

UNION COUNTY PUBLIC SCHOOLS - CONTRACT CONTROL SHEET

Routing Order: (1) Department, (2) Finance, (3) Attorney, (4) Information Systems, (5) Risk Management, (6) BOE, (7) Superintendent

DEPARTMENT

Party/Vendor Name: Godfrey Construction Company, Inc.

BID EXPIRATION DATE: APRIL 8, 2017

Party/Vendor Contact Person: Hoss Hinson Contact Phone: 704-233-0488

Party/Vendor Address to mail contract to (be sure this is accurate or it could delay the processing of this contract):

Address 4524 Highway 74 East City: Wingate State: North Carolina Zip: 28174

Department: Facilities Department Amount: \$424,158.00

16117 Funding

Purpose: Western Union Elementary School-Renovations

Budget Code(s) (put comma between multiple codes): 4,9001,817,522,384,134

TYPE OF CONTRACT: (Please Check One) New Renewal Amendment Effective Date:

This document has been reviewed and approved by the Department Head as to technical content.

Project Manager *[Signature]*

Date: 2/28/2017

Assistant Director *[Signature]*

Date: 3-1-17

Director of Facilities *[Signature]*

Date: 3-1-17

Fund Originator Signature *[Signature]*

Date: _____

CENTRAL PURCHASING

Type of Contract: Award Bid Sole Source Piggyback Emergency Amendment As To Form Other: _____

Attached Documentation: Bid Tabulation Certificate of Insurance Sole Source Documentation Emergency Documentation

This document has been reviewed and approved by the Central Purchasing Director.

Central Purchasing Director Signature: *[Signature]*

Date: 3/2/17

RISK MANAGEMENT

Date Received _____

Include the following coverage: CGL Auto WC Professional Property Pollution Non-Profit Not Required

Hold Contract pending receipt of Certificate of Insurance Notes: _____

Risk Manager's Signature *[Signature]*

Date: 3-1-17

BUDGET AND FINANCE

Date Received _____

D.K.

Yes No Sufficient funds are available in the proper category to pay for this expenditure. \$ 424,158 ^{BOCC Approved 4/3/17}
This contract is conditioned upon appropriation by the Union County Board of Commissioners of sufficient funds for each request for services/goods.

Notes: Budget is short \$211,409, must go to BOCC for approval

Finance Director's Signature *[Signature]*

Date: 3/2/17

ATTORNEY

Date Received 3/2/17

Date department needs contract back from attorney:

This document has been reviewed as to form and approved by the Attorney and stamp affixed thereto: Yes No

Attorney's Signature *[Signature]*

Date: 3/2/17

OK PRK3
enl 3/2/17

UCPS SUPERINTENDENT

Date Received 3-3-17

This document has been reviewed and approved by the UCPS Superintendent.

Yes No

Superintendent's Signature *[Signature]*

Date: 3-8-17

BOARD OF EDUCATION

Agenda Date: 3-7-17

Date Received 3-3-17

Yes No N/A Approved by Board of Education at meeting of 3-7-17

Board Of Education Chairman Signature *[Signature]*

Date: 3-7-17



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/01/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER Robbins & Associates Insurance Agcy., Inc. P O Box 1458 Monroe, NC 28111 Donna B Moore	CONTACT NAME: Donna B Moore PHONE (A/C, No, Ext): 704-226-1300 FAX (A/C, No): 704-226-1320 E-MAIL ADDRESS: donna@robbinsandassociates.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Godfrey Construction Company, Hoss Hinson PO Box 968 Monroe, NC 28111	INSURER A: Selective Ins. Co. of SC NAIC # 19259	
	INSURER B: Builders Mutual Ins Co 10844	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		S 2031233	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		S 2031233	07/01/2016	07/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		S 2031233	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WCP101881704	07/01/2016	07/01/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased Equipment		S2031233	07/01/2016	07/01/2017	Leased Eq 500,000 Deduct 500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Western Union Elementary School
Union County Board of Education is listed as additional insured on the general liability policy.

CERTIFICATE HOLDER UNION13 Union County Board of Education 201 Venus Street Monroe, NC 28112	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CONTRACT FOR SERVICES

**WESTERN UNION ELEMENTARY SCHOOL
RENOVATIONS
CONTRACT NUMBER 7-9738459**

This Contract is made and entered into this March 7, 2017 between **The Union County Board of Education** ("UCBOE") located at 400 North Church Street, Monroe, North Carolina 28112 and Godfrey Construction Company, Inc. located at 4524 Highway 74 East, Wingate, North Carolina 28174. ("Contractor").

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. **Obligations of Contractor** - The Contractor agrees to provide all services as required to fully, timely and properly complete Western Union Elementary School's Renovation (the "Project") in accordance with, and as more particularly described, as Base Bid, in Exhibit 1 (the "Services"). Exhibit 1 also includes drawings and specifications.

The Contractor agrees to coordinate its Services with the work of any other separate contractors or with the work of the UCBOE's own forces to avoid delaying or interfering with their work. The Contractor further agrees to inform the UCBOE on a regular basis or at the UCBOE's request of the progress of the Services.

Unless otherwise provided, the Contractor shall secure and pay for all permits, licenses, or inspections necessary for the proper execution and completion of the Services; shall comply with all laws, ordinances, or regulations bearing on the performance of the Services; shall enforce good order and discipline among his employees and subcontractors on the Project; and shall keep the Project reasonably free from waste materials or rubbish resulting from the Contractor's operations.

The Contractor warrants that the Contractor has visited the location of the Project and is familiar with all field conditions bearing upon the Contractor's performance of the Services; that the materials and equipment furnished under the Contract are of good quality and new (unless otherwise permitted); that the Services meets or exceeds the standards ordinarily observed in the industry; and that the Services conforms to the requirements of the Contract and to all applicable codes, ordinances, laws, or regulations. The Contractor further warrants and promises that the Services shall be free from defects and nonconformities in materials and workmanship for a period of one year from the later of the Date of Completion or such date as the Contractor actually completes all the Services. During such period the Contractor will remedy at Contractor's expense nonconformities or defects in the Services within a reasonable time after receiving notice thereof from UCBOE.

In addition to the indemnification obligations contained in the attached terms and conditions to this Contract, the Contractor further agrees to defend and indemnify the UCBOE from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees, arising out of the Contractor's failure to pay subcontractors or materials suppliers.

The Contractor agrees that the UCBOE may order changes in the general scope of the Services, including additions, deletions, and similar revisions. The parties agree to adjust the Contract Price and Date of Completion to reflect the effects of such changes, which adjustments shall be authorized only upon execution of a written change order (a "Change Order"). In case of emergency or extenuating circumstances or if a construction contingency is provided as stated below, approval of changes may be obtained verbally by telephone or field orders approved by all parties, then shall be substantiated in writing as outlined under normal procedures.

The UCBOE may issue written Change Orders to the Contractor directing a change in the Services. The amount of any increase or decrease in the Contract Price shall be by mutual acceptance of a total amount supported by sufficient data and information to substantiate the change. If the UCBOE and Contractor do not mutually agree on the amount of the change in the Contract Price, the Contractor will proceed with the Services described in the Change Order and the UCBOE will pay the reasonable costs of any additional work, including a reasonable amount for the Contractor's overhead and profit. Any decrease in Contract Price for a decrease in the Services will be the reasonable costs of the Services deleted, including a reasonable amount for the decrease in the Contractor's overhead.

Asbestos may or may not be present at the project site. In accordance with the Asbestos Hazard Emergency Response Act (AHERA) the UCBOE has had an Asbestos Management Plan (AMP) prepared for this site. A copy of the AMP is available at the UCPS Facilities Department or at the project site. The AMP is designed to document (to the best of the UCBOE's ability) the asbestos containing building materials (ACBM) or presumed asbestos containing materials (PACM) present at the project site. It is incumbent upon the Contractor to review the AMP to insure his/her staff does not come in contact or otherwise disturb the ACBM/PACM. The Contractor is to notify all their subcontractors and other staff involved with the project of the AMP so they may also avoid being exposed to and /or disturbing any ACBM/PACM during construction. It shall be understood that by executing an agreement between the UCBOE and Contractor that the Contractor has made this review and has notified all staff involved with this project of the availability of the AMP.

The UCBOE and Contractor recognize that time is of the essence to this Agreement and that the UCBOE will suffer financial loss if the work is not completed within the times specified herein. Both parties also recognize the delays, difficulties and expense involved in proving, in a legal or arbitration proceeding, the actual loss suffered by the UCBOE if the Work is not completed on time. Accordingly, in lieu of requiring such proof, the UCBOE and Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay to the UCBOE for each day in excess of the term allowed for completion of the Work, the Contractor shall pay to the UCBOE the sum of \$1,000.00 as liquidated damages.

The Contractor shall indemnify and hold harmless UCBOE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorney's fees and liability that any of them may sustain (a) arising out of the Contractor's failure to comply with applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of the Contractor's performance or lack of performance of the terms and conditions of this contract.

The Contractor certifies that it currently has and agrees to purchase and maintain its performance under this Contract the following insurance from one or more insurance companies acceptable to UCBOE and authorized to do business in the State of North Carolina:

Automobile

The Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. If the Contractor is not an individual, the policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. If the Contractor is an individual, the policy limits of such insurance shall not be less than a combined single limit of \$100,000 each person/\$300,000 each accident – bodily injury/\$50,000 each accident – property damage.

Commercial General Liability

The Contractor shall maintain commercial general liability insurance that shall protect the Contractor from claims of bodily injury or property damage which arise from performance under this Contract. This insurance shall include coverage for contractual liability. If the Contractor is not an individual, the policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. If the Contractor is an individual, the policy limits of such insurance shall not be less than \$300,000 combined single limit each occurrence/annual aggregate.

Worker's Compensation and Employer's Liability Insurance

If applicable to the Contractor, the Contractor shall meet the statutory requirements of the state of North Carolina for workers compensation coverage and employers' liability insurance.

Builders Risk Insurance

The Contractor will be responsible for the Builder's Risk covering fire, vandalism, malicious mischief, and extended coverage perils in amounts sufficient to cover the value of work installed and the building materials stored at the construction site. The insurance will not cover equipment belonging to the Contractor or any of his sub-contractors.

Failure to furnish insurance certificates for to maintain such insurance shall be a default under this Contract and shall be grounds for immediate termination of Contract.

Before commencing any Work, the Contractor shall forward to the UCBOE two copies of a Certificate of Insurance issued by the Insurance Carrier, not the local agent or representative, indicating that all required insurance is in force. The Certificate shall state the policy number, date of expiration, and limits of liability, and contain a provision that the insurance will not be cancelled, changed or allowed to lapse prior to ten days after written notice to such cancellation or intention to allow lapse has been forwarded by Registered Mail to the UCBOE. The Contractor shall list Union County Board of Education as additional insured. The Contractor must certify that he has obtained similar certificates or evidence of insurance from each of his sub-contractors before work commences. Each sub-contractor must be covered by insurance of the same type and in the same amounts as the Contractor unless the Contractor and the UCBOE agree that a reduced coverage is adequate because of the nature of the particular sub-contract work. The Certificate of Insurance must be received within 48 hours of request by UCBOE.

The term of this contract: Contractor shall begin work immediately upon receipt of purchase order and in accordance with instructions from UCBOE (Refer to Project Schedule identified within Exhibit 1). The date of substantial completion of the work or designated portion thereof

shall be that date when the Work is sufficiently complete that the UCBOE can utilize the work or any designated portion thereof for the use for which it is intended. The guarantee and warranty period shall begin on the date of final acceptance by the UCBOE (the "Date of Completion"). The Contractor agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract.

This contract does not grant the Contractor the right or the exclusive right to provide specified services to UCBOE. Similar services may be obtained from sources other than the Contractor (or not at all) at the discretion of the UCBOE.

The Contractor represents and warrants that (i) it is duly qualified and licensed to provide the Services, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by contractors providing similar services under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, (iv) it shall perform the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations, and (v) its reports, if any, shall be complete, accurate, and unambiguous.

2. Obligations of UCBOE. UCBOE agrees to pay the Contractor for services as follows:

Budget Account No. :

(i)	Base Bid (Areas: Gymnasium and Rear Classroom Wing-400 Wing	\$ <u>424,158.00</u>
(ii)	Contingency Funds	\$ <u>40,000</u> (Included in Base Bid)
	Contract Total	\$ 424,158.00

3. Project Coordinator. Linda Whitaker is designated as the Project Coordinator for the UCBOE. The Project Coordinator shall be the UCBOE's representative in connection with the Contractor's performance under this Contract. The UCBOE has complete discretion in replacing the Project Coordinator with another person of its choosing. All communication relating to this project shall be directed to the UCBOE Project Coordinator.
4. Contractor Supervisor. Hoss Hinson is designated as the Contractor Supervisor for the Contractor. The Contractor Supervisor is fully authorized to act on behalf of the Contractor in connection with this Contract. Substitution of Contract Supervisor must be presented to Project Coordinator with a minimum of 24 hour notice and shall include contact information of the newly selected Contractor Supervisor.
5. Terms and Methods of Payment. UCBOE will make payment after pay applications are approved on a net 30 day basis. Failure to submit all required documents will delay payment. UCBOE will not pay for services or materials in advance without the prior approval of the Finance Officer. Contractor shall submit applications for payment by the twenty fifth (25) date of the month. The application for payment shall be in the amount of ninety-five (95%) percent of the value of work installed by Contractor and approved by UCBOE until project is fifty (50%) percent complete. The

UCBOE will pay for materials stored on the site only if agreed to prior to shipment of the materials. Otherwise, payment will be made for materials in place and work complete as verified by observation reports and the roof observer.

Waivers of Lien from material suppliers shall be submitted commencing with the second request for payment. No requests for payment (after the first request) will be processed without appropriate Waivers of Lien attached to the payment request. All pay requests must be signed and contain the MBE Documentation for Contract Payments, Subcontractor Information for Contract Payments, Sales Tax Certification Form.

Request for final payment must be accompanied by the warranty letter from the Contractor stating that all punch list items have been completed, lead and asbestos free certification and lien waivers from the Contractor and material suppliers.

6. Additional Provisions. Contractor agrees to the Standard Terms and Conditions set forth as Attachment A attached hereto and incorporated herein by reference.
7. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

**[THE REST OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]
[SIGNATURES ON NEXT PAGE]**

IN WITNESS WHEREOF, UCBOE and Contractor have executed this Contract on the day and year first written above.

Godfrey Construction Company, Inc.
Contractor Name
[Signature] 4-12-17
Signature of Authorized Representative Date
Hoss/Anson VP
Printed Name Title
56-1637849
Contractor's Federal Identification #
[if Contract is with Organization or Social Security Number if individual]

THE UNION COUNTY BOARD OF EDUCATION

Melina M. Maxwell 5-7-17
Board Chairperson Date
[Signature] 3-9-17
Superintendent Date

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

Daniel R. Karpis 4/7/17
Finance Officer Date

APPROVED AS TO FORM:
[Signature] 3/2/17
School Board Attorney Date

REVIEWED BY:
[Signature] 3-1-17
Division of Insurance and Risk Management Date

Attachment A
STANDARD TERMS AND CONDITIONS

1. Contract Documents. Contractor's acknowledgment of the terms hereof or Contractor's shipment or performance, constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) any attachments hereto, (iii) any applicable solicitation documentation (including without limitation any request for proposals or invitation for bids or Contractor's response thereto) that deal with the same subject matter as this contract, and (iv) any other terms and conditions of a written agreement signed by Contractor and The Union County Board of Education ("UCBOE") that deals with the same subject matter as this Order (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and UCBOE with respect to the purchase by UCBOE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to UCBOE shall control. This Order constitutes an offer by UCBOE and expressly limits acceptance to the terms and conditions stated herein. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice, or in any other communication from Contractor to UCBOE shall be deemed accepted by or binding on UCBOE. UCBOE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until UCBOE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by UCBOE are subject to correction.
2. Quantities. Shipments must equal exact amounts ordered unless otherwise agreed in writing by UCBOE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. Safety Data Sheets. Safety Data Sheets must be provided with shipment of all chemicals.
4. Prices. If Contractor's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Contractor agrees to give UCBOE the benefit of such lower price on any such Goods or Services. In no event shall Contractor's price be higher than the price last quoted or last charged to UCBOE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.
5. Invoices. It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to UCBOE's accounts payable department with a copy to the UCBOE Project Coordinator.
6. Freight on Board. All shipments of Goods are FOB destination unless otherwise stated in the Contract Documents.
7. Payment Terms. Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.
8. Condition and Packaging. Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.

9. Delays in Shipment. Time and date of delivery are of the essence, except when delay is due to causes beyond Contractor's reasonable control and without Contractor's fault or negligence.
10. Risk of Loss. Contractor shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by UCBOE or its nominee.
11. Rejection. All Goods and Services shall be received subject to UCBOE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Contractor's expense or may be accepted at a reduced price. UCBOE may require Contractor to promptly replace or correct any rejected Goods or Services and, if Contractor fails to do so, UCBOE may contract with a third party to replace such Goods and Services and charge Contractor the additional cost.
12. Compliance with All Laws. Contractor warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders.
13. Compliance with UCBOE Policies. During the term of this Contract, Contractor agrees to comply with all UCBOE imposed policies, rules and regulations while on UCBOE property and guarantees strict compliance by all of its employees, agents and subcontractors with such policies, rules and regulations. UCBOE will make available to Contractor copies of other applicable UCBOE policies, rules and regulations upon Contractor's request. Upon request by UCBOE, Contractor and its applicable employees and agents will execute UCBOE's standard documents reflecting the obligation to comply with applicable policies, rules and regulations. The requirements of this Section shall apply continuously during the term of this Contract and shall not be limited to normal working hours. Without limiting the generality of the foregoing, Contractor shall be responsible for its acts or omissions in connection with the safety of all persons and property where any Goods and Services or other work are being performed and during performance of such Goods and Services or work. No act, service, drawing review or construction review by UCBOE or its representatives is intended to include review of the adequacy of Contractor's safety measures in, on or near UCBOE's premises.
14. Warranties. Contractor warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by UCBOE of the Goods and Services and shall run to UCBOE and any user of the Goods or Services. This express warranty is in addition to Contractor's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, UCBOE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.
15. Termination for Convenience. UCBOE may terminate this Contract at any time at its complete discretion by five (5) calendar day notice in writing from the UCBOE to the Contractor. If the Contract is terminated by the UCBOE in accordance with this paragraph, the Contractor will be paid in an amount which bears the same ratio to the total compensation as does the service actually performed to the total service originally contemplated in this Contract.
16. Termination for Default.
If Contractor fails to perform its obligations timely and in conformance with the requirements of this contract, UCBOE shall give Contractor written notice of the default and intent to terminate if the default is not cured within ten (10) calendar days to the satisfaction of UCBOE.

All finished or unfinished deliverable items under this contract prepared by the Contractor shall become the property of UCBOE, and the Contractor shall be entitled to receive payment for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to UCBOE for damages sustained by UCBOE by virtue of any breach of the agreement, and UCBOE may withhold any payment due the Contractor for the purpose of setoff until such time as the breach is cured or the exact amount of damages due UCBOE from such breach can be determined.

In case of default by the Contractor, UCBOE may procure the services from other sources and hold the Contractor responsible for any excess cost incurred.

Upon the entering of a judgment of bankruptcy of insolvency by or against the Contractor, UCBOE may terminate this contract for cause.

17. **Contract Funding.** It is understood and agreed between the Contractor and the UCBOE that the UCBOE's obligation under this Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. The execution of this contract by UCBOE is assurance that sufficient funds have been appropriated for the current fiscal year budget. Should such funds not be appropriated or allocated, this Contract may be immediately terminated by either party. UCBOE shall give prompt written notice to the Contractor if funds are not available. The UCBOE shall not be liable to the Contractor for damages of any kind (general, special, or exemplary) as a result of such termination.
18. **Indemnification.** Contractor shall indemnify and hold harmless UCBOE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Contractor's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Contractor shall indemnify and save harmless UCBOE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of UCBOE in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless UCBOE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
19. **Insurance.** Unless such insurance requirements are waived or modified by UCBOE or UCBOE's Department of Insurance and Risk Management ("DIRM"), Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to UCBOE and authorized to do business in the State of North Carolina: Automobile - Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability - Contractor shall maintain commercial general liability insurance that shall protect Contractor from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. Worker's Compensation and Employers' Liability Insurance - If applicable to Contractor, Contractor shall

meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employers' liability insurance. Contractor shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Contractor to UCBOE and shall contain the provision that UCBOE be given 30 days' written notice of any intent to amend or terminate by either Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

20. Accounting Procedures. The Contractor shall comply with accounting and fiscal management procedures prescribed by the UCBOE to apply to this Contract. The Contractor shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds. The Contractor shall assure that all funds received by it pursuant to this Contract will be used only to support the cost of those activities described in this Contract.
21. Improper Payments. The Contractor shall assume all risks attendant to any improper expenditure of funds under this Contract. The Contractor shall refund to the UCBOE any payment made pursuant to this Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. The Contractor shall make such refunds within 30 days after the UCBOE notifies the Contractor in writing that a payment has been determined to be improper.
22. Contract Transfer. The Contractor shall not assign, subcontract or otherwise transfer any interest in this Contract without the prior written approval of the UCBOE. In the event UCBOE approves the Contractor to assign, subcontract or other methods of transferring the interest of this Contract, the Contractor shall warrant all work to be performed in accordance to the contract documents by an individual or company that is qualified and properly licensed in the state of North Carolina to perform such work.
23. Contract Personnel. The Contractor agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in this Contract.
24. Key Personnel. The Contractor shall not substitute for key personnel assigned to the performance of this Contract without prior written approval from the UCBOE Project Coordinator. "Key personnel" are defined as those individuals identified by name or title in this Contract or in written communication from the Contractor.
25. Contract Modifications: This contract may be amended only by written amendment duly executed by both the UCBOE and the Contractor.
26. Relationship of Parties. The Contractor is an independent contractor and not an employee of the UCBOE. The conduct and control of the work will lie solely with the Contractor. This Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and the UCBOE. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
27. Advertisement. The Contract will not be used in connection with any advertising by the Contractor without prior written approval by the UCBOE.
28. Nondiscrimination. During the performance of this Contract, the Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.

29. Conflict of Interest. The Contractor represents and warrants that no member of the UCBOE or any of its employees or officers has a personal or financial interest or will benefit from the performance of this Contract or has any interest in any Contract, subcontract or other agreement related to this Contract. Contractor shall not permit any member of the UCBOE or any of its employees or officers to obtain a personal or financial interest or benefit from the performance of this Contract or to have any interest in any Contract, subcontract or other agreement related to this Contract, during the term of this Contract. The Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to this Contract.
30. Gratuities to UCBOE. The right of the Contractor to proceed may be terminated by written notice if the UCBOE determines that the Contractor, its agent or another representative offered or gave a gratuity to an official or employee of the UCBOE in violation of policies of the UCBOE.
31. Kickbacks to Contractor. The Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a UCBOE Contract or in connection with a subcontract relating to a UCBOE Contract. When the Contractor has grounds to believe that a violation of this clause may have occurred, the Contractor shall promptly report to the UCBOE in writing the possible violation.
32. Monitoring and Evaluation. The Contractor shall cooperate with the UCBOE, or with any other person or agency as directed by the UCBOE, in monitoring, inspecting, auditing or investigating activities related to this Contract. The Contractor shall permit the UCBOE to evaluate all activities conducted under this Contract. UCBOE has the right at its sole discretion to require that Contractor remove any employee of Contractor from UCBOE property and from performing services under this Contract following provision of notice to Contractor of the reasons for UCBOE's dissatisfaction with the services of Contractor's employee.
33. Financial Responsibility. The Contractor is financially solvent and able to perform under this Contract. If requested by the UCBOE, the Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by the UCBOE's Finance Officer.
34. Dispute Resolution. At the option of the parties, disputes may be resolved by any method of ADR to which the parties agree in writing, including, but not limited to:
- a. Mediation, pursuant to NCGS 7A-38.1 or the American Arbitration Association Mediation, or by written agreement of the parties.
 - b. Arbitration: pursuant to The Uniform Arbitration Act (NCGS 1-567.1 et seq.)

The award rendered by the arbitrator or arbitrators shall be final unless a party thereto gives written notice of its objection to the final award by arbitration within twenty (20) days from receipt of said decision. Upon giving of said notice the party objecting thereto may file suit concerning the dispute as if arbitration had never occurred. Unless legally required to do otherwise, the parties agree not to refer to the arbitration in the filing of any lawsuit or during its subsequent litigation, or to submit to the court any record of information concerning the arbitration.

35. No Third Party Benefits. This Contract shall not be considered by the Contractor to create any benefits on behalf of any third party. The Contractor shall include in all contracts, subcontracts or other agreements relating to this Contract an acknowledgment by the contracting parties that this Contract creates no third party benefits.

36. Confidentiality of Student Information. If, during the course of the Contractor's performance of this Contract, the Contractor should obtain any information pertaining to the students' official records, the Contractor agrees to keep any such information confidential and to not disclose or permit to be disclosed, directly or indirectly, to any person or entity any such student information. This Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. 115C-401.1, Prohibition on the Disclosure of Information about Students, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the contract.
37. Background Checks. At the request of UCBOE's Project Coordinator, the Contractor (if an individual) or any individual employees of the Contractor shall submit to UCBOE criminal background check and drug testing procedures.
38. Jessica Lunsford Act. Contractors, subcontractors, consultants, sub-consultants, and vendors shall annually conduct a review of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry for all employees who will provide services under this contract. Any employee of the contractor, subcontractor, consultant, sub-consultant, or vendor found to be registered on any of the lists identified herein shall not perform any work under this contract and shall not be permitted to enter property owned by Union County Public Schools or Union County on behalf of Union County Public Schools. Failure to comply may result in legal action and termination of the contract for default.
39. E-verification. Contractor shall comply with the requirements of E-Verification NCGS Article 2 of Chapter 64A and the Iran Divestment Act of NCGS 147-86.58.
40. Force Majeure. If UCBOE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by UCBOE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism. Inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of UCBOE.
41. Ownership of Documents. All rights in the work created pursuant to this Contract are owned by the UCBOE including, but not limited to, copyright, trade or service mark and licensing rights. Upon the termination or expiration of this Contract, any and all finished or unfinished documents and other materials produced by the Contractor pursuant to this Contract shall, at the request of the UCBOE, be turned over to UCBOE. Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to UCBOE shall not, unless otherwise specifically agreed upon in writing by UCBOE, be deemed to be confidential or proprietary information and shall be acquired by UCBOE as part of the consideration of this Contract free from any restrictions.
42. Contract Situs. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of this Contract, will be determined in Union County, North Carolina. North Carolina law will govern the interpretation and construction of this Contract.
43. Entire Contract. This Contract constitutes and expresses the entire agreement and understanding between the parties concerning the subject matter of this Contract. This

document (including exhibits, if any), any purchase order used in connection with this Contract and any other document expressly incorporated in this Contract by reference supersede all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this Contract.



Growing Possibilities...

PROJECT: Western Union Elementary School-Renovations

REFERENCE NUMBER: 7-9738459

BID OPENING: 10:00 a.m., February 7, 2017

BID TABULATION

COMPANY	LICENSE NO.	BASE BID	ALTERNATE 1	ALTERNATE 2	ALTERNATE 3	ALL INCLUSIVE TOTAL
ENCOMPASS BUILDING GROUP Eventy Affidavit: Yes Iran Divestment Act: Yes Acknowledge Addenda: Yes Bid Bond: Yes Good Faith Requirements: Yes	72954	\$549,032.00	\$561,414	\$9,010.00	\$4,000.00	\$1,123,456
GODFREY CONSTRUCTION COMPANY, INC. Eventy Affidavit: Yes Iran Divestment Act: Yes Acknowledge Addenda: Yes Bid Bond: Yes Good Faith Requirements: Yes	28326	\$424,158.00	\$257,514	\$3,000.00	\$20,900.00	\$705,572
PRO CONSTRUCTION	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
SAM TYSON BUILDERS	No Bid	No Bid	No Bid	No	No Bid	No Bid



UNION COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM REQUEST:

MEETING DATE:

4/3/2017

DEPARTMENT:

Clerk to the Board

Union County Public Schools' (UCPS) Requests

PUBLIC HEARING:

No

PRESENTATION:

No

Cindy Coto County Manager

704-283-3636

ACTION REQUESTED:

Authorize the Union County Board of Education to transfer funds for the following projects:

- A) Unionville Elementary School Roofing Project Additional Fees – \$33,670 from savings in Walter Bickett ES/Weddington HS roofing projects.
- B) Porter Ridge Elementary School Roofing Project Additional Fees – \$15,184 from savings in Walter Bickett ES/Weddington HS roofing projects.
- C) Western Union Elementary School Interior Renovation Bids – \$272,868 from Sun Valley Middle School chiller replacement project.

Approved

Background:

A) UCPS is requesting an additional \$33,670 needed for the roofing project at Unionville Elementary School, which was funded by the 2015/16 capital budget. Design fees were not included at the initial time of the request for BOCC funding flexibility. Since that time, deduct change orders for unused contingencies have been received from the contractor. Funds are available from savings in the Walter Bickett Elementary and Weddington High School roofing project budgets, which are also on the 2015/16 capital budget.

B) UCPS is requesting an additional \$15,184 needed for the roofing project at Porter Ridge Elementary School, which was funded by the 2015/16 capital budget. Design fees were not included at the initial time of the request for BOCC funding flexibility. Since that time, deduct change orders for unused contingencies have been received from the contractor. Funds are available from savings in the Walter Bickett Elementary and Weddington High School roofing project budgets, which are also on the 2015/16 capital budget.

C) Bids were received on February 7, 2017, for interior renovations at Western Union Elementary School. Two contractors submitted bids for this project, which is to be funded by the 2016/17 capital budget. Godfrey Construction Company, Inc. was the lowest bidder in the amount of \$424,158.00. This project includes asbestos abatement, new flooring, cabinets, water lines, painting, etc.

This contract combined with the contract for asbestos abatement is \$272,868.00 over budget, largely due to the discovery of termite damage and asbestos-containing building materials underneath the diminishing walls. UCPS is requesting the transfer of funds from the Sun Valley Middle School chiller replacement project, which is under budget by \$273,750 after determining that the original scope of work was not necessary.

Financial Impact:

ATTACHMENTS:

Description	Type
Unionville ES	Backup Material
Porter Ridge ES	Backup Material
Western Union Interior Renovations	Backup Material