

CONTRACT NO. DGS 415-38.4

COLLECTIVE NO: CN00029073

STANDARD FORM OF AGREEMENT

BETWEEN THE DEPARTMENT AND CONTRACTOR

This AGREEMENT, Executed this 29th day of December 2008, by and between the Department of General Services, created by Act No. 45 of JULY 22, 1975, hereinafter called "DEPARTMENT" and MIDSTATE MECHANICAL & ELECTRICAL, INC. of 5 KACEY COURT, SUITE 102, MECHANICSBURG, PA 17055 a corporation incorporated under the Laws of the State of Pennsylvania its successors and assigns, hereinafter called "CONTRACTOR".

ARTICLE 1 - THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, the Notice to Bidders, the Instructions to Bidders, the Bid Form, the Contract Bonds, the Conditions of the Contract (General, Special, Supplementary and other Conditions), the drawings of all the Contracts, the specifications of all the Contracts, all Bulletins and addenda issued prior to execution of this Agreement, all change orders, and the Administrative Procedures of the Bureau of Construction. These form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein.

1 ORIGINAL COPY

ARTICLE 2 - THE WORK

The Contractor shall perform all the Work required by the Contract Documents for the construction of Contract No. D.G.S. 415-38.4, Renovation of Student Center, 13 Cottages, Frey Gymnasium, Warehouse and Maintenance Building, Scotland School for Veterans' Children, Scotland, Franklin County, Pennsylvania

ARTICLE 3 - PROFESSIONAL

The Professional for this project is N. John Cunzolo Associates, Inc., 360 Lincoln Avenue, Pittsburgh, PA 15202

ARTICLE 4 - TIME OF COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall be commenced upon the effective date of the Contract. The Contractor shall commence operations on site no later than ten (10) days after the Initial Job Conference and shall complete all Contract work to the satisfaction and approval of the Department, on or before 405 calendar days from the Date of Initial Job Conference. Contractor further agrees that time is of the essence of this Contract, and that, if it fails to complete the work within the time specified above, the Contractor will pay the Department, as Liquidated Damages, and not as a penalty for such failure, the sum of Two Hundred Twenty and-----00/100 Dollars (\$220.00) per day for each and every calendar day after the completion date until the Work is completed and accepted.

The Department may extend the completion date of the Contract for causes set forth in the General Conditions of the Contract and, which, in fact, delay the completion of said work. In such case, Contractor is liable for said Liquidated Damages only after the expiration of the extended period.

ARTICLE 5 - CONTRACT SUM

The Department will pay the Contractor for the performance of the Work, subject to additions and deductions by contract modification or change order, as provided in the General Conditions of the Contract, the contract sum of Seven Hundred Sixty-Five Thousand, Five Hundred and-----00/100 Dollars (\$765,500.00) Base Bid No. 4. Payment will be made as set forth in the General Conditions of the Contract. Deductions from or additions to said sum will be made as set forth in the Conditions of the Contract.

ARTICLE 6 - PROGRESS PAYMENTS

Based upon applications for payment submitted to the Department by the Contractor, the Department will make progress payments on account of the Contract sum to the Contractor, as provided in the General Conditions of the Contract.

ARTICLE 7 - FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract sum, will be paid by the Department to the Contractor within thirty (30) days after Final Inspection of the Work, if the Contract has been fully performed, and a Final

Application for Payment has been submitted, as provided in the General Conditions of the Contract.

ARTICLE 8 - UNIT PRICES

NOT APPLICABLE

ARTICLE 9 - MISCELLANEOUS PROVISIONS

9.1 Terms used in the Agreement which are defined in the Conditions of the Contract have the meanings designated in those Conditions.

9.2 In addition to any other guarantees or warranties, the Contractor covenants and agrees, after acceptance of the Work performed under this Contract, to remedy without cost to the Department, any such defect provided said defects in the judgment of the Department, or its successors having jurisdiction in the premises, are caused by defective or inferior materials, equipment or workmanship. If the corrective work is not completed within thirty (30) days after notification by the Department to the Contractor, the Department may do the work and submit those costs to the Surety Company for reimbursement.

9.3 The Contract Bonds given by the Contractor conditioned upon the faithful performance of the Contract and for the payment of labor, material, equipment rental and public utility service claims are attached to this contract and are made a part of it. No third party shall acquire any rights against the Department under the Contract Documents.

9.4 The Contractor agrees to abide by and be bound by the Laws of Pennsylvania relating to and regulating the hours and conditions of employment.

9.5 Any person, co-partnership, association or corporation furnishing labor, material, equipment or renting equipment or rendering public utility services in connection with performance of this Contract has a right of action to recover the cost thereof from the Contractor and the surety on the Bond given to secure the payment of such labor, material, equipment or equipment rental and services rendered by public utility as though such person or corporation had been named as obligee in such Bond. For those who do not have a contract directly with the contractor, this right of action may not be exercised unless the contractor is notified of the claim within ninety days from the last performance of labor or provision of materials. The contractor shall include in all of its subcontracts or supply contracts a provision requiring that its subcontractors and suppliers notify, in writing, their subcontractors and suppliers of this requirement. It is hereby agreed that no third party rights arise against the Department for any reason under this Section, and Contractor hereby agrees to so inform all subcontractors in writing.

ARTICLE 10 - CONTRACT COMPLIANCE REGULATIONS

See Paragraph 15.33 of the 1999 General Conditions of Contract. Also made a part of this Contract by incorporation by reference, and as if fully set forth herein, are all State and Federal Laws prohibiting discrimination in hiring or employment opportunities.

IN WITNESS WHEREOF, The Department of General Services and the Contractor, if incorporated, have caused this contract to be executed the day and year above written.

Witness:

COMMONWEALTH OF PENNSYLVANIA
ACTING THROUGH THE DEPARTMENT
OF GENERAL SERVICES

(Date)

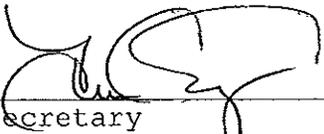
Secretary of General Services
(Date)

CONTRACT NO. D.G.S. 415-38.4

WBS ELEMENT: C-0415-0038-000-000-K-4

Attest:

MIDSTATE MECHANICAL & ELECTRICAL, LLC
Corporation



Secretary
Teresa A. Eichelberger,
Corporate Secretary

12/15/08
Date

By: 

President

12-15-08
Date

Kevin L. Rogers, President

Approved as to legality
and Form

Office of General Counsel Date

Office of Attorney General Date

I hereby certify that funds in
The amount of \$765,500.00
are available under Appropriation Symbol
ME

Comptroller (Date)

**APPROVED ELECTRONICALLY
VIA SAP**

CONTRACT BOND

BOND NO. SU 1037379

KNOW ALL PERSONS BY THESE PRESENTS, That we the undersigned

MIDSTATE MECHANICAL & ELECTRICAL, LLC

130 WEST CHURCH STREET, SUITE 201, DILLSBURG, PA 17019

as Principal and Arch Insurance Company

(Surety Company)

3 Parkway, Suite 1500, Philadelphia, PA 19102

(Address)

a Corporation organized and existing under the Laws of the State of Missouri and authorized to transact business in Pennsylvania, as surety, are held and firmly bound unto the Department of General Services as hereinafter set forth, in the full and just several sums of

(A) Seven Hundred Sixty-Five Thousand, Five Hundred and

-----00/100 Dollars (\$765,500.00) Base Bid No. 4, for faithful

performance of the Contract as designated in Paragraph "A"; and

(B) Seven Hundred Sixty-Five Thousand, Five Hundred and

-----00/100 Dollars (\$765,500.00) Base Bid No. 4, for payment for

labor, material equipment rental and public utility services as designated in Paragraph "B".

Sealed with our respective seals and dates this 15th day of December 2008

WHEREAS, the above Principal has entered into a Contract with the Department of General Services dated the 29th day of December, 2008 for Contract No. D.G.S. 415-38.4,
Electrical Construction, Renovation of Student Center,
13 Cottages, Frey Gymnasium, Warehouse and Maintenance Building,
Scotland School for Veterans' Children, Scotland, Franklin County,
Pennsylvania

upon certain terms and conditions in said Contract more particularly mentioned; and

WHEREAS, It is one of the Conditions of the Award of the Department of General Services pursuant to which said Contract is about to be entered into, that these presents be executed;

NOW, THEREFORE, the joint and several conditions of this obligation are such:

A. That, if the above Principal as Contractor shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said Contract and General Conditions, including the plans and specifications therein referred to and made part thereof, and such alterations as may be made in said plans and specifications as therein provided and which are hereby made part of this Bond the same as though they were fully set forth herein, and shall indemnify and save harmless the Department of General Services and all of its officers, agents and employees from any expense incurred through the failure of said Contractor to complete the Work as specified and for any damages growing out of the manner of performance of said Contract by said Contractor or its Subcontractors, or its or

their agents or servants, including, but not limited to, patent trademark and copyright infringements, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

B. That, if the above Principal shall and will promptly pay or cause to be paid all sums of money which may be due by the Principal or any of its Subcontractors to any person, co-partnership, association or corporation for all material furnished and labor supplied or performed in the prosecution of the Work, whether or not the said material or labor entered into and become component parts of the Work or improvements contemplated, and for rental of equipment used, and services rendered by public utilities in, or in connection with, the prosecution of such Work, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

C. It is further agreed that any alterations which may be made in the terms of the Contract or in the Work to be done or materials to be furnished or labor to be supplied or performed, or equipment to be rented, or public utility services to be rendered, or the giving by the Department of General Services of any extension of time for the performance of the Contract, or the reduction of the retained percentage as permitted by the Contract, or any other forbearance on the part of either the Department of General Services or the Principal to the other, shall not in any way release the Principal and the surety or

sureties or either or any of them, their heirs, executors, administrators, successors or assigns, from their liability Hereunder; notice to the surety or sureties of any such alterations, extension or forbearance being hereby waived

D. The Principal and Surety hereby jointly and severally agree with the Obligee herein that every person, co-partnership, association or corporation which, whether as subcontractor or as a person otherwise entitled to the benefits of this Bond, has furnished material or supplied or performed labor or rented equipment used in the prosecution of the Work as above provided and any public utility, which has rendered services, in, or in connection with, the prosecution of such Work, and, which has not been paid in full therefor, may sue in assumpsit on this Bond in his, their, or its name and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or its, and have execution thereon; provided, however, that the Department of General Services shall not be liable for the payment of any costs or expenses of such suit to a third party under any theory of law of equity.

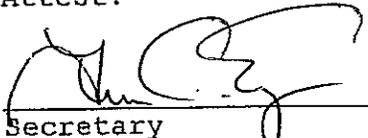
E. Recovery by any persons, co-partnership, association or corporation hereunder is subject to the provisions of the Act of May 15, 1998, P.L. 358, No. 57, 62 Pa.C.S. Sections 101-4509, as amended, which Act is incorporated herein and made a part hereof, as fully and completely as though its provisions were fully and at length herein recited, except that, where said Act

refers to the Commonwealth of Pennsylvania or a Department thereof, it is deemed to refer to the Department of General Services.

IN WITNESS WHEREOF, The said Principal and Surety have duly executed this Bond under seal the day and year above written.

Attest:

MIDSTATE MECHANICAL & ELECTRICAL, LLC
Corporation



Secretary
Teresa A. Eichelberger,
Corporate Secretary

12/15/08
Date

By: , President
President

12/15/08
Date

Kevin L. Rogers, President

ARCH INSURANCE COMPANY

Surety

By:



12/15/08
Date

Attorney-in-Fact
Heidi R. Brutko

PA Resident Agent Date

Approved as to Legality
and Form

Office of Chief Counsel Date

Office of Attorney General Date

POWER OF ATTORNEY

Know All Men By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal office in Kansas City, Missouri (hereinafter referred to as the "Company") does hereby appoint

Timothy C. Hoagland, Brent D. Headley, Heidi R. Brutko, Jamie J. Werner and Kitty A. Cassell of Mechanicsburg, PA (EACH)

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds and undertakings

EXCEPTION: NO AUTHORITY is granted to make, execute, seal and deliver bonds or undertakings that guarantee the payment or collection of any promissory note, check, draft or letter of credit.

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The Company may revoke this appointment at any time.

The execution of such bonds and undertakings in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office in Kansas City, Missouri.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on March 3, 2003, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings, obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on March 3, 2003:

VOTED, That the signature of the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on March 3, 2003, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.