



## REQUEST FOR BOARD ACTION

ITEM NO. 6.

**DATE OF MEETING:** November 2, 2009

**REQUESTED BY:** David McCole, Finance Director

**SHORT TITLE:** Resolution Authorizing Contracts with and Purchase Orders to Skinner Smith Construction in the amount of \$69,940 and to McCall's Hurricane Fence Co., in the amount of \$6,420 for improvements at Topsail Elementary School

**BACKGROUND:** Of the \$56 million school bond referendum approved by voters on May 3, 2005, \$750,000 was allocated for renovations to convert the former Topsail Middle School to the new Topsail Elementary School. Thus far the Board has authorized allocations totaling \$291,347.17 to this project, and \$344,167.04 has been expended (including expenditures not in excess of \$5,000 and which required no Board action).

At this time, the schools are requesting approval of a contract with Skinner Smith to construct a sewer pump station and force main for Topsail Elementary School. The contract cost for this project is \$69,940. In addition, they would like approval of a purchase order to McCall's Hurricane Fence Company for additional fencing and a gate at the front of the campus in the amount of \$6,420.

The County and Schools have entered into the appropriate agreements to permit the County to pay the bills associated with this construction in order to recapture the sales taxes paid and realize a substantial savings.

**SPECIFIC ACTION REQUESTED:** The Board of Commissioners is requested to authorize a contract with and purchase order to Skinner Smith Construction in the amount of \$69,910 and to McCall's Hurricane Fence Co., in the amount of \$6,420 for work as described above at the new Topsail Elementary School.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully recommend approval.

JB  
Initial

**RESOLUTION:**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that contracts and purchase orders are authorized as follows:

Skinner Smith Construction	\$69,940	Sewer Pump Station/Force Main
McCall's Hurricane Fence Co.	\$ 6,420	Fencing/Gate – Front of Campus

**Total \$ 76,360**

63-406459 New Topsail Elementary School Renovations

The Chairman/County Manager is authorized to execute any documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Tate \_\_\_ Brown \_\_\_ Blanchard \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman 11/02/09  
DATE

\_\_\_\_\_  
ATTEST 11/02/09  
DATE

# AIA Document G702™ - 1992

## Application and Certificate for Payment

**TO OWNER:**  
 Pender County Schools  
 925 Pender Highway  
 Burgaw, NC 28425

**FROM CONTRACTOR:**  
 Skinner-Smith Construction, Inc.  
 3205 Randall Parkway, Suite 203  
 Wilmington, NC 28403

**PROJECT:** *Edin.*  
 Topsall Middle School  
 Sewer Pump Station & Force Main

**VIA ARCHITECT:**  
 Norris, Kuske & Tunstall  
 902 Market Street  
 Wilmington, NC 28401

### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$ 69,940.00
2. Net change by Change Orders	\$ -
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$ 69,940.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$ 25,777.50

5. RETAINAGE:
- a. % of Completed Work (Column D + E on G703) \$ -
  - b. % of Stored Material (Column F on G703) \$ -

Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ -

6. TOTAL EARNED LESS RETAINAGE \$ 25,777.50  
 (Line 4 Less Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$ -  
 (Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE \$ 25,777.50

9. BALANCE TO FINISH, INCLUDING RETAINAGE \$ 44,162.50  
 (Line 3 Less Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ -	\$ -
Total approved this Month	\$ -	\$ -
<b>TOTALS</b>	<b>\$ -</b>	<b>\$ -</b>
NET CHANGES by Change Order	\$ -	\$ -

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Date 10-9-09 Prepared By *aw*  
 Approved By *DS*  
 Account #  
 Amount \$ *25,777.50*  
**RECEIVED**  
 OCT 6 2009  
 By *[Signature]*

**APPLICATION NO.** October 2, 2009  
**PERIOD TO** *File by*  
**CONTRACT FOR:** Topsall Middle School  
**CONTRACT DATE:** July 9, 2009  
**PROJECT NOS:** *Project # 09014*

**Distribution to:**  
 OWNER   
 ARCHITECT   
 CONTRACTOR   
 FIELD   
 OTHER

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

**CONTRACTOR:** *SKINNER-SMITH CONSTRUCTION*  
 By: *[Signature]*  
 State of North Carolina  
 County of New Hanover  
 Subscribed and sworn to before me this 2nd day of October, 2009.  
**Notary Public:** Julie A. McLendon  
 My Commission Expires: 4/26/14

Date: 10/2/09

Julie A. McLendon  
 Notary Public  
 New Hanover County, NC  
 My Commission Expires 4/26/14

### ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ 25,777.50  
 (Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

**ARCHITECT:** *Norris, Kuske & Tunstall*  
 By: *[Signature]*  
 Date: 10-07-09

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Payment, acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

THIS AGREEMENT is by and between PENDER COUNTY SCHOOLS ("Owner") and SKINNER SMITH CONSTRUCTION ("Contractor").

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.

**ARTICLE 2 – THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is general described as follows:

<sup>Elem.</sup>  
**TOPSAIL MIDDLE SCHOOL**  
**SEWER PUMP STATION & FORCEMAIN**  
**Contract Number 71009014**  
**Pender County, North Carolina**

**ARTICLE 3 – ENGINEER**

3.01 The Project has been designed by Norris, Kuske & Tunstall Consulting Engineers, Inc of Wilmington, North Carolina, 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 4 – CONTRACT TIMES**

4.01 *Time of the Essence*

A. All time 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.

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within ninety (90) calendar days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within one hundred twenty (120) calendar days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the 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,

## Topsail Middle School Sewer Pump Station &amp; Forcemain, Pender County, North Carolina

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 One Hundred and 00/100 Dollars (\$100.00) for each day that expires after the time specified in Paragraph 4.02 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 One Hundred and 00/100 Dollars (\$100.00) for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

**ARTICLE 5 – CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

- A. For all Work other than Unit Price Work, a lump sum of \$69,940.00. All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

**ARTICLE 6 – PAYMENT PROCEDURES****6.01 Submittal and Processing of Payments**

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment on or about the 20<sup>th</sup> day of each month during performance of the Work as provided in Paragraph 6.02 A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed and accepted 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 General Conditions.

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 200 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.

**6.03 Final Payment**

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the

Topsail Middle School Sewer Pump Station & Forcemain, Pender County, North Carolina

remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

#### **ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS**

7.01 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 with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor does not consider that 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.
- E. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- F. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- G. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

#### **ARTICLE 8 – CONTRACT DOCUMENTS**

##### **8.01 Contents**

- A. The Contract Documents consist of the following:
  1. This Agreement (pages 1 to 5, inclusive)
  2. Performance bond
  3. Payment bond
  4. General Conditions
  5. Supplementary Conditions
  6. Specifications as listed in the table of contents of the Project Manual
  7. Drawings consisting of three (3) sheets bearing the following general title:
    - C1 – Site Plan
    - C2 – Plan and Profile
    - C3 – Plan and Profile
  8. Addenda (numbers 0 to 0, inclusive)
  9. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid

## Topsail Middle School Sewer Pump Station &amp; Forcemain, Pender County, North Carolina

- i. Note: to the extent there is a conflict between the bid and the other contract documents, the other contract documents control
  - b. Documentation submitted by Contractor prior to Notice of Award
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed
  - b. Work Change Directives
  - c. Change Orders
- B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).
  - C. There are no Contract Documents other than those listed above in the Article 8.
  - D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

**ARTICLE 9 - MISCELLANEOUS****9.01 Terms**

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

**9.02 Assignment of Contract**

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that 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.

**9.03 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.

**9.04 Sevarability**

- 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.

**9.05 Contractor's Certifications**

- A. Contractor certified that 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 9.05:

Topsail Middle School Sewer Pump Station & Forcemain, Pender County, North Carolina

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 the Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

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.

This Agreement will be effective on 09-09-09.

Owner:

Ali Doh

By: Superintendent  
Title:

Attest:

Title:

Address for giving notice:

\_\_\_\_\_

\_\_\_\_\_

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement)

Contractor: SKINNER-SMITH CONSTRUCTION, INC

Steven C. Skinner

By: President  
Title:

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

Attest: [Signature]  
Title: VICE PRESIDENT/SEC

Address for giving notices:

3205 RANDALL PARKWAY, SUITE 203  
WILMINGTON, NC 28403

License No: NC 25155

(Where applicable)

Agent for service of process:

\_\_\_\_\_

**Skinner  
Smith  
Construction, Inc.**  
UTILITIES AND ROAD GRADING

3205 RANDALL PKWY. SUITE 303  
WILMINGTON, NC 28403  
(910) 343-4902 FAX: (910) 343-4912

N.C.U.L. 25855

10/2/2009

PROJECT: TOPSAIL MIDDLE SCHOOL SEWER PUMP STATION & FORCE MAIN  
OWNERS: PENDER COUNTY SCHOOLS  
PAY REQUEST #1 - FOR WORK COMPLETED THROUGH SEPTEMBER 30, 2009

ITEM#	DESCRIPTION	CONTRACT EST. QUANT.	UNITS	UNIT PRICE	CONTRACT EST. AMTS.	MONTH QUANTITY	PREV QUANTITY	TOTAL QUANTITY	TOTAL AMOUNT
<b>A. GENERAL WORK</b>									
1.	CLEARING & STRIPPING	1	LUMP SUM	1,000.00	1,000.00	100%		100%	1,000.00
2.	SEEDING DISTURBED AREAS	4,600	SY	0.55	2,530.00	4,100		4,100	2,255.00
3.	CONSTRUCTION STAKEOUT	1	LUMP SUM	500.00	500.00	100%		100%	500.00
4.	ASPHALT REPAIR/ABC	1	LUMP SUM	1,600.00	1,600.00	100%		1	1,600.00
<b>SUBTOTAL</b>					<b>\$ 5,630.00</b>			<b>SUBTOTAL</b>	<b>\$ 5,355.00</b>
<b>B. SEWER SYSTEM</b>									
1.	4" C900 FORCE MAIN	2,080	LF	9.50	19,760.00	1,875		1,875	17,812.50
2.	HYDROSTATIC TESTING	1	LUMP SUM	2,000.00	2,000.00			0%	
3.	28' - 8" SDR35 GRAVITY SEWER WITH 1 - 4' DIAM DOGHOUSE MANHOLE	1	LUMP SUM	3,200.00	3,200.00			0%	
4.	TIE FORCE MAIN TO WWTP	1	LUMP SUM	2,900.00	2,900.00	90%		90%	2,610.00
5.	DUPLEX PUMP STATION INCLUDING 6' DIAMETER PRECAST WET WELL AND 4' x 4' PRECAST VAULT WITH 48" x 48" ALUMINUM DOUBLE DOOR HATCH, DUPLEX GRINDER PUMPS, PUMP CONTROL SYSTEM, PIPING, VALVES PMANUAL TRANSFER SWITCH, ELECTRICAL WIRING AND START UP SERVICE	1	LUMP SUM	36,450.00	36,450.00			0%	
<b>SUBTOTAL</b>					<b>\$ 64,310.00</b>			<b>SUBTOTAL</b>	<b>\$ 20,422.50</b>

TOTAL	\$ 69,940.00	TOTAL WORK COMPLETED TO DATE	\$ 25,777.50
		LESS PREVIOUSLY INVOICED	\$ -
		TOTAL DUE THIS PAY REQUEST	\$ 25,777.50

*New Po.  
Will come from  
"Other" account for  
Topsail Elem. School.*

*Thanks  
C. Wells*

McCall's Hurricane Fence Co.  
 612 South Front St. P.O. Box 2067  
 Wilmington, NC 28402  
 (910) 763-4960  
 Email: mchfc@bizec.rr.com

RECEIVED

OCT 09 2009

PENDER FINANCE

JOB INVOICE

123735

Customer Order No.

Date Ordered: 8/10/09

Ordered by: David Smith

Phone: 470 9467

Site Contact:

David Smith

Phone: 470 9467

Bill To: Pender County Schools  
 Address: 925 Penderleas Hwy  
 City: Burgaw, NC 28425

NO CUTS: A092222311 Complete: 8/13/09 Good until: 8/31/09 Update: 8/27/09  
 Job Address and Location: Topsail Elem. School, Hampstead  
 Description of Work:  
 Install 6' high chain link fence

Quantity	Description of Material Used	Price	Amount
	Installed 6' high chain link fence		
	<i>Additional 1/2 Fence and Gates for front of Campus</i>		
	<i>309' New 6' Fence</i>		
<i>1</i>	<i>10' Double Gate</i>		
<i>1</i>	<i>16' Double Gate</i>		
<i>1</i>	<i>25' Double Gate</i>		
<i>105'</i>	<i>6' Fence Remove &amp; Relocate</i>		
			<i>6420.00</i>

*New AD*  
 Needs to go before Board.

Date 10-9-09 Prepared By CW  
 Approved By DS  
 Account # \_\_\_\_\_ Amount \$6,420.00  
 \_\_\_\_\_  
 \_\_\_\_\_

Materials 3796.95  
 Tax 263.05  
 Labor 2260.00  
 Total 6420.00

I hereby acknowledge the satisfactory completion of the above described work.  
 SIGNATURE \_\_\_\_\_ DATE COMPLETED 9/16/09

RECEIVED OCT 09 2009