

REQUEST FOR QUALIFICATIONS

**STRUCTURAL ENGINEER AND
ARCHITECT
OCRACOKE SCHOOL
MATTAMUSKEET SCHOOL
BUS GARAGE**

QUESTION DEADLINE: 5:00 p.m. EST, March 11, 2020

PROPOSAL DEADLINE: 5:00 p.m. EST, March 18, 2020

Contact Information

Direct Inquiries To: Ken Chilcoat
Finance Officer
Hyde County Schools
1430 Main Street
Swan Quarter, NC 27885
252-926-3281 ext. 3506
kchilcoat@hyde.k12.nc.us

Submittals

Send Proposals To: Ken Chilcoat
Finance Officer
Hyde County Schools
1430 Main Street
Swan Quarter, NC 27885

Important Notes:

Proposals containing changes to any terms and conditions listed within this solicitation may render the proposal as unacceptable and unresponsive for award.

All inquiries are to be made in writing and submitted to the individual listed above. Any attempt to contact any elected local officials or school system administration may result in disqualification of the proposal.

It is the sole responsibility of the Firm to assure all addenda have been received prior to submittal.

I. INTRODUCTION:

Hyde County Schools (“HCS”) is seeking Qualifications from skilled, Structural Engineering and experienced Architectural firms who specialize in school building construction, repair, and renovation.

HCS is specifically looking for structural engineers and architects with a minimum of 5 years of experience in school construction projects. Prior experience working with FEMA-reimbursable projects is preferred.

It is the intent of HCS to select firm(s), as a result of this RFQ, that are currently licensed in the State of North Carolina to perform engineering and architectural services. Assigned project may include Civil, Structural, Electrical, and Plumbing needs.

II. SCOPE OF WORK

For general purposes the scope may entail, but is not limited to, evaluation and assessment of structural damage and structural integrity of project buildings and the production of safety reports for project buildings, estimation of costs of repair versus costs of replacement of damaged buildings, costs of design, construction administration and management, development of construction designs and protocols, project cost estimate, permits, identify and obtain necessary easements, attend pre-bid meetings and bid openings, provide recommendation of award, assist in value engineering, and contract administration.

A description of HCS projects that may require these services are attached as Appendix A.

III. SELECTION PROCESS

HCS will review the qualification proposals and may request interviews. If contacted, the firm should make themselves available and be ready to provide a presentation of the proposal submitted. All costs associated with the proposal and presentation shall be at no cost to HCS. HCS reserves the right to reject any or all proposals.

HCS may provide a list of services and goals to be accomplished for a specific project to the selected firm. The firm shall provide a written response addressing the requirements of the project requested. The written response (“proposal”) shall include the information identified in Section VIII of this RFQ.

IV. PROPOSAL SUBMITTAL REQUIREMENTS

Submittal shall include eight (8) copies of their proposals in a sealed envelope/box along with one digital version of the proposal (in PDF Format) to the address provided on page 2 of this solicitation document. No facsimile or email responses will be accepted or considered. The electronic copy shall be included in the proposal package as a USB Flash Drive with the Firm Name and Professional Service clearly marked. Responses must be received no later than the time and date listed on page 1 of this solicitation document. Any submittals received after the deadline by any delivery method will not be considered or evaluated.

V. RFQ QUESTIONS

Questions are to be submitted via email to the individual listed on page 2 of this solicitation document. Subject line shall be RFQ-STRUCTURAL ENGINEER AND ARCHITECT -OCRACOCKE SCHOOL/MATTAMUSKEET/BUS GARAGE. Only emailed questions will be addressed and answered. Written response is the only official method by which interpretation, clarification or additional information will be given. Oral interpretations or clarifications will be without legal effect. No personal inquiry or marketing meetings will be conducted or allowed. HCS will not entertain any questions after the deadline date provided on page 1 of this solicitation document.

VI. PROPOSAL SUBMITTAL FORMAT AND CONTENTS

The instructions below provide guidance and information to prepare concise responses to this RFQ. The purpose is to establish the format and contents of proposal so responses are complete, contain all essential information and can be easily evaluated.

VII. PROPOSAL FORMAT

Qualification proposals are not to exceed 20 pages, must be presented in a well-organized and concise manner. A single volume booklet is preferred. Cover page, Tabs, Certificate of Insurance, resumes, and blank pages are not counted towards the limit. A page is defined as an 8.5" x 11" or 11" x 17" sheet that contains text, graphics, or other printed material.

VIII. PROPOSAL CONTENT

The following items must be addressed in your package:

- ✓ Introductory Letter: Clear response identifying the information provided below.
 - Firm's Name and Address
 - Contact Information (i.e. phone number, facsimile number, email, etc.)
 - Identify projects listed within Appendix A that you have an interest and provide a general statement of why HCS should select your firm.

- Acknowledgement of any issued Addenda.
- Letter shall be from the Principal of the firm or Equivalent.
- ✓ **Qualifications:** Provide information listed below to clearly show the firm's qualifications.
 - Provide similar experience illustrating structural engineering and architectural design work.
 - Site specific projects that were completed within the past five (5) years with special emphasis given to the type of projects listed within Appendix A and list a reference with contact information for each project cited.
- ✓ **Experience:** Provide information listed below to show the firm's experience.
 - Indicate any previous project experience working with a government agency, as a structural engineer and/or design professional, within the past five (5) years. Please include brief project statement, primary contact, and whether the project was completed within scope, budget, and schedule.
- ✓ **Project Approach:** A detailed description of how your firm proposes to approach each project. Include sufficient discussion of proposed methodologies, techniques and procedures to assist HCS with any architectural needs that may arise.
- ✓ **Project Schedule:** Provide an explanation on how your firm determines project schedule and what methods your firm uses to ensure schedule is met. If a purchase order is issued, selected Firm must be in position to begin work upon notice to proceed.
- ✓ **Project Team(s):** Provide an Organization Chart of project team specifying dedicated Project Manager, Key Personnel, and Sub-Consultants assigned to the team and availability of backup personnel that will support work on any issued project. Include resumes with a brief summary identifying roles, responsibilities, and general qualifications (i.e. professional certifications, licenses) of each team member (including sub-consultants) as well as education, years of experience (with current firm and other firms). If more than one Project Manager or team is desired, please include this information and describe why this is necessary and how it is anticipated to work.
- ✓ **Committed Work Load:** Provide information relative to the availability of each team member and indicate a percentage of project time that each team member is anticipated to be working on an assigned project.
- ✓ **Insurance and Contract Statement:** Provide a statement that the firm will provide insurance as specified in Appendix B (Draft Master Agreement for Professional Services) and provide a copy of the current Certificate of Insurance. Include a statement that the Draft Master Agreement for Professional Services (Appendix B) has been reviewed; that the firm is willing to meet all of the requirements set forth therein; and that the firm is prepared to sign HCS agreement as written.

(Any requested changes to Master Professional Services Agreement must be specifically requested in the Proposal). Such requests will be taken into account as one of the evaluation factors when reviewing the Proposal and may be denied by HCS in its discretion if Firm is selected and awarded a project.

- ✓ Federal Emergency Management Agency Compliance: Provide a statement that the Firm has reviewed the Hyde County Board of Education Addendum to Contract for Goods and Services for FEMA Public Assistance Program (Appendix C) and that the Firm is willing to meet all of the requirements set forth therein and cooperate with the HCS's efforts to seek reimbursement from FEMA.
- ✓ Identification of Lawsuits and Administrative Claims/Fine: Firms must identify all lawsuits, administrative claims, and fine proceedings the Firm has been a party to in the past five (5) years. Include any fines levied by any governmental unit relating to the services pertaining to this solicitation document (i.e. EEOC, Department of Labor).
- ✓ Unit Price Schedule: Provide hourly rates for each classification of personnel.

IX. EVALUATION METHOD

1. Firm Experience/Reputation/Workload: The firm's experience in similar work and the record of successful results of that work. Consideration will be given to the firm's ability to take on additional work, demonstrate understanding of HCS goals and purposes of this RFQ, specific management approach, how well the firm's organization structure show sufficient depth of its present workload, approach to managing HCS budget, time, and the firm's ability to offer the extensiveness and quality of services required.
2. Understanding the Scope of Work: The ability of the firm to outline a realistic approach to providing architectural services for all size of projects will be considered. A comprehensive understanding of local conditions, permitting processes, bid and contract development and administration will be considered. Ideas that are innovative, cost effective, or demonstrate overall improvements of the design services will be given weight. A demonstrated understanding of HCS project processes, working with third-party entities and outside agencies as may be required under these services will be given consideration.
3. Experience of Personnel assigned to this Project Team: HCS will consider individual qualifications of project team members who will be assigned to do a majority of work on assigned projects. Consideration will include the Project Manager's individual qualifications, experiences, and location, which key personnel will be assigned to the project, and any sub-consultant's individual experience, qualifications and location. The Project Manager's past and/or current experience working with school systems will be given consideration. HCS reserves the right to request substitution of sub-consulting firms.

4. Schedule: Consideration will be given to the firm's availability to handle projects of various sizes within a reasonable time-frame. Proposed level of effort will also be used to determine how well the firm understands the project components. Consideration will also be given to the firm's ability to meet schedules and responsiveness to the staff of HCS.

X. MINIMUM REQUIREMENTS FOR CONTRACT EXECUTION

All proposal packages and materials submitted hereunder become the exclusive property of HCS. HCS reserves the right to reject any or all submittals. This submittal request is neither a contractual offer nor a commitment to purchase services. HCS assumes no contractual obligation as a result of the issuance of this request, the preparation or submission of a qualifications statement by a Firm, the evaluation of statements, or final selection. All submissions may be kept by HCS and may be disclosed to third parties at HCS discretion.

A Professional Services Agreement will be negotiated with the firm deemed best qualified by HCS based on the proposed scope of work, deliverables, project schedule, fee schedule and project team as outlined in their proposal.

Negotiating with Others

HCS reserves the right to award a contract without discussion and without conducting further negotiations. HCS may also, at its sole discretion, have discussions with firms and HCS may enter into negotiations separately with such firms. HCS shall not be deemed to have finally selected a firm until a contract has been successfully negotiated and signed by all parties.

Responsibility for Costs

The firm shall be fully responsible for all costs incurred in the development and submission of this submittal. Submittal documents should be prepared simply and economically, providing a straightforward and concise description of the Firm's capabilities to satisfy the requirements of the request. Emphasis should be placed on completeness and clarity of content. Selected Firms may be asked to present in person the substance of their response to HCS staff if necessary. All costs of such presentations shall be borne solely by the Firm.

Complete Services/Products

The Firm shall be required to (a) furnish all tools, equipment, supplies, supervision, transportation, and other execution accessories, and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in accordance with good technical practice, with due diligence, and in accordance with the requirements, stipulations, provisions, and conditions of this document and the resultant contract, execute and complete all specified work to the satisfaction of HCS.

Public Record/Confidentiality

Responses to the RFQ will become public record and, therefore, be subject to public disclosure. If a Firm submits any record or portion of a record, that the Firm considers to be a trade secret meeting the definition contained in NCGS 66-152 (3), Firm shall clearly mark in the top right hand corner of each document containing the trade secret as CONFIDENTIAL. HCS will only withhold information that meets requirements provided by NCGS 132-1.2 *et seq.*

Minimum Credentials

Firm is required to submit evidence that they have relevant experience and have previously delivered similar services. Firm may additionally be required to show that they have satisfactorily performed similar work in the past and that no claims of any kind are pending against such work. Any Firm who is engaged in any work which would impair their ability to perform or finance this work or has outstanding claims pending for work of a similar nature, either completed or in progress, will not be chosen.

No submittal will be accepted from, nor will a contract be awarded to, any Firm who is in default, as surety or otherwise, upon any obligation to HCS, or is deemed to be irresponsible or unreliable by HCS.

Firm(s) must have the financial ability to undertake the work and assume professional liability. Firm(s) must have an adequate accounting system to identify costs chargeable to the Project.

Conflict of Interest Statement

By submission of a response, the Firm agrees that at time of submittal, it: (1) has no interest (including financial benefit, commission, finder's fee, or any other remuneration) and shall not acquire any interest, either direct or indirect, that would conflict in any manner or degree with the performance of Firm's services, and (2) will not benefit from an award resulting in a "Conflict of Interest." A "Conflict of Interest" shall include holding or retaining membership, or employment, on a board, elected office, department, division, bureau, or committee sanctioned by and/or governed by HCS. Firms shall identify any interests, and individuals involved, on a separate paper within response and understand that HCS, in consultation with legal counsel, may reject their proposal.

Changes in Personnel

Changes to personnel on project team(s), particularly a Project Manager, are to be avoided wherever possible. If during the contract negotiation phase the Firm requests to make a change to any personnel listed within the Firm's submitted proposal, the request to HCS must be made in writing and detail the proposed replacement personnel, resume(s) and reason(s) as to why the replacement is needed. HCS will consider the request and may or may not accept the personnel changes. If HCS denies the Firm's request for a change in personnel, the Firm will be required to confirm in writing that the personnel submitted within Firm's original proposal will perform the work, or HCS will no longer consider the Firm as the best qualified firm and may enter into contract negotiations with the next most qualified Firm.

APPENDIX A

POTENTIAL PROJECTS

(Response to this RFQ, including interviews, are not to include any work products, designs, etc. that strictly pertains to the projects listed below. Such information will not be considered during evaluation process).

A. Ocracoke School

a. Phase 1:

- i. Evaluation of the structural integrity of the following buildings, and production of a safety report for each building indicating whether the buildings are safe for occupancy by students:
 1. Building 400 (Library)
 2. Building 500 (Elementary school building)
- ii. Assessment of damage to the following buildings and comparative analysis of estimated cost to repair versus cost to replace the following buildings:
 1. Building 100
 2. Building 200
 3. Building 300
 4. Building 600

b. Phase 2:

- i. Depending on the results of the analysis provided in Phase 1, the Board may elect to use the Firm for any of the following work for Buildings 100, 200, 300, and/or 600:
 1. Design services for replacement of buildings, or
 2. Design services for repair of buildings.

B. Mattamuskeet School

a. Phase 1:

- i. Evaluation and assessment of Buildings 500, 600, and 700, and production of construction design protocols for how to replace existing roofs with commercial grade metal roofs.

C. Bus Garage

a. Phase 1:

- i. Assessment of damage to the bus garage and comparative analysis of estimated cost to repair versus cost to replace the bus garage.

b. Phase 2:

- i. Depending upon the results of the analysis provided in Phase 1, the Board may elect to use the Firm for design services for the replacement or repair of the bus garage.

APPENDIX B

MASTER AGREEMENT FOR
PROFESSIONAL SERVICES
(DRAFT)

MASTER AGREEMENT
STRUCTURAL ENGINEERING and ARCHITECTURAL SERVICES

This Contract is made and entered into this, **day of month, year** between **The Hyde County Board of Education** ("HCBOE") located at 1430 Main Street, Swan Quarter, North Carolina 27885, and **Firm Name, located at Address.** ("Firm")

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Obligations of Firm.

The Firm will provide professional services ("Services") as described within the Request for Qualifications and the Firm's Response incorporated herein by reference as Exhibit 1.

Individual task will be assigned in writing on a project by project basis by an authorized representative of HCBOE. Such writing shall be in the form of a standard HCBOE purchase order ("Purchase Order"), such Purchase Order is to specify the specific services and/or goods desired by HCBOE and the compensation that the Firm will be paid for providing the requested Services and/or Goods. Firm will be deemed to have accepted a Purchase Order and be obligated to provide the Services and/or Goods outlined in the Purchase Order in accordance with the price and other terms of the Purchase Order, and the terms and conditions hereof, unless within 24 hours after issuance of Purchase Order, Firm notifies the Project Coordinator (as hereinafter defined) in writing that it does not accept the Purchase Order and will not provide the requested Services and/or Goods. Contract begins upon date of execution.

The Firm agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract. Furthermore, the Firm represents and warrants that (i) it is duly qualified to provide the Services, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by others practicing under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, and (iv) it shall perform the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations.

Firm acknowledges that the Contract Time under which Services to be provided include HCBOE and other governing agencies review time, must be strictly adhered to by Firm, and that each milestone phase must be met by Firm, as well as the final completion date.

In the event HCBOE elects to use the Firm for Phase 2 of the projects, then the Firm shall file all applicable permits, plans, specifications and other documents required and coordinate with all local, state or federal agencies having jurisdiction over any part of the project. The Firm shall submit bid documents to local permitting authorities in advance of construction contract award and arrange for the building permit review and approval subject only to adding the contractor's names, license number, and Contract amounts once the bids are received and an award recommendation made.

It is the responsibility of the Firm to maintain the design schedule. The Firm recognizes that the projects assigned under this Agreement is to be performed as expeditiously as is

practical. It is understood that the schedule may vary dependent on the project complexity; therefore, a mutually agreed schedule is to be reached prior to Owner's issuance of purchase order. No deviation from the schedule shall be allowed without written approval for a change in the schedule. If for any reason it appears any phase of the Project will be delayed, the Firm agrees to immediately notify HCBOE, in writing, and provide an explanation of the delay and a plan to bring the design services into line with the schedule. Should HCBOE determine that the Firm is behind schedule, the Firm shall expedite and accelerate its efforts, including additional manpower and/or overtime, to maintain the approved design schedule at no additional cost to the HCBOE. In the event Firm is delayed in the progress of providing the Services, through no fault of Firm, then Firm may be entitled to an extension of the Contract Time. If a delay in the schedule is approved by the HCBOE, the schedule will be amended and the Firm will complete the work within the amended schedule at no additional cost to the HCBOE.

INSURANCE. In addition to the insurance required pursuant to Section 24 of the Standard Terms and Conditions, the Firm certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to the HCBOE and authorized to do business in the State of North Carolina:

Professional Liability Insurance

The Firm will be required to take out and maintain Professional Liability Insurance providing liability insurance limits at least in the amount of \$1,000,000. The Firm will be required to maintain this coverage for a period of at least two (2) years beyond substantial completion of the contract.

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 Agreement.

PROFESSIONAL CONSULTANTS/SUBCONTRACTORS. The Firm agrees to provide the names of persons or entities with which the Firm intends to contract for the performance of specialized portions of the services described in this Contract to HCBOE. HCBOE and/or Owner's representatives shall promptly inform the Firm whether there is reasonable objection to any person or entity described therein. The Firm shall not contract with a proposed person or entity to which a reasonable and prompt objection has been raised. If there is an objection to a person or entity proposed by the Firm, the Firm shall furnish in writing the name of an alternate to whom there is no objection.

If the Firm desires to change such persons or entities during the term of this Contract, the Firm shall notify HCBOE in writing of any proposed changes, and HCBOE shall promptly inform the Firm whether there are reasonable objections to such change.

This contract does not grant the Firm the right or the exclusive right to provide specified services to HCBOE. Similar services may be obtained from sources other than the Firm (or not at all) at the discretion of the HCBOE.

The Firm shall begin work immediately upon Notice to Proceed in accordance with instructions from HCBOE.

The Firm represents and warrants that (i) it is duly qualified and licensed to provide the

Services, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by Firms providing similar services under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, (iv) it shall perform the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations, and (v) its reports, if any, shall be complete, accurate, and unambiguous.

INDEMNIFICATION. To the fullest extent permitted by law, the Firm agrees to indemnify and hold harmless the HCBOE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability suffered by the HCBOE and that are proximately caused by the Firm, its officers, independent contractors, agents, employees and assigns. This provision replaces the obligations listed in Section 23 of the Standard Terms and Conditions.

2. Obligations of HCBOE. HCBOE agrees to pay the Firm for the faithful performance of this Contract on a task by task basis.

A negotiated cost of services fitting the project size, needs and budget shall be mutually agreed upon prior to issuance of purchase order. Once in agreement, a Purchase Order in the amount of the negotiated cost will be issued for each assigned task. The total amount due to the Firm for a particular work assignment shall not exceed the amount shown on the purchase order.

3. Project Coordinator. **Ken Chilcoat** is designated as the Project Coordinator for the HCBOE. The Project Coordinator shall be the HCBOE's representative in connection with the Firm's performance under this Contract. The HCBOE has complete discretion in replacing the Project Coordinator with another person of its choosing.
4. Firm Project Manager. **XXXXXX** is designated as the Project Manager for the Firm. The Firm's Project Manager is fully authorized to act on behalf of the Firm in connection with this Contract. Substitution of Project Manager must be presented to HCBOE Project Coordinator with a minimum of 24-hour notice and shall include contact information of the newly selected Project Manager.
5. Terms and Methods of Payment. HCBOE will make payment after invoices are approved on a net 30-day basis. Failure to submit all required documents will delay payment. HCBOE will not pay for services or materials in advance without the prior approval of the Finance Officer.
6. Additional Provisions. Firm agrees to the Standard Terms and Conditions set forth as Attachment A and [insert FEMA document name] set forth as Attachment B, both of which are attached hereto and incorporated herein by reference.
7. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

Attachment A

Standard Terms and Conditions

I. Standard Terms and Conditions for All Contracts

1. Acceptance. Contractor's execution of this Contract and/or acknowledgment of the terms of any applicable purchase order ("Purchase Order"), without timely express written objection, or Contractor's shipment or performance of any part of a Purchase Order, constitutes an agreement to (i) all terms and conditions set forth or referenced herein and on the face of a Purchase Order, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to hereto (including without limitation any request for proposals or invitation for bids or Contractor's response thereto), and (iv) any other terms and conditions of a written agreement signed by Contractor and HCBOE that deals with the same subject matter (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and HCBOE with respect to the purchase by HCBOE of the Services and/or Goods (the "Goods" and/or "Services," as appropriate) provided or work performed as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to HCBOE shall control. A Purchase Order constitutes an offer by HCBOE and expressly limits acceptance to the terms and conditions stated therein. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice, or in any other communication from Contractor to HCBOE shall be deemed accepted by or binding on HCBOE. HCBOE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until HCBOE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by HCBOE are subject to correction.
2. Quantities. Shipments must equal exact amounts ordered unless otherwise agreed in writing by HCBOE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. Prices. If Contractor's price or the regular market price of any of the Goods covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods, Contractor agrees to give HCBOE the benefit of such lower price on any such Goods. In no event shall Contractor's price be higher than the price last quoted or last charged to HCBOE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.
4. Invoices. It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to HCBOE's accounts payable department with a copy to HCBOE Project Coordinator.
5. Freight on Board. All shipments of Goods are FOB destination unless otherwise stated in the Contract Documents.
6. Taxes. Taxes are included in the Contract Price. Applicable taxes shall be invoiced as a separate item for HCBOE's records.
7. Payment Terms. Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods, whichever is later.
8. Condition and Packaging. Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or

used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.

9. Delays in Shipment. Time and date of delivery are of the essence, except when delay is due to causes beyond Contractor's reasonable control and without Contractor's fault or negligence.
10. Risk of Loss. Contractor shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by HCBOE or its nominee.
11. Rejection. All Goods shall be received subject to HCBOE's inspection. Goods that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Contractor's expense or may be accepted at a reduced price. HCBOE may require Contractor to promptly replace or correct any rejected Goods Services and, if Contractor fails to do so, HCBOE may contract with a third party to replace such Goods Services and charge Contractor the additional cost.
12. Warranties. Contractor warrants that all Goods delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by HCBOE of the Goods and shall run to HCBOE and any user of the Goods. This express warranty is in addition to Contractor's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, HCBOE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.
13. Compliance with All Laws. Contractor warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders. The right of Contractor to proceed may be terminated immediately by written notice if HCBOE determines that Contractor, its agent or another representative, has violated any provision of law.
14. Use of Federal Funds. If the source of funds for this Contract is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable): Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324)
15. Registered Sex Offenders. Contractor acknowledges that state law and school policy prohibit anyone registered or required to register as a sex offender from being present on any HCBOE Property for any reason, whether before, during or after school hours, or on or off of HCBOE Property. Contractor expressly agrees that it, and any of its employees, will comply with this policy and acknowledges that any individuals that violate this policy are subject to removal from HCBOE Property by school staff and/or law enforcement officials and may also be subject to criminal prosecution. "HCBOE Property" includes all property owned or operated by HCBOE, including school campuses and buildings, athletic fields, playgrounds, parking lots, bus stops, vehicles, school buses, activity buses and any other properties owned or controlled by HCBOE. If Contractor, any of Contractor's employees, or any of Contractor's subcontractors or employees of subcontractors will have any direct interaction with students, then Contractor or the subcontractor must
 - (i) on an annual basis conduct a check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all such employees; and
 - (ii) prohibit individuals listed on such registries from being on HCBOE Property.
16. Nondiscrimination. During the performance of the Contract, 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.

17. Conflict of Interest. Contractor represents and warrants that no member of HCBOE or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Contractor also represents and warrants that, if the Contract is funded by any amount of federal funds, no violation of 2 C.F.R. § 200.318(c) or any other applicable federal conflict of interest law has occurred or will occur. Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
18. Gratuities. Contractor represents and warrants that no member of HCBOE or any of its employees has been or will be offered or given a gratuity to an official or employee of HCBOE in violation of applicable law or policy.
19. Kickbacks to Contractor. 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 HCBOE Contract or in connection with a subcontract relating to a HCBOE Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to HCBOE in writing the possible violation.
20. Iran Divestment Act. Contractor certifies that, as of the date listed below, it is not on the Final Divestment List, as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4, in violation of the Iran Divestment Act. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List. The Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and should be updated every 180 days.
21. *Divestment from Companies that Boycott Israel*. The Contractor certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. 147-86.81. It is the responsibility of each vendor or contractor to monitor compliance with this restriction. Contracts valued at less than \$1,000.00 are exempt from this restriction.
22. E-Verification. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes
23. Indemnification. Contractor shall indemnify and hold harmless HCBOE, 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 Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Contractor's performance or lack of performance of the terms and conditions of the Contract. In the event that any Services and/or Goods sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Contractor shall indemnify and save harmless HCBOE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Services and/or Goods and are contributed to by said condition. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of HCBOE in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless HCBOE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
24. Insurance. Unless such insurance requirements are waived or modified by HCBOE or risk management ("DIRM"), Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to HCBOE and authorized to do business in the State of North Carolina: Automobile - Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial

General Liability - Contractor shall maintain commercial general liability insurance that shall protect Contractor from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. Worker's Compensation and Employers' Liability Insurance - If applicable to Contractor, Contractor shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employers' liability insurance. Contractor shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Contractor to HCBOE and shall contain the provision that HCBOE be given 30 days' written notice of any intent to amend or terminate by either Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

25. Termination for Convenience. In addition to all of the other rights which HCBOE may have to cancel this Contract or an applicable Purchase Order, HCBOE shall have the further right, without assigning any reason therefore, to terminate the Contract (or applicable Purchase Order), in whole or in part, at any time at its complete discretion by providing 10 days' notice in writing from HCBOE to Contractor. If the Contract is terminated by HCBOE in accordance with this paragraph, Contractor will be paid in an amount which bears the same ratio to the total compensation as does the Services and/or Goods actually delivered or performed to the total originally contemplated in the Contract. HCBOE will not be liable to Contractor for any costs for completed Goods, Goods in process or materials acquired or contracted for if such costs were incurred prior to the date of this Contract or an applicable Purchase Order.
26. Termination for Default. HCBOE may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Contractor. In addition to any other remedies available to HCBOE law or equity, HCBOE may procure upon such terms as HCBOE shall deem appropriate, Services and/or Goods substantially similar to those so terminated, in which case Contractor shall be liable to HCBOE for any excess costs for such similar goods, supplies, or services and any expenses incurred in connection therewith.
27. Contract Funding. It is understood and agreed between Contractor and HCBOE that HCBOE's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of HCBOE for any payment may arise until funds are made available to HCBOE's Finance Officer and until Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. HCBOE shall not be liable to Contractor for damages of any kind (general, special, consequential or exemplary) as a result of such termination.
28. Accounting Procedures. Contractor shall comply with any accounting and fiscal management procedures prescribed by HCBOE to apply to the Contract and shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.
29. Improper Payments. Contractor shall assume all risks attendant to any improper expenditure of funds under the Contract. Contractor shall refund to HCBOE any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Contractor shall make such refunds within thirty (30) days after HCBOE notifies Contractor in writing that a payment has been determined to be improper.
30. Contract Transfer. Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of HCBOE.
31. Contract Personnel. Contractor agrees that it has, or will secure at its own expense, all personnel required to provide the Services and/or Goods set forth in the Contract.
32. Key Personnel. Contractor shall not substitute for key personnel (defined as those individuals identified by name or title in the Contract Documents or in written communication from Contractor) assigned to the performance of the Contract without prior written approval from HCBOE Project Coordinator (the individual at HCBOE responsible for administering the Contract).
33. Contract Modifications. The Contract may be amended only by written amendment duly executed by both HCBOE and Contractor.

34. Relationship of Parties. Contractor is an independent contractor and not an employee of HCBOE. The conduct and control of the work will lie solely with Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and HCBOE. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.
35. Advertisement. The Contract will not be used in connection with any advertising by Contractor without prior written approval by HCBOE.
36. Monitoring and Evaluation. Contractor shall cooperate with HCBOE, or with any other person or agency as directed by HCBOE, in monitoring, inspecting, auditing or investigating activities related to the Contract. Contractor shall permit HCBOE to evaluate all activities conducted under the Contract. HCBOE has the right at its sole discretion to require that Contractor remove any employee of Contractor from HCBOE Property and from providing Services and/or Goods under the Contract following provision of notice to Contractor of the reasons for HCBOE's dissatisfaction with the Services and/or Goods of Contractor's employee.
37. Financial Responsibility. Contractor is financially solvent and able to perform under the Contract. If requested by HCBOE, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by HCBOE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then HCBOE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
38. Governmental Restrictions. In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. HCBOE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
39. Inspection at Contractor's Site. HCBOE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for HCBOE determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.
40. Confidential Information. All information about HCBOE provided to the Contractor or its officers, employees, agents, representatives and advisors (the "Contractor Representatives"), and all copies or other full or partial reproductions thereof and notes, memoranda or other writings related thereto created by Contractor or any Contractor Representative, regardless of whether provided before or after the date of the Contract and regardless of the manner or medium in which it is furnished, is referred to as "Confidential Information". Confidential Information does not include any information that (a) is or becomes generally available to the public other than as a result of an impermissible disclosure by Contractor, (b) was known by or available on a nonconfidential basis to Contractor before it was disclosed by HCBOE or (c) becomes available to Contractor on a nonconfidential basis from a third party whom Contractor does not know to be bound by a confidentiality agreement with, or have an obligation of secrecy to, HCBOE. Except as and to the extent required by law or order or demand of any governmental or regulatory authority, Contractor and Contractor Representatives will (x) keep all Confidential Information confidential and (y) will only disclose or reveal any Confidential Information to Contractor Representatives who must have the information to fulfill Contractor's obligations under the Contract and who agree to observe the terms of this Section. Contractor and Contractor Representatives will not use the Confidential Information for any purpose other than fulfilling Contractor's obligations under the Contract. By way of example and not limitation, Contractor shall not sell, market, or commercialize Confidential Information, create derivative products or applications based on Confidential Information. If Contractor is requested or required, pursuant to applicable law or regulation or by legal process, to disclose any Confidential Information, Contractor will provide HCBOE with prompt and timely notice of the requests or requirements so that HCBOE can seek an appropriate protective order or other

remedy and will not be prejudiced by delay. If HCBOE does not obtain a protective order or other remedy, Contractor will only disclose that portion of the Confidential Information which Contractor's legal counsel determines Contractor is required to disclose. Upon termination of the Contract or otherwise upon HCBOE's request, Contractor will promptly deliver to HCBOE all Confidential Information in the possession of Contractor or the Contractor Representatives. Student Information: If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to students or students' official records, Contractor agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. The 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, 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.

Employee Personnel Information: If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to employees of HCBOE's personnel records, Contractor agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. This section will survive the termination of this Contract.

41. Intellectual Property. Contractor agrees, at its own expense, to indemnify, defend and save HCBOE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that HCBOE's use, possession or sale of the Services and/or Goods infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
42. No Pre-Judgment or Post-Judgment Interest. In the event of any action by Contractor for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Contractor specifically waives any claim for interest.
43. Background Checks. At the request of HCBOE's Project Coordinator, Contractor (if an individual) or any individual employees of Contractor shall submit to HCBOE criminal background check and drug testing procedures.
44. Mediation. If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.
45. No Third-Party Benefits. The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third-party benefits.
46. Force Majeure. If HCBOE is unable to perform its obligations or to accept the Services and/or Goods because of Force Majeure (as hereinafter defined), the time for such performance by HCBOE or acceptance of Services and/or Goods will be equitably adjusted by allowing additional time for performance or acceptance of Services and/or Goods 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 HCBOE.
47. Ownership of Documents; Work Product. All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by HCBOE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Contractor pursuant to the Contract shall, at the request of HCBOE, be turned over to HCBOE. Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to HCBOE shall not, unless otherwise specifically agreed upon in writing by HCBOE, be deemed to be confidential or proprietary information and shall be acquired by HCBOE free from any restrictions as part of the consideration of the Contract.
48. Strict Compliance. HCBOE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
49. General Provisions. HCBOE's remedies as set forth herein are not exclusive. Any delay or omission

in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Contractor hereunder, HCBOE shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract or applicable Purchase Order or delegate the performance of any of its obligations hereunder, without HCBOE's prior, express written consent.

50. **Contract Situs.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Hyde County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract. **Severability.** Any provision of this Contract that is determined by any court of competent jurisdiction to be invalid or unenforceable will not affect the validity or enforceability of any other provision. Any provision of the Contract held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

II. Additional Standard Term and Condition for Designer Contracts (which include Architectural, Engineering, Surveying, and Technical Services)

Additional Insurance. In addition to the insurance required pursuant to Section 24 of the Standard Terms and Conditions for All Contracts, the Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to HCBOE and authorized to do business in the State of North Carolina: Professional liability insurance in commercially reasonable amounts as reasonably determined by HCBOE.