 per occurrence combined single limits applicable to claims due to bodily injury and/or property damage. Authority must be additional insured and endorsement required.
 - VII. Builder's Risk Insurance in the amount of at least \$240M.
- b. List and describe any litigation; arbitration; claims filed by your firm against any project owner as a result of a contract dispute; any claim filed against your firm; termination from a project.

- c. Any firm wishing to be considered must be properly registered with the Office of the Secretary of State.

4 - SUBMITTAL REQUIREMENTS

- 4.1 The SOQ shall include a one-page cover letter plus a maximum of fifty (50) 8.5x11" pages to address the SOQ criteria specified in Section 3 (excluding Resumes and Sub-consultant/Subcontractor Selection Plan). 11x17" pages may be used, but one 11x17" page will count as two 8.5x11" pages. Table of Contents and section divider pages do not count toward the total page count. Resumes for each key team member shall be limited to no more than two pages. Resumes shall be attached as Appendix A.
- 4.2 Firms shall submit Five (5) hard copies to Procurement Manager, 235 Government Center Drive, Wilmington, NC 28403 no later than June 1, 2023 at 2:00 PM local time. SOQ's shall be enclosed in an opaque sealed package plainly marked on the outside with the notation "SOQ ENCLOSED." When using the mail or other delivery system, the DB firm is totally responsible for the mail or other delivery system delivering submittal to Procurement Manager, 235 Government Center Drive, Wilmington, NC 28403 no later than June 1, 2023 at 2:00 PM local time
- 4.3 Firms shall submit an electronic copy of their statement of qualifications in .pdf format to bids@cfpua.org. no later than June 1, 2023 at 2:00 PM local time. Maximum file size for .pdf submission is 25MB. A reply will be sent to the email address submitting the statement of qualifications to confirm receipt. It is the submitting firms' responsibility to confirm that CFPUA has received an electronic copy of their statement of qualifications via email. If email reply is not received from bids@cfpua.org, please call 910-332-6472 or 910-332-6589 before deadline for submission.
- 4.4 Failure to comply with the following criteria may be grounds for disqualifications:
 - a. Receipt of submittal by the specified cut-off date and time.
 - b. The number of originals and/or copies of the submittal specified.
 - c. Adherence to maximum page requirements.
- 4.5 Adherence to the maximum page criteria is critical; each page side (maximum 11x17", but one 11x17" will be counted as two 8 1/2x11" pages) with criteria information will be counted. Pages that have photos, charts and graphs will be counted toward the maximum number of pages.
- 4.6 Submitted information shall comply with N.C.G.S. 143-64.31 through 64.34 (aka Mini Brooks Act).
- 4.7 An MBE/WBE (SBE) Compliance Form is attached as Exhibit A to this RFQ that must be submitted with the qualification statement.
- 4.8 An Anti-Lobbying Certificate is attached as Exhibit B to this RFQ that must be submitted with the qualification statement.

5- SELECTION PROCESS AND SCHEDULE

- 5.1 A Project Evaluation Team (PET) will evaluate each Statement of Qualifications (SOQ) according to the above criteria. No oral interviews are planned in the first step of the selection process. Following a review of the submittals, PET will select DB with proposal that is most advantageous to CFPUA and post results. Those firms not selected for further consideration will be notified.
- 5.2 The following tentative schedule has been prepared for this project. Firms interested in this project must be available on the interview meeting date.
- | | |
|----------------------------------|------------------------|
| a. SOQ's due: | June 1, 2023 @ 2:00 PM |
| b. Firms notified of Short List: | June 14, 2023 |
| c. Interview date: | June 23, 2023 |
- 5.3 CFPUA will enter into negotiations with the selected Offeror using CFPUA's standard form Design-Build Contract (DBIA Standard Documents with appropriate modifications agreed upon both parties). If the Offeror is unwilling to execute CFPUA's standard form Design-Build Contract and/or the selected firm fails to execute CFPUA's standard form Agreement within two weeks of notification of the highest rated team, CFPUA may then negotiate with the second or third highest ranked firm until a contract is executed, or CFPUA, in its sole discretion, may decide to terminate the selection process. If CFPUA is unsuccessful in receiving an acceptable price proposal for Phase 1 services, CFPUA may decide to terminate the selection process.

6-REFERNCE DOCUMENTS

These reference documents will be provided electronically upon written request to bids@cfpua.org:

- 6.1 Historical SWWTP Plans & Drawings (1970 – 1993)
- 6.2 2009 SWWTP 24 MGD Upgrade and Expansion 90% Plans (Project was not constructed)
- 6.3 2009 USACE Notification of Jurisdictional Determination
- 6.4 2011 Geotechnical Reports
- 6.5 2012 SWWTP Environmental Assessment
- 6.6 2012 SWWTP 24 MGD Upgrade and Expansion Layout
- 6.7 2013 SWWTP Limited Asbestos Containing Materials and Lead Containing Paint Survey
- 6.8 2013 SWWTP NC Department of Administration Environmental Impact Information Review
- 6.9 2013 NC DENR Finding of No Significant Impact and Environmental Assessment
- 6.10 2015 SWWTP NPDES Permit Modifications
- 6.11 2019 SWWTP Rehabilitation Project Record Drawings
- 6.12 2020 SWWTP UV Disinfection Project Record Drawings
- 6.16 SWWTP Influent Data

7-FEDERAL REQUIREMENTS

I. Equal Employment Opportunity

- A. As the Contract is a Federally Assisted Construction Contract exceeding \$10,000, during the performance of this Contract, any Design Builder selected shall be subject to the following conditions:
1. Design Builder will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Design Builder will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall 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; and selection for training, including apprenticeship. Design Builder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. Design Builder will, in all solicitations or advertisements for employees placed by or on behalf of Design Builder, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 3. Design Builder will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Design Builder's legal duty to furnish information.
 4. Design Builder will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Design Builder's commitments under this Section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 5. Design Builder will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 6. Design Builder will furnish to the Administering Agency and the Secretary of Labor all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit



access to its books, records, and accounts by the Administering Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of Design Builder's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and Design Builder may be declared ineligible for further Government contracts or Federally Assisted Construction Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965. Such other sanctions may be imposed, and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. Design Builder will include the portion of the sentence immediately preceding paragraph A.1. of this Section II and the provisions of paragraphs A.1. through A.7. in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. Design Builder will take such action with respect to any Subcontract or purchase order as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event Design Builder becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Administering Agency, Design Builder may request the United States to enter into such litigation to protect the interests of the United States.

Since the parties to the Agreement are local government agencies, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the Contract.

9. [REDACTED] agrees that it will assist and cooperate actively with the Administering Agency and the Secretary of Labor in obtaining the compliance of Design Builder and any Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Administering Agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Administering Agency in the discharge of the agency's primary responsibility for securing compliance.
10. [REDACTED] further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Design Builder debarred from, or who has not demonstrated eligibility for, Government contracts and Federally Assisted Construction Contracts pursuant to the Executive Order and that it will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Design Builder and any Subcontractors by the Administering Agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, [REDACTED] agrees that if it fails or refuses to comply with these undertakings, the Administering Agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part,

this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

II. Copeland “Anti-Kickback” Act

- A. The Design Builder and any Subcontractors performing work under the Contract shall comply with 18 U.S.C. § 874. All suppliers, contractors, subcontractors, consultants, and sub-consultants must comply with the with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Design Builders and Sub-contractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Design Builder or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. [REDACTED] shall report all suspected or reported violations to Treasury.

III. Davis-Bacon Act

- A. All suppliers, Design Builders, subcontractors, consultants, and sub-consultants must comply with Davis-Bacon Act, as amended (40 U.S.C. 3141–3148).When required by Federal program legislation, all prime construction contracts in excess of \$2,000 must comply with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

IV. Contract Work Hours and Safety Standards Act

- A. *Overtime Requirements.* No Design Builder or Subcontractor contracting for any part of the Contract work which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which they are employed on such work to work in excess of forty hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the clause set forth in Section V.A. (Overtime Requirements), above, Design Builder and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Design Builder and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual Laborer or Mechanic, including watchmen and guards, employed in violation of the clause set forth in Section V.A. (Overtime Requirements), above, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of

forty hours without payment of the overtime wages required by the clause set forth in Section V.A. (Overtime Requirements), above.

- C. *Withholding for Unpaid Wages and Liquidated Damages.* [REDACTED] shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold, or cause to be withheld, from any monies payable on account of work performed by Design Builder or Subcontractor under any such contract or any other federal contract with the same prime Design Builder, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Design Builder, such sums as may be determined to be necessary to satisfy any liabilities of Design Builder or Subcontractor for unpaid wages and liquidated damages as provided in Section V.B. (Violation; Liability for Unpaid Wages; Liquidated Damages) of this section.
- D. *Subcontracts.* The Design Builder or Subcontractor shall insert in any Subcontract the clauses set forth in Sections V.A. through V.D. and a clause requiring Subcontractors to include these clauses in any lower-Tier Subcontracts. Design Builder shall be responsible for compliance by any first-Tier Subcontractor or lower-Tier Subcontractor with the clauses set forth in Sections V.A. through V.D.
- E. *Payroll and Records.* Design Builder or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all Laborers and Mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, Social Security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Records to be maintained under this provision shall be made available by Design Builder or Subcontractor for inspection, copying, or transcription by authorized representatives of the Department of the Treasury and the Department of Labor, and Design Builder or Subcontractor will permit such representatives to interview employees during working hours on the job.
- F. *Exceptions.* None of the requirements of Section V of this Addendum shall apply if the Contract is a Contract (1) for transportation by land, air, or water; (2) for the transmission of intelligence; (3) for the purchase of supplies, materials, or articles ordinarily available in the open market; or (4) in an amount that is equal to or less than \$100,000.

V. Rights to Inventions Made Under a Contract or Agreement

- A. The Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Government purposes," any subject data or copyright described below. "Government purposes" means use only for the direct purposes of the Government. Without the copyright owner's consent, the Government may not extend its federal license to any other party.
- B. Unless otherwise provided by law, suppliers, Design Builders, subcontractors, consultants, and sub-consultants are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All suppliers, Design Builders, and subcontractors, consultants, sub-consultants are subject to the specific requirements governing the development, reporting, and

disposition of rights to inventions and patents located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

- C. Unless prohibited by North Carolina law, upon request by the Government, [REDACTED] will require the Design Builder to indemnify, save, and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Design Builder of proprietary rights, copyrights, or right of privacy arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. Design Builder shall be required to indemnify the Government for any such liability arising out of the wrongful act of any employee, official, or agent of the Design Builder.
- D. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

VI. Clean Air Act and Federal Water Pollution Control Act

- A. *Clean Air Act.* [REDACTED] agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The selected Design Builder shall report each violation to [REDACTED] and [REDACTED] will, in turn, report each violation as required to Treasury and the appropriate Environmental Protection Agency Regional Office. The Design Builder shall include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Treasury.
- B. *Federal Water Pollution Control Act.* [REDACTED] agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* The selected Design Builder shall report each violation to [REDACTED] and [REDACTED] will, in turn, report each violation as required to assure notification to Treasury and the appropriate Environmental Protection Agency Regional Office. The Design Builder shall include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Treasury.

VII. Debarment and Suspension

- A. Due to its receipt of Fiscal Recovery Funds, [REDACTED] is a participant in a non-procurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210 and 31 C.F.R. § 19.210. Therefore, the Contract is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if (1) the amount of this Contract is greater than or equal to \$25,000 (2 C.F.R. § 180.220(b)(1); 31 C.F.R. § 19.220(b)(1)); (2) the Contract requires the consent of an official of the Department of the Treasury (2 C.F.R. § 180.220(b)(2); 31 C.F.R. § 19.220(b)(2)); or (3) this Contract is for federally required audit services (2 C.F.R. § 180.220(b)(3); 31 C.F.R. § 19.220(b)(3)).
- B. If this Contract is a covered transaction as set forth in Section VIII.A., above, Design Builder shall certify as of the date of execution of the Contract that Design Builder, Design Builder's principals (defined at 2 C.F.R. § 180.995), and any affiliates (defined at 2 C.F.R. § 180.905) of both Design



Builder and Design Builder's principals are not excluded (defined at 2 C.F.R. § 180.935) and are not disqualified (defined at 2 C.F.R. § 180.935). If any of the foregoing persons are excluded or disqualified and the Secretary of the Treasury has not granted an exception pursuant to 31 C.F.R. § 19.120(a), (1) the Contract shall be void, (2) [REDACTED] shall not make any payments of federal financial assistance to Design Builder, and (3) [REDACTED] shall have no obligations to Design Builder under the Contract.

- C. The Design Builder must comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19 and must include a requirement to comply with these regulations in any lower-Tier covered transaction into which it enters. This certification is a material representation of fact relied upon by [REDACTED], and all liability arising from an erroneous representation shall be borne solely by the Design Builder.
- D. If it is later determined that the Design Builder did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to [REDACTED], the Government may pursue available remedies, including but not limited to suspension and/or debarment.

VIII. Byrd Anti-Lobbying Amendment

- A. The Design Builder shall certify to [REDACTED], and shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. The selected Design Builder shall, and shall cause each Tier below it, to disclose any lobbying with non-federally appropriated funds that takes place in connection with obtaining any federal award. Such disclosures (to be set forth on Standard Form-LLL, contained in 31 C.F.R. Part 21, Appendix B) shall be forwarded from Tier to Tier up to the [REDACTED], which will, in turn, forward the certification(s) to Treasury. Design Builder shall cause the language of this Section IX.A. to be included in all Subcontracts. This certification is a material representation of fact upon which [REDACTED] has relied when entering into the Contract, and all liability arising from an erroneous representation shall be borne solely by the Design Builder.
- B. Any Design Builder that bids or applies for a contract exceeding \$100,000 (including the Contract, if applicable) also must file with [REDACTED] the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.
- C. Any Subcontractor to the Contract with a Subcontract (at any Tier) exceeding \$100,000 shall file with the Tier above it the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.

IX. Procurement of Recovered Materials

- A. Section X.B. shall apply if (1) the Contract involves the purchase of an item designated by the Environmental Protection Agency ("EPA") in 40 C.F.R. Part 247 that exceeds \$10,000 or (2) the

total value of such designated items acquired during [REDACTED]'s preceding fiscal year exceeded \$10,000.

- B. All suppliers, Design Builders, and subcontractors, consultants, sub-consultants must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

X. Domestic Preferences for Procurements

- A. For purposes of this Section XI, the terms below are defined as follows:
 - 1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coating, occurred in the United States.
 - 2. "Manufactured Products" means items and construction materials composed, in whole or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- B. As applicable, and to the extent consistent with law, [REDACTED] and the selected Design Builder should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials Produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other Manufactured Products. The Design Builder shall cause any Subcontractors to include the requirements of this Section XI in any Subcontracts.

XI. Solicitation of Minority and Women-Owned Business Enterprises

- A. If the selected Design Builder intends to let any Subcontracts, [REDACTED] shall require that the Design Builder (1) place qualified small and minority businesses and women's business enterprises on its solicitation lists; (2) assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources; (3) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; (4) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for Historically Underutilized Businesses.
- B. For the purposes of Section XII.A., an entity shall qualify (1) as a "minority business" or "women's business enterprise" if it is currently certified as a North Carolina "historically underutilized business" under Chapter 143, Section 128.4(a) of the N.C. General Statutes (hereinafter G.S.), and

(2) as a “small business” if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

XII. Access to Records

- A. [REDACTED], the selected Design Builder, and the parties to the Agreement will provide the Department of the Treasury, the Treasury Office of Inspector General, the Government Accountability Office, and the Comptroller General of the United States, or any authorized representatives of these entities, access to any records (electronic and otherwise) of Design Builder which are directly pertinent to this Contract to conduct audits or any other investigations. Any of the foregoing parties may reproduce such records by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- B. [REDACTED] agrees to retain all records covered by this Section XIII through December 31, 2031, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving the Agreement and/or Contract.

XIII. Conflicts of Interest; Gifts and Favors

- A. [REDACTED] will use Fiscal Recovery Funds to pay for the cost of this Contract and (2) the expenditure of Fiscal Recovery Funds is governed by the [REDACTED] Conflict of Interest Policy, any Regulatory Requirements (including, without limitation, 2 C.F.R. § 200.318(c)(1)), and North Carolina law (including, without limitation, N.C.G.S. §§14-234(a)(1) and -234.3(a)).
- B. The selected Design Builder shall certify to [REDACTED] that as of the date of execution of the Contract, to the best of its knowledge after reasonable inquiry, no employee, officer, or agent of [REDACTED] or any party to the Agreement involved in the selection, award, or administration of the Contract (each a “Covered Individual”); no member of a Covered Individual’s immediate family; no partner of a Covered Individual; and no organization (including Design Builder) which employs or is about to employ a Covered Individual has a financial or other interest in, or has received a tangible personal benefit from, Design Builder. Should the Design Builder obtain knowledge of any such interest, or any tangible personal benefit described in the preceding sentence after the date thereof, Design Builder shall promptly disclose the same to [REDACTED] in writing.
- C. The selected Design Builder shall certify to [REDACTED] that it has not provided, nor offered to provide, any gratuities, favors, or anything of value to an officer, employee, or agent of [REDACTED]. Should the Design Builder obtain knowledge of the provision, or offer of any provision, of any gratuity, favor, or anything of value to an officer, employee, or agent described in the preceding sentence after the date thereof, Design Builder shall promptly disclose the same to [REDACTED] in writing.

XIV. Assurances of Compliance with Title VI of the Civil Rights Act of 1964

- A. The selected Design Builder and any Subcontractor, or the successor, transferee, or assignee of the Design Builder or any Subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or

activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*), as implemented by the Department of the Treasury's Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also provides protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d *et seq.*, as implemented by Treasury's Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Contract.

XV. Other Non-Discrimination Statutes

- A. [REDACTED] is bound by and agrees, to the extent applicable to the selected Design Builder, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of Fiscal Recovery Funds:
1. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 3. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 4. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 *et seq.*), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

XVI. Miscellaneous

- A. *Increasing Seat Belt Use in the United States.* Pursuant to Executive Order 13043, 62 Fed. Reg. 19,216 (Apr. 18, 1997), [REDACTED] shall encourage the selected Design Builder to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- B. *Reducing Text Messaging While Driving.* Pursuant to Executive Order 13513, 74 Fed. Reg. 51,225 (Oct. 6, 2009), [REDACTED] shall encourage the selected Design Builder to adopt and enforce policies that ban text messaging while driving.

XVII. Conflicts and Interpretation

- A. To the extent that any portion of this Addendum conflicts with any term or condition of this Contract expressed outside of this Addendum, the terms of this Addendum shall govern.

MBE/WBE (DBE) Compliance Form

Contracting with Small and Minority Businesses, Women’s Business Enterprises and Labor Surplus Area Firms

Design Builder shall take the following affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible as per 2 C.F.R. § 200.321.

- (1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists
- (2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources
- (3) Dividing total requirements, when economically feasible into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and other agencies such as NC HUB Office.

Design Builder has read the information in this MBE/WBE (DBE) Compliance Supplement and where reasonable follow the affirmative steps above to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible as per 2 C.F.R. § 200.321.

Design Builder Firm Name (Print)

Design Builder Representative (Sign & Date)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with qualifications statement)

The undersigned [Design Builder] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL , "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Design Builder, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Engineer understands and agrees that the provisions of 31 U.S.C.Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Design Builder's Authorized Official

Name and Title of Design Builder's Authorized Official

Date