

UNION COUNTY PUBLIC SCHOOLS



Monroe Middle School Window Replacement

2-9731451

Davidson Sash & Door, Inc.

**UNION COUNTY BOARD OF EDUCATION CONTRACT
MONROE MIDDLE SCHOOL'S WINDOW REPLACEMENT**

This Contract for Monroe Middle School's Window Replacement (this "Contract") is made and entered into the 1st day of May 2012 between The Union County Board of Education (UCBOE), administering the Union County Public Schools (UCPS), located at 400 North Church Street, Monroe, North Carolina 28112 and Davidson Sash & Door, Inc. located at 1358 Piedmont Drive, Lexington NC 27295; hereby, known as Davidson Sash & Door, Inc. or Contractor for and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

- I. Obligations of Contractor. The Contractor agrees to furnish all equipment, labor, materials and supervision necessary to complete the Scope of Work identified as Base Bid and Alternate 2 of **Attachment B**.

Additional provisions are as follows:

- A. Contractor shall repair and restore to its original condition any material or surface damaged by its operations.
- B. Contractor shall be responsible for all materials stored on site.
- C. Contractor shall fulfill the requirements listed within the UCPS Certification Form (**Attachment C**), sign and return with invoice.
- D. Contractor shall complete the NC Sales and Use Tax Certification Form enclosed in the specifications and noted in the Union County Public Schools / Union County Agency Lease Agreement for Sales Tax Reimbursement (**Attachment D**) and return with each invoice.
- E. Contractor shall receive prior approval by the UCPS Purchasing and Contract Coordinator for all subcontractors.
- F. Contractor and all Subcontractors shall be properly licensed in the state of North Carolina for work being performed on Union County Public School's property. Evidence of this license shall be presented with 24 hours of request.
- G. All representatives of Contractor shall dress appropriately for school environment and perform work in a professional manner. Failure to comply with this requirement could result in the representative being forced to leave the Owner's property. The determination of compliance will be the sole discretion of Union County Public Schools.
- H. Union County Public Schools are tobacco free. All Contractors must agree to refrain from tobacco use while on school property.
- I. Contractor shall provide daily cleanup and remove all debris off UCPS property. (UCPS Dumpsters are not to be used).
- J. Contractor is responsible for a turn-key project.

- II. Warranty.

- A. Contractor shall provide the warranty as stated within **Attachment B**.
- B. Contractor shall transfer manufacturer's warranty to Union County Public Schools.
- C. All repairs shall be performed at no cost to UCPS. This includes, but is not limited to, equipment, material, labor, supervision, and travel.
- D. The warranty period begins upon date of Substantial Completion.

- III. Commencement Date.

- A. Contractor may proceed upon receipt of purchase order and have access to the site beginning June 7, 2012.
- B. Alternate 2 shall be Substantially Complete by July 15, 2011.
- C. Base Bid shall be Substantially Complete by September 28, 2012
- D. The project must be Finally Complete by October 12, 2012.
- E. All work must be coordinated with the assigned UCPS Project Coordinator to ensure school activities are not disrupted.

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IV. Damages.

- A. Liquidated Damages. The damages UCPS will encounter if job is not completed by the time specified herein, will allow liquidated damaged (not penalty) of \$500.00 per day until the date of Substantial Completion. Substantial Completion means the Contractor has fulfilled the scope of work and requirements pertaining to this project and that the project may be used for the purpose intended. Substantial Completion must be with approval of Union County Public Schools. Extended time must be requested in writing to the UCPS Purchasing and Contract Coordinator listed herein.
- B. Property Damages. Contractor is responsible for all damages to Union County Public School's Property. Immediately upon recognition of such damage, the Contractor shall contact the UCPS Project Coordinator listed herein and also provide documentation of damage to the Purchasing and Contract Coordinator for Union County Public Schools.
- C. Change Orders. Contractor shall submit change order requests to the UCPS Purchasing and Contract Coordinator. Contractor will receive a fully executed change order when approved.

V. Obligations of UCBOE. The UCBOE agrees:

- A. For all services provided above, Contractor will be paid the Contract Sum of \$162,700.00 and is subject to additions and deductions by approved Change Orders. Both parties mutually agree that a deduct change order will be issued in the amount of \$6,500.00 if UCPS removes the windows. All requests for payment received will be on net 30 terms. Payment is enumerated as follows:

Base Bid:	<u>\$ 133,200.00</u>
Alternate No. 2 (Door Replacement per specifications):	<u>\$ 29,500.00</u>
ALLOWANCES (to be included in the Contract Sum):	
Allowance No. 1 – Unforeseen Allowance	<u>\$ 10,000.00</u>

(All unused funds shall be credited to UCPS at the end of the project)
- B. All invoices shall have the completed NC Sales and Use Tax Certification Form attached. The final invoice shall also include the UCPS Certification Form (Attachment C) and the required documentation stated within Attachment B. Failure to submit these documents may delay payment.
- C. Retainage will be held in accordance to the North Carolina General Statute 143-134.1.

VI. Project Representatives

The Contractor's representative must be able to fluently speak and read the English language and shall be the sole contact during this project. Any substitutions shall be in writing with an advance notification of the new Project Representative's name and contact information.

- A. David D. Pope, AIA, is designated as the Project Coordinator for UCBOE.
Telephone 704.296.5960 extension 6752
- B. Jane Worley is designated as the Contractor's Project Coordinator for Davidson Sash & Door Inc. and is fully authorized to act on behalf of the Contractor in connection with this Contract.
Telephone 336.249.0276
- C. Penny Helms, CLGPO is designated as the Purchasing and Contract Coordinator for UCBOE. Telephone 704.296.3160 extension 6759.

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VII. Indemnity and Insurance Requirements. The 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 the Contractor's failure to comply with any 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 during 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 Employers' Liability Insurance

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

Property Insurance

The Contractor is to provide Property Insurance (Builders Risk and a single Installation Floater for all his Sub-Contractors or an Inland Marine 'All Risk' form). Insurance shall be written on the Commercial Property Special form or an Inland Marine 'All Risk' form to cover 100% of the value of the completed work. He shall furnish a Certificate of Insurance and associated Coverage Form within 10 days of Notice to Award Contract. The Contractor shall furnish a copy of the actual policy to the Owner prior to but no later than his first request for payment, not to exceed 45 days from award of Contract or Notice to proceed whichever comes first. The Contractor shall also provide any other insurance specifically recommended in writing by the Department of Insurance and Risk Management. **The Contractor shall list Union County Board of Education as an additional Insured under the GL and AL policies as respects to work performed.**

Certificates of such insurance shall be furnished by the 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 the Contractor or the insuring company. Insurance coverage shall be listed on the standard ACORD Certificate of Liability Insurance form.

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

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VIII. Bonds- The Contractor shall furnish the following:
Performance Bond and a Labor and Material Payment Bond; Furnish each in the amount of 100% of the Contract Sum, executed by a surety company licensed to do business in the State of North Carolina and who shall be acceptable to the UCBOE. The form of the Performance Bond and Labor and Material Payment Bond shall be subject to approval by the UCBOE. Attach one copy of each bond to each of the contracts.

The Performance Bond and the Labor and Material Payment Bond shall be executed by an Attorney-In-Fact. There shall be attached to each copy of the bonds a certified copy of Power of Attorney properly executed and dated. Each copy of the bond shall be counter-signed by an authorized individual agent of the surety company licensed to transact business in North Carolina. The title "Licensed Residence Agent" shall appear after the signature. The seal of the surety company shall be impressed on each copy of the Bond. The Contractor's signature on the Performance Bond and on the Labor and Material Payment Bond shall correspond to the signature on the Contract."

Additional Provisions. Contractor agrees to the Standard Terms and Conditions set forth as **Attachment A** attached hereto and incorporated herein by reference.

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

Davidson Sash & Door, Inc.

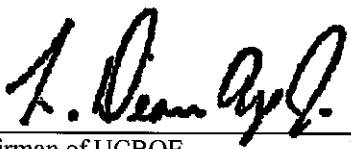
By: _____

Title: _____

Date


Contractor's Federal Identification #
[if Contract is with Organization]

or Social Security Number
[if Contract is with individual]

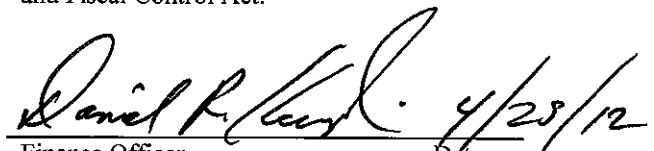


Chairman of UCBOE 6/5/12
Date

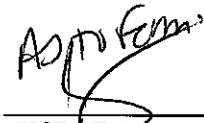
This instrument has been preaudited
in the manner required by the School Budget
and Fiscal Control Act.



Division of Insurance 4/24/12
& Risk Management Date



Finance Officer 4/28/12
Date



UCBOE Attorney 6/5/12
Date

**UNION COUNTY BOARD OF EDUCATION CONTRACT
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ATTACHMENT A

STANDARD TERMS AND CONDITIONS

1. Termination for Convenience. UCBOE may terminate this Contract at any time at its complete discretion by 30 days 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.
2. 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 15 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.
3. 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.
4. 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.
5. 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.
6. Contract Transfer. The Contractor shall not assign, subcontract or otherwise transfer any interest in this Contract without the prior written approval of the UCBOE.

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7. 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.
8. Key Personnel. The Contractor shall not substitute for key personnel assigned to the performance of this Contract without prior written approval from the UCBOE. "Key personnel" are defined as those individuals identified by name or title in this Contract or in written communication from the Contractor.
9. Contract Modifications: This contract may be amended only by Change Order duly executed by the UCBOE, Contractor and Architect.
10. 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.
11. Advertisement. The Contract will not be used in connection with any advertising by the Contractor without prior written approval by the UCBOE.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

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17. 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.
18. 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 Construction Rules of the American Arbitration Association
 - b. If mediation is unsuccessful litigation may be filed in Union County Superior Court.
19. 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.
20. 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.
21. Background Checks. At the request of UCBOE's Assistant Director, the Contractor (if an individual) or any individual employees of the Contractor shall submit to UCBOE criminal background check and drug testing procedures.
22. 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."
23. 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.
24. 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.

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25. 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.

26. Entire Agreement. 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.

ATTACHMENT B



Facilities

201 Venus Street
Monroe, NC 28112
Phone 704.296.3160 Fax 704.296.3163
www.ucps.k12.nc.us

Dr. Ed Davis – Superintendent

Board of Education

L. Dean Arp, Jr. – Chairman
John Collins - Vice Chairman
John Crowder
Sherry Hodges
Carolyn J. Lowder
Laura Minsk
Rick Pigg
Marce Savage
David Scholl

ADDENDUM 1

PROJECT: Monroe Middle School's Window Replacement, 2-9731451

DUE DATE: 2:00 pm on Monday, April 16, 2012

Contractor shall fulfill all requirements listed within RFP 2-9731451 with additions and/or changes noted below:

Bid Due Date

The Bid Due Date has been extended to 2:00 pm, Monday, April 16, 2012.

Mandatory Prebid Meeting

The Prebid Meeting that was held on Friday, March 30, 2012 is hereby considered non-mandatory.

Section C -Qualification

1.b-Delete "Possess an Unlimited General Contractor's License".

Section E –Submittals

1.a-Add the following clause: "Bid Bonds will be acceptable in the form of (1) Cash, (2) Cashier's Check, (3) Certified Check on a bank or trust company insured by the Federal Deposit Insurance Corporation, or (4) Bid Bond executed by a corporate surety licensed under the laws of North Carolina to execute such bonds. Bid Bonds will not be acceptable in the form of a personal or company check."

Section 01 23 00 – Alternates

Alternate #1 – Delete requirement to furnish and install blinds at Alternate #1 – new glazing for existing windows.
Furnish and install new blinds only at Base Bid – new replacement windows.



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Section 08 11 16 - Aluminum Flush Doors

Paragraph 2.06.C.2 Panic/Locking Hardware- add the following clause: “Panic hardware to have NL-OP option. “

Paragraph 2.06.C.6 Locksets- add the following clause: “New doors are to be fabricated to accommodate existing locksets. Contractor to verify size of lockset with door manufacturer.”

Paragraph 2.09.A- Quantity -Contractor is to provide the quantity of doors as indicated in Paragraph 2.09.A. To clarify: There are two (2) sets of double doors, i.e. pairs of doors. Each double door set is made up of two 3’-0”w x 7’-0”h doors. In addition to the double doors the Contractor is to furnish and install four (4) single doors that are 3’-0”w x 7’-0”h. All doors sizes to be field verified by Contractor. All doors are to be installed in existing hollow metal frames. Contractor to prep and patch existing hollow metal frame to receive new doors.

Section 08 51 13 – Aluminum Windows

Paragraph 2.01.B – Acceptable Manufacturers- Add the following to this clause: “It is the responsibility of the Contractor to provide confirmation in writing that the manufacturer’s products that they are providing meet or exceed the performance requirements of the basis of design.”

Paragraph 2.01.B – Acceptable Manufacturers- Add the following manufacturer:

4. Peerless Windows as manufactured by Peerless Window Products, Inc. Fort Scott, KS 66701

Paragraph 2.04.D – Interior glass lite. Delete clause 4 – Coating. Low E coating will not be required on #3 surface. All other requirements of the specifications remain as is.

Section 08 81 00 – Glazing

Paragraph 2.04.D – Interior glass lite. Delete clause 4 –Coating. Low E coating will not be required on #3 surface. All other requirements of the specifications remain as is.

Section 12 21 00 – Blinds

Insert the following paragraph under Part 1- General:

“**1.03 Location of Blinds:** Furnish and install blinds as specified for all new windows in the Base Bid excluding clerestory windows at Gymnasium indicated as window type D2.”



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DRAWINGS

Attachment I

Page 4 – Window height dimension for Units A,B, C and D is indicated as 80-1/2". Intermediate mullion of units which separates glass units from panel units is to be set at 36" A.F.F. so as not to exceed maximum sill height for egress windows included in these assemblies. Panel unit height will be approximately 32" including intermediate mullion and unit sill. Contractor to confirm all dimensions in accordance with Code Requirements.

Attachment III

Add the following notes to this drawing:

General Notes

- 1.) It is the Owner's intention to have the new window systems and new glazing installed without having to disturb existing GWB soffits or classroom demising walls. The distance between the termination of the GWB soffit /demising wall and the exterior exposed aggregate panel varies between 3-3/8" to 3-5/8" in several locations where this condition was observed. The basis of design is 3-1/4" in width so providing this condition is consistent there should be no conflict with the existing GWB Soffit/demising wall. Regardless of this observation it is incumbent upon the Contractor to assess the existing conditions and, if required, adapt the detailing of the windows to meet these conditions without the need to disturb the GWB soffit /demising wall.
- 2.) The conditions observed in note # 1 also apply to the treatment of any GWB and/or CMU demising walls that run perpendicular to the window system. It is the Owner's intent to have the new window system detailed in a manner similar to the existing conditions where the windows are not interrupted by these walls.
- 3.) The continuous aluminum trim indicated on Attachment III may not be required provided the existing wood blocking is not exposed after window details have been developed. If it is required the trim may be a prefinished aluminum closure as indicated on Attachment III or a prefinished snap trim with cover. Either one is acceptable.

Attachment IV

Attachment IV detailing a section thru window type D2 is hereby to be included in the Contract Documents. All notes indicated for Attachment III apply to this drawing.

