

Notice of Award

Date: May 4, 2023

Project: Ductwork Replacement, Davidson River School	
Owner: The Transylvania County Board of Education	Owner's Contract No.:
Contract: Ductwork Replacement, Davidson River School	Engineer's Project No.: 22.00606
Bidder: Protec Industrial Services, LLC	
Bidder's Address: 147 Kuykendall Branch Road, Asheville, NC 28804-9731	

You are notified that your Bid dated February 21, 2023 and modified on April 3, 2023, for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Ductwork Replacement, Davidson River School.

The Contract Price of your Contract is two hundred sixty four thousand eight hundred sixty seven dollars (\$264,867) based on the revised scope of work and revised bid included in the Contract Documents.

Revised scope of work includes all work associated with SS-1,2,3,4,5 as shown on MD-101 and M-101. Work shown on MD-100 and M-100 is deleted from the scope.

Three (3) copies of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

You must comply with the following conditions precedent within ten (10) days of the date you receive this Notice of Award.

1. Deliver to the Owner [Three (3)] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] and other documents as specified.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

_____ The Transylvania County Board of Education
 Owner
 By: _____
 Authorized Signature

 Title

ACCEPTED
 Protec Industrial Services, LLC
 Contractor
 By: Jim Mentz
 Authorized Signature
President Title

Exhibit A

PERFORMANCE BOND

Date of Execution of this Bond	May 24, 2023
Name and Address of Principal (Contractor)	Protec Industrial Services LLC 147 Kuykendall Branch Road Asheville, NC 28804-9731
Name and Address of Surety	The Ohio Casualty Insurance Company 175 Berkley Street Boston, MA 02116
Name and Address of Contracting Body	Transylvania County Schools 225 Rosenwald Lane Brevard, NC 28712
Amount of Bond	\$264,867.00
Contract	That certain contract by and between the Principal and the Contracting Body above named dated <u>February 21, 2023</u> for the project entitled <u>Ductwork Replacement for Davidson River School</u>

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above-named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached;

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise, to remain in full force and virtue.

PERFORMANCE BOND: (Continued)

THIS PERFORMANCE BOND is made and given pursuant to the requirements and provisions of Section 129 of Chapter 143 of the General Statutes of North Carolina and pursuant to Article 3 of Chapter 44-A of the General Statutes of North Carolina, and each and every provision set forth and contained in Section 129 of Chapter 143 and in Article 3 of Chapter 44-A of the General Statutes of North Carolina is incorporated herein, made a part hereof, and deemed to be conclusively written into this Bond.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals as of the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned and representative, pursuant to authority of its governing body.

WITNESS:

Proprietorship
(Proprietorship or Partnership)

Protec Industrial Services LLC
Principal (Name of individual, individual and trade name, partnership, corporation, or joint venture)

BY Jim Gentry (SEAL)

TITLE President
(Owner, Partner, Office held in corporation, joint venture)

(Corporate Seal of Principal)

ATTEST: (Corporation)
BY Darlene Gentry
TITLE Corporation Secretary
(Corporation Secretary or Assistant Secretary Only)

The Ohio Casualty Insurance Company
Surety (Name of Surety Company)

BY Amy M. Taylor
Amy M. Taylor,

TITLE Attorney in Fact

(Corporate Seal of Surety)

800 Beverly Hanks Centre Hendersonville, NC 28792
(Address of Attorney in Fact)

WITNESS:

Jennifer A. Connor

COUNTERSIGNED:

DOBA
N.C. Licensed Resident Agent

PAYMENT BOND

Date of Execution of this Bond	May 24, 2023
Name and Address of Principal (Contractor)	Protec Industrial Services, LLC 147 Kuykendall Branch Rd Asheville, NC 28804
Name and Address of Surety	The Ohio Casualty Insurance Company 175 Berkley Street Boston, MA 02116
Name and Address of Contracting Body	Transylvania County Schools 225 Rosenwald Lane Brevard, NC 28712
Amount of Bond	\$264,867.00
Contract	That certain contract by and between the Principal and the Contracting Body above named, dated <u>February 21, 2023</u> for the project entitled <u>Ductwork Replacement Davidson River School</u>

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above-named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified and shown above and hereto attached;

NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications and extensions of time of said contract may be hereafter be made, notice of which modification and extension of item to the Surety being hereby waived, then, this obligation to be void; otherwise, to remain in full force and virtue.

THIS PAYMENT BOND is made and given pursuant to the requirements and provisions of Section 129 of Chapter 143 of the General Statutes of North Carolina and pursuant to Article 3 of Chapter 44-A of the General Statutes of North Carolina, and each and every provision set forth and contained in Section 129 of Chapter 143 and in Article 3 of Chapter 44-A of the General Statutes of North Carolina is incorporated herein, made a part hereof, and deemed to be conclusively written into this Bond.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals of the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

<p>WITNESS:</p> <p>_____ (Proprietorship or Partnership)</p> <p>ATTEST: (Corporation)</p> <p>By: <u>Carlene Bentley</u> (SEAL)</p> <p>Title: <u>Corporation Secretary</u> (Corporation Secretary or Assistant Secretary Only)</p>	<p>Protec Industrial Services, LLC</p> <p>Principal (Name of Individual, individual and trade name, partnership, corporation, or joint venture)</p> <p>By: <u>Jim Bentley</u> (SEAL)</p> <p>Title: <u>President</u> (Owner, partner, office held in corporation, joint venture)</p> <p>(Corporate Seal of Principal)</p>
<p>WITNESS:</p> <p><u>Jennifer K. Cordon</u></p> <p>COUNTERSIGNED:</p> <p><u>[Signature]</u> N.C. Licensed Resident Agent</p>	<p>The Ohio Casualty Insurance Company</p> <p>Surety (Name of Surety Company)</p> <p>By: <u>Amy M. Tayler</u></p> <p>Title: <u>Attorney in Fact</u></p> <p>(Corporate Seal of Surety)</p> <p>800 Beverly Hanks Centre Hendersonville, NC 28792 (Address of Attorney in Fact)</p>



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8203639-970084

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Jennifer L. Gordon; David G. Shaffer; David Brett Shaffer, Amy M. Taylor

all of the city of Hendersonville state of NC each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of April, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 28th day of April, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 24th day of May, 2023.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**MODIFIED AGREEMENT
BETWEEN OWNER AND CONTRACTOR**

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Endorsed by



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**MODIFIED AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (LUMP SUM)**

THIS AGREEMENT is by and between The Transylvania County Board of Education (“Owner”) and
Protec Industrial Services, LLC (“Contractor”).

Effective Date of Agreement: May 4, 2023

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Replacing existing lined ductwork with insulated rectangular ductwork. The ductwork is primarily in an accessible attic. The new ductwork will be installed in a manner to allow for future VAV for each classroom. Revised scope of work includes all work associated with SS-1,2,3,4,5 as shown on MD-101 and M-101. Work shown on MD-100 and M-100 is deleted from the scope.

ARTICLE 2 – ENGINEER

2.01 The Project has been designed by McGill Associates, P.A. (Engineer), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 3 – CONTRACT TIMES

3.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

A. The Work must be substantially completed within 210 calendar days from date of Notice to Proceed, and completed and ready for final payment in accordance with the Modified General Conditions within 240 calendar days from date of Notice to Proceed.

3.03 *Liquidated Damages*

- A. Contractor and Owner recognize time is of the essence and Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above, plus any extensions allowed in accordance with Article 12 of the Modified General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner **\$ 100 (one hundred dollars)** for each calendar day that expires after the time specified in Paragraph 3.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner **\$100 (one hundred dollars)** for each calendar day that expires after the time specified in Paragraph 3.02 above for completion and readiness for final payment until the Work is completed and ready for final payment. Liquidated damages as described in this Paragraph will also apply to delays in completion of each Phase of the Work as described in Paragraph 3.02 above.

ARTICLE 4 – CONTRACT PRICE

- 4.01 Owner will pay Contractor for completion of the Work in accordance with the Contract Documents a lump sum of \$264,867 (two hundred sixty four thousand eight hundred sixty seven dollars). Progress payments shall be an amount equal to the sum of the amounts determined pursuant to Paragraph 4.01.A.
- A. For lump sum work an amount equal to the percentage completed of specific items of work provided by the Contractor as a schedule of values for the Lump Sum work.

ARTICLE 5 – PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

- A. Contractor must submit Applications for Payment in accordance with Article 14 of the Modified General Conditions. Applications for Payment will be processed by Engineer as provided in the Modified General Conditions.

5.02 *Progress Payments; Retainage*

- A. Owner will make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 5.02.A.1 below. All payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the Modified General Conditions (and in the case of Unit Price Work based on the number of units completed).
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of

payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the Modified General Conditions.

95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work has been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage.

- B. Upon Substantial Completion, Owner will pay an amount sufficient to increase total payments to Contractor to 97.5 percent of the Work completed, less such amounts as Engineer determines in accordance with Paragraph 14.02.B.5 of the Modified General Conditions and less 250 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

5.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the Modified General Conditions, Owner will pay the remainder of the Contract Price as recommended by Engineer as provided in Paragraph 14.07.

ARTICLE 6 – CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar and satisfied with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar and satisfied with all federal, state, and local Laws and Regulations which may affect cost, progress, and performance of the Work.
- D. Contractor has reviewed all General and Supplementary Conditions applicable to the Work.
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly

required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 6.01.E above, Contractor does not consider further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site which relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies if any, which Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 – MISCELLANEOUS

7.01 *Terms*

- A. Terms used in this Agreement have the meanings stated in the Modified General Conditions and the Supplementary Conditions.

7.02 *Assignment of Contract*

- A. No assignment by a party of any rights under or interests in the Contract will be binding on another party without the written consent of the party sought to be bound; and, specifically but without limitation, moneys may become due and moneys that are due may not be assigned without such consent (except to the extent the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

7.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

7.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

7.05 *Contractor's Certifications*

- A. Contractor certifies it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 7.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution.
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels.
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement
2. Performance bond
3. Payment bond
4. Other bonds
5. Notice of Award
6. Modified General Conditions
7. Specifications as identified in the table of contents of the bound Project Manual.
8. Drawings consisting of each sheet bearing the following general title: Ductwork Replacement, Davidson River School
9. Addenda (numbers 1 through 2, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 through 13, inclusive).
 - b. Contractor's revised bid (via email, April 3, 2023)

11. The following may be delivered or issued on or after the Effective Date of the Agreement but are not attached hereto:
 - a. Notice to Proceed (pages __ through __, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 8.01.A are attached, and incorporated here by reference, to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the Modified General Conditions.

ARTICLE 9. SAFETY

The Contractor is solely and exclusively responsible for initiating, maintaining, monitoring and supervising all safety programs, safety precautions and procedures, safety equipment and required safety reporting procedures in connection with the work and in accordance with County requirements and State and Federal statutes. The Contractor must take all necessary or required measures to prevent damage, injury and loss to all employees present at the site, the employees of subcontractors and all other parties having access to the project site including visitors and the general public. Before beginning work, the Contractor must provide a written copy of its Safety Program to the Owner for informational purposes and for verification a safety program is available.

The project is considered a "Hard Hat", "Protective Eyewear" and "Appropriate Clothing" construction project. All workmen, delivery truck drivers and visitors to the project are required to procure and wear approved safety headgear and eye protection regardless of whether "overhead hazard" or "flying debris" work is being performed and regardless of whether the workman is operating a piece of equipment from an enclosed station. All workmen and visitors are required to wear appropriate clothing including trousers, long/short sleeved shirts and leather footwear. No sleeveless shirts or canvas or "athletic-style" shoes will be permitted. The Contractor must furnish, install, maintain and remove signs at the project entrance stating that appropriate clothing, hard hats and protective eyewear must be worn at all times.

Notwithstanding anything contained within these General Conditions to the contrary and to the fullest extent permitted by law, the Contractor shall indemnify, protect and hold harmless the Owner, and Engineer from and against all losses, claims, liens, causes of action at law or at equity and expenses, including without limit, attorney's fees arising or allegedly arising from such operations, activities, mistakes, negligence or omission of the Contractor, its employees, agents, representatives, subcontractors, materialmen, or suppliers incidental to, or related to the Contract Agreement. Contractor understands and agrees the Owner and Engineer will not, in any way, be responsible for any losses or damages incurred, or allegedly incurred, by the Contractor, its employees, agents, representatives, subcontractors, materialmen or suppliers.

ARTICLE 11. CONTRACT GOVERNED BY NORTH CAROLINA LAWS

This Agreement and the rights and obligations to the parties hereunder shall be construed and governed by the laws of the State of North Carolina and venue for any proceedings shall be in the Superior Court of Transylvania County.

ARTICLE 12. USE OF ILLEGAL IMMIGRANTS/ HOLD HARMLESS

Transylvania County Schools assumes no responsibility for, and Contractor shall hold Transylvania County Schools harmless from, all fines or fees arising from Contractor's failure to satisfy Department of Labor or Immigration and Naturalization Service employment regulations.

As a condition of payment for services rendered under this Agreement, Contractor must comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor provides services to the County utilizing a subcontractor, Contractor must require the subcontractor to comply with the requirements of Article 2 of Chapter 64 if the General Statutes.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

OWNER:

The Transylvania County Board of Education

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

Pre-Audit Statement: This instrument has been preaudited in the manner required by the Local Budget and Fiscal Control Act as amended.

By: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

Title: _____

Date: _____

CONTRACTOR

Protec Industrial Services, LLC

By: Jim Mentley

Title: President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: Darlene Mentley

Title: Corporation Secretary

Address for giving notices:

147 Hwy Kendall Branch Road
Asheville NC 28804

License No.: 20702

Agent for service of process:



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

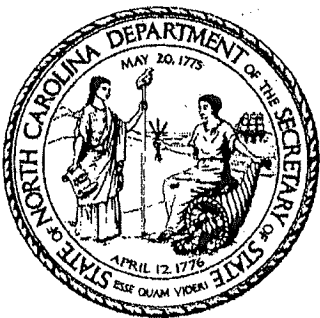
I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF ORGANIZATION

OF

PROTEC INDUSTRIAL SERVICES LLC

the original of which was filed in this office on the 20th day of December, 2010.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 20th day of December, 2010

Elaine F. Marshall

Secretary of State

**STATE OF NORTH CAROLINA
COUNTY OF TRANSYLVANIA**

FIRST AMENDMENT

THIS FIRST AMENDMENT (“Amendment”) to the MODIFIED AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION (“Contract”) is made effective as of the ____ day of June 2023 (“Effective Date”) by and between THE TRANSYLVANIA COUNTY BOARD OF EDUCATION (“Owner”) and PROTEC INDUSTRIAL SERVICES, LLC. (“Contractor”).

NOW, THEREFORE, the Parties, for and in consideration of the terms and conditions contained herein and other good and valuable consideration, amend and revise the Contract as follows:

1. Sections (A)(2) and (3) of Section 8.01 of the Contract shall be replaced with the Performance and Payment Bond Forms attached hereto as Exhibit A;
2. Section 8.01 of the Contract is hereby amended to include the following documents which Contractor acknowledges receipt of:
 - a) Transylvania County Board of Education – Final Certificate and Release, attached as Exhibit B; and
 - b) Federal Compliance Obligations attached as Exhibit C
3. Section 8.01The Contract shall be amended to add Article 13, titled “Additional Terms and Conditions,” to include the following additional terms and conditions listed below.
 - a) Jessica Lunsford Act: Under North Carolina law, certain sex offenders are prohibited from coming onto school campuses. The Contractor agrees to conduct a check of all employees working at the project site on the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry. As a term of this Contract, said checks must be performed by the Contractor and reported to the Transylvania County Schools’ Superintendent or designee.
 - b) Iran Divestment and E-Verify: The Contractor shall comply with the requirements of G.S. Chapter 64, Article 2 (the “E-Verify Requirements”). The Contractor certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. § 147-86.58, the Iran Divestment Act of 2015 (S.L. 2015-118). In the event that the Contractor utilizes a subcontractor to perform the Work of this Contract, the Contractor shall require any such subcontractor to comply with the E-Verify Requirements and the Iran Divestment Act.

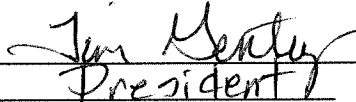
IN WITNESS WHEREOF, as of the Effective Date, the Owner has caused this Amendment to be executed in its name by its Chair or Superintendent and Contractor consents to and has executed this Amendment by this signature hereto. This Amendment may be executed with signatures transmitted via electronic mail in multiple counterparts.

[Remainder of the Page Intentionally Left Blank]

**THE TRANSYLVANIA COUNTY BOARD OF
EDUCATION**

Tawny McCoy
Chair, Transylvania County Board of Education

PROTEC INDUSTRIAL SERVICES, LLC.



President
Authorized Representative