

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

**ACS MULTIPLE BUILDINGS PROJECT
PRECONSTRUCTION SERVICES CONTRACT**

THIS AGREEMENT is made and entered into this the 23rd day of January 2023, by and between **BUNCOMBE COUNTY** and **JAMES R. VANNOY AND SONS CONSTRUCTION CO., INC.** (hereinafter referred to as Vannoy Construction).

WHEREAS, Buncombe County needs the services of a Construction Manager At Risk for Preconstruction Services associated with the design and development of the ACS Multiple Buildings Project on the campus of Asheville High School, Montford North Star Academy, and Lucy Herring Campus; and

WHEREAS, the facility will be funded through sales tax revenues exclusively dedicated to capital improvement projects for Asheville City Schools; and

WHEREAS, Buncombe County requested Statements of Qualifications from parties interested in providing Construction Manager At-Risk services for the project; and

WHEREAS, proposals were received on December 1, 2022, and based on the proposals submitted, the County has determined that the team of Vannoy Construction will provide the best combination of qualifications and experience necessary to perform the services of a Construction Manager At-Risk on this project; and

WHEREAS, Vannoy Construction accepts a relationship of trust and confidence between Vannoy Construction and Buncombe County and undertakes to act as Buncombe County's fiduciary in matters related to the project; and

WHEREAS, Vannoy Construction agrees to furnish their best skills and best judgment to cooperate with Buncombe County, Asheville City Schools, and the Architect during the design of the project and in all ways to further the interests of Buncombe County, Asheville City Schools, and the project; and

WHEREAS, Vannoy Construction agrees to furnish efficient engineering reviews and business administration during the Preconstruction Services phase of this project.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, Buncombe County and Vannoy Construction agree as follows:

Preconstruction Services. Preconstruction services shall be provided in accordance with the Fee Proposal for Preconstruction Services submitted by Vannoy Construction, advertisements, and the "Request for Proposals for Construction Manager at Risk Services and Providing a Guaranteed Maximum Price for the ACS Multiple Buildings Project," which documents are hereby incorporated by reference.

Payments to CMAR. Buncombe County will compensate Vannoy Construction for Preconstruction Services in the amount of One hundred thirty-eight thousand and nine hundred dollars (\$138,900.00), which shall be payable as outlined in the Fee Proposal upon satisfactory completion of preconstruction services described in this agreement.

Mediation. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the President of the Buncombe County Bar Association shall name a mediator to hear the matter.

The parties shall equally share the mediator's fee. The mediation shall be held in Asheville at a location designated by the mediator selected to hear the matter.

Legal Proceedings. Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Asheville, Buncombe County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Buncombe County, North Carolina.

Termination without Cause. The County may terminate this contract without cause by giving 14 days written notice to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made.

IN WITNESS WHEREOF, this Agreement has been executed by Buncombe County and Vannoy Construction by and through a duly authorized representative, and is effective the date and year first above written.

JAMES R. VANNOY AND SONS CONSTRUCTION CO., INC.

BY:

TITLE: _____

BUNCOMBE COUNTY

BY:

TITLE: _____

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

X

Buncombe County Finance Director

ATTACHMENT A



January 20, 2023

Attn: Mr. Ronald Lunsford

Buncombe County Government
40 McCormick Place
Asheville, NC 28801

Dear Mr. Lunsford,

Thank you for the opportunity to be a part of the team on the Asheville City Schools Multiple Buildings Project. We would propose a total preconstruction fee of \$138,900.00 for the proposed scope totaling six (6) projects broken down as follows;

Asheville High School Arts Bldg (HVAC, Piping & Abatement) - \$18,846.00
Asheville High School Main Bldg Water and Sewer - \$37,588.00
Asheville High School Auditorium Renovation - \$57,691.00
Asheville High School Varsity Gym Bleachers and Lighting - \$5,500.00
Montford North star Water and Sewer Line Replacement - \$2,500.00
Lucy Herring Campus wide Renovations - \$16,775.00

If this are acceptable, we would submit a schedule of values for each project based value of the work to complete and scope involved at each building/campus.

We intend to continue our work with the owner and design team providing budgets at each stage while reviewing the construction documents and providing review related comments to ensure we have clear and well-defined contract documents for bidding and construction. We will provide value engineering as part of this process and set up related bid documents in the form of a bid manual containing all the necessary documents to bid the project including but not limited to bid package, scopes of work, allowances, unit prices, alternates, overall project schedule, site utilization plan, required bid forms, and other bid related information. We will advertise for bidder prequalification, prequalify bidders, propose a prequalified bidders list to the owner, bid the project publicly and select the lowest qualified bidders under the direction of the owner.

If this proposal is acceptable please let us know and your office or we can draft a preconstruction contract reflecting the budget and fee amounts. Again, we appreciate the opportunity to provide our services on this project and look forward to its successful completion.


Respectfully
TJ Hollars
Senior Project Manager
Vannoy Construction