INVITATION TO BID

Arlington Public Schools
Procurement Office

November 20, 2018
Addendum No. 1

ITB No.: 20FY19
Title: Term Contract for the Provision of Minor General Construction
Due Date: Wednesday, November 28, 2018, prior to 12:30 PM, Local Prevailing Time

THE SUBJECT INVITATION TO BID IS AMENDED AS FollowS:

At the bottom of page 3, insert Section 11.0 below.

11.0 JOINTLY PROCURED CONTRACT FOR USE BY OTHER PUBLIC BODIES
   11.1 APS has entered into a joint procurement agreement with Manassas City Public Schools. All public bodies which are parties to the joint procurement agreement shall be referred to hereinafter as “Joint Participants.” This procurement is being conducted by APS as joint procurement not only for its benefit but for the benefit of the other Joint Participants which may also participate in use of the services or purchase of the goods herein solicited to the extent permitted by, §2.2-4304 of the Virginia Public Procurement Act. Any Joint Participant may use the APS Contract form and General Condition or Terms and Conditions included in this Invitation To Bid, with the name of the Owner changed to the other public body.

   11.2 It shall be the responsibility of each Bidder to familiarize itself with the general physical conditions of the locations where performance of the Work will be required. However, it is not practical to provide to all Bidders access to all sites where performance may be required. If any Work ordered by the Joint Participants during the term of any Contract awarded is made materially more costly to perform than the Unit Price included in the Bid due to physical conditions at the site which should not reasonably have been anticipated, the Contractor may submit a claim for an adjustment of the Contract Price in compliance with the claims submission procedures of the Contract Documents.

On page 14, add Section 21 below.

21. JOINTLY PROCURED CONTRACT FOR USE BY OTHER PUBLIC BODIES:
   21.1. This procurement is being conducted by APS as a joint procurement not only for its benefit but for the benefit of the following Joint Participants, Manassas City Public Schools (MCPS) which may also participate in use of the services or purchase of the goods herein solicited in accordance with the provisions of Virginia Code Ann. §2.2-4304, the Virginia Public Procurement Act.
21.2 By submitting its Bid, a Bidder agrees to accept the Contract Documents of all Joint Participants and to enter into a separate Contract with each Joint Participant for the good or services which are the subject of this solicitation. The Bidder shall not include in its Bid any objections or exceptions to, or any proposed modification of, any of the APS Contract Documents. Any Bid containing objections or exceptions to, or any proposed modification of, any APS Contract Documents, shall be deemed nonresponsive and will not be considered.

21.3 APS, its officials and staff are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between the Contractor and any other Joint Participant. In no event shall APS, its officials or staff be responsible for any costs, damages or injury resulting to any party from any Contract between the Bidder and another Joint Participant.

On page 23, delete Section 29. and replace with new Section 29. below.

29. PERMITS AND LICENSES:

29.1 The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the Work. He shall be similarly responsible for all damages to persons or property that occur as a result of his fault or negligence. He shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others. He shall also be responsible for all materials delivered and Work performed until completion and acceptance of the entire construction Work, except for any completed unit of construction thereof which theretofore may have been accepted.

29.1.1 APS will reimburse the Contractor(s) for the actual cost of permits and inspections with no mark up. Permits and inspections for MCPS Work will be provided at no charge.

Attachment C – Manassas City Public Schools General Terms and Conditions

Attachment D – Manassas City Public Schools Special Conditions

Attachment E – Manassas City Public Schools Sample Agreement

This Addendum No. 1 for ITB 20FY19 – Provision of Minor General Construction, must be signed, dated and received in the Procurement Office prior to the date and time stated above “OR” acknowledgement of receipt of this addendum may be noted on the Bid Form on Page 26 of the Invitation To Bid.

Name of Bidder (Contractor): ____________________________________________

Address: _________________________________________________________________

Signature: ___________________________________________ Date: ________________

Kenneth R. Lawson, CPPB, VCO
Procurement Specialist/Procurement Office
2110 Washington Boulevard
Arlington VA. 22204
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ken.lawson@apsva.us
For purposes of this section, “bids” shall mean “bids/proposals”. These general terms, conditions and instructions apply to all purchases and are a part of each solicitation and every contract awarded by MCPS, unless otherwise specified in such solicitation or contract. The Purchasing and Contracting Office is responsible for the purchasing activity of Manassas City Public Schools and its governing body, the Manassas City Public School Board. The term “MCPS” as used herein refers to the contracting entity which is the signatory on the contract and may be either MCPS, or the MCPS School Board, or both. Bidder/Offeror or their authorized representatives are expected to inform themselves fully as to the conditions, requirements and specifications before submitting bids: failure to do so will be at the bidder’s/offeror’s own risk.

These general terms, conditions and instructions are subject to all applicable Federal, State and local statutes, policies, resolutions and regulations “collectively “laws”), and are to be interpreted so as to be consistent with such laws. In the case of irreducible conflict, these general terms and conditions are preempted by applicable laws.

1. **AUTHORITY**

   The Purchasing Agent has been delegated authority for issuance of Invitations for Bid, Request for Proposals, modifications, Purchase Orders and awarded approved by and for MCPS. The Purchasing Agent is authorized to enter into negotiations, change orders, contracts, or in any way obligate MCPS for indebtedness. Any Purchase Order or Contract made which is contrary to these provision and authorities shall be of no effect and void, and MCPS shall not be bound thereby.

**CONDITIONS OF BIDDING/OFFERING:**

2. **ANNOUNCEMENT OF AWARD**

   Upon the award or announcement of the decision to award a contract as a result of this solicitation, MCPS will publicly post such notice on the website: [www.mcpsva.org](http://www.mcpsva.org), for a minimum of ten (10) calendar days, except in emergencies.

3. **CLARIFICATION OF TERMS**

   If any prospective Bidder/Offeror has questions about the specifications or other solicitation documents, the prospective bidder/offeror shall contact the Purchasing Agent no later than five (5) working days before the due date. Any revisions to the solicitation will be made in written addendum issued by the Purchasing and Contracting Office.

4. **DEBARMENT STATUS**

   By submitting a bid, the bidder/offeror certifies that they are not currently debarred by the Commonwealth of Virginia or MCPS from submitting bids on contracts for the type of goods and/or services covered by this solicitation, nor is the bidder/offeror an agent of any person or entity that is currently so debarred.

5. **ERRORS IN BIDS**

   When an error is made in extending total prices, the unit bid price times the number of units will govern. Erasures and changes in bids must be initialed by the bidder. Carelessness in quoting prices, omitting portions of the work from the calculations or in preparation of the bid otherwise will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot otherwise be corrected except as provided in paragraph 15 (withdrawal of bids or proposals) below, and the bidder will be required to perform if his or her bid is accepted.

6. **ETHICS IN PUBLIC CONTRACTING**

   By submitting their bid, bidders/offereors certify that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder/offeror, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

7. **INCLEMENT WEATHER**

   Due to inclement weather conditions, MCPS may elect to close schools and administration offices. The following is an explanation of the policy: CODE GRAY: schools are closed and administrative offices are on a two (2) hour delay; CODE BLUE: schools are closed and administrative offices are closed.

   a. In the event of a delayed school opening, all times shall remain as stated in the Invitation for Bid or Request for Proposal.
b. In the event that MCPS closes on a CODE GRAY, any optional/mandatory pre-bid conference and all bid openings will be held as scheduled.

c. In the event that MCPS closes on a CODE BLUE, any optional/mandatory pre-bid/proposal conferences and all bid openings will be held on the next business day MCPS experiences a normal opening, a delayed opening or a CODE GRAY, at the time previously scheduled. No exceptions will be made in this matter.

8. **LATE BIDS**

To be considered for selection, bids must be received by the Purchasing and Contracting Office by the designated date and time. The official time used in the receipt of bids is that time in the Purchasing Office. Bids received in the Purchasing Office after the date and time designated are non-responsive, automatically disqualified and will not be considered. **MCPS is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra-school mail system or delivery by any other means. It is the sole responsibility of the bidder/offeror to ensure that his/her bid reaches the Purchasing and Contracting Office by the designated date and hour.**

9. **MANDATORY USE OF MCPS FORM AND TERMS AND CONDITIONS**

Failure to submit a bid on the official MCPS form and provided for that purpose may be cause for rejection of the bid. Modification of or additions to the General and/or Special Terms and Conditions or any other terms within the solicitation may be cause for rejection of the bid; however, the Purchasing Agent reserves the right to decide, on a case by case basis, in his/her own discretion, whether to reject such a bid as non-responsive. As a precondition to its acceptance, MCPS may, in its sole discretion, request that the bidder/offeror withdraw or modify non-responsive portions of a bid, which to do effect quality, quantity, price or delivery schedule.

10. **OFFICIAL NOT TO BENEFIT**

a. Each bidder/offeror certifies by signing a bid that to the best of his/her knowledge no MCPS official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or as soon thereafter, as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, recession of the contract, or recovery of the cost of the financial benefit from the contractor, recipient or both.

b. Whenever there is a reason to believe that benefit of the sort described in the paragraph above has been or will be received in connection with the bid or contract and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, MCPS, as a prerequisite to payment pursuant to the Contractor, or at any time may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

c. In the event the bidder/offeror has knowledge of benefits as outline above, this information should be submitted with the bid. If the above does not apply at time of award of contract and becomes known after inception of a contract the bidder/offeror shall address the disclosure of such fast to: Purchasing Agent. The Invitation for Bid/Request for Proposal number shall be referenced in the disclosure.

11. **PRECEDENCE OF TERMS**

MCPS intends for the Contract Documents to be consistent and they shall be interpreted to be consistent if possible. If the Contract Documents conflict, however, the controlling provision will be the one which appears highest in the following list:

a. The Notice of Award/Purchase Order/Contract (highest precedence),
b. Addenda
c. Specifications and drawings,
d. The signed bid submitted by the Contractor,
e. Invitation for Bid/Request for Proposal,
f. Any Special Terms and Conditions,
g. These General Terms and Conditions (lowest precedence)

12. **QUALIFICATIONS OF BIDDERS/OFFERORS**

MCPS may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder/offeror to perform the work/furnish the item(s) and the bidder/offeror shall furnish to MCS all such information and data for this purpose as may be requested. MCPS reserves the right to inspect bidder’s/offerer’s physical facilities prior to award to satisfy questions regarding the bidder’s/offeror’s capabilities. MCPS further reserves the right to reject any bid or proposal if the evidence submitted by, or investigations of, such bidder/offeror fails to satisfy MCPS that such bidder/offeror is properly qualified to carry out the obligations of the contract and to complete the work or furnish the item(s) contemplated herein.
13. **TIE BID**

If all bids are for the same total amount or unit price (including authorized discounts and delivery items), the MCPS Purchasing Agent shall award the contract to the tie bidder providing goods produced in Virginia or goods, services or construction provided by Virginia persons, firms or corporations. If there are more than one such tie bid, then the Purchasing Agent may, in his or her sole discretion, re-advertise the solicitation, divide the contract among the bidders (if the solicitation provided for multiple awards), or award a contract by lot from among the response and responsible Virginia bidders. If there are no responsive and responsible Virginia bidders, then the Purchasing Agent may, in his or her sole discretion, re-advertise the solicitation, divide the contract among the bidders (if the solicitation provided for multiple awards), or award a contract by lot from among the responsive and responsible bidders. The decisions of MCPS to make award to one or more such bidders shall be final.

14. **VENDOR REGISTRATION**

All vendors desiring to provide goods and/or services to MCPS are encouraged to register with the state bid system EVA: [www.eva.virginia.gov](http://www.eva.virginia.gov).

15. **WITHDRAWAL OF BIDS OR PROPOSALS**

A bid may be amended and/or withdrawn by a bidder or offeror if the request is received in writing before the due date and hour. The request must be signed by a person authorized to represent the vendor or firm that submitted the bid. Submission of a subsequent bid, unless specifically identified as an additional bid, shall constitute the withdrawal of any prior one submitted by the same bidder or offeror on the same IFB/RFP. Withdrawal of bids after opening is governed by the Code of Virginia §2.2-4330. The bidder/offeror shall give notice in writing of his/her claim of right to withdraw his/her bid within two business days after the conclusion of the bid opening or receipt of proposals procedure, and shall submit original work papers with such notice.

**SPECIFICATIONS:**

16. **QUESTIONS CONCERNING SPECIFICATIONS**

Any information relative to interpretation of specifications and drawings shall be requested of MCPS in writing, in ample time before the opening of bids. No inquiries if received by MCPS on or after the fifth (5th) day before the date set for the opening of bids will be given any consideration. Any material interpretation of a specification, as determined by MCPS, will be expressed in the form of addendum to the specification which will be sent to all prospective bidders no later than 4:30 p.m. local time on the third (3rd) day before the date set for the receipt of bids. Oral answers will not be authoritative.

17. **TESTING AND INSPECTION**

MCPS reserves the right to conduct any test or inspection it may deem advisable to ensure products/services conform to the specification.

18. **USE OF BRAND NAMES**

Unless otherwise provided in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders/offerors to the specific brand, make or manufacturer names, but conveys the general style, type, character and quality of the article desired. Any article which MCPS in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, color and suitability for the purpose intended, shall be accepted. The bidder/offeror is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable MCPS to determine if the product offered meets the requirements of the solicitation. ONLY THE INFORMATION FURNISHED WITH THE BID WILL BE CONSIDERED IN THE EVALUATION. FAILURE TO FURNISH ADEQUATE DATA FOR EVALUATION PURPOSES MAY RESULT IN DECLARING A BID NON-RESPONSIVE. Unless the bidder/offeror clearly indicates in its bid that the product offered is an “equal” product, such bid will be considered to offer the brand name product referenced in the solicitation.

**CONTRACT PROVISIONS:**

19. **ANTI-DISCRIMINATION**

By submitting their bid, the bidder/offeror certifies to MCPS that he/she will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable the Virginians with Disabilities Act, the American with Disabilities Act and Section 2.2-4311 of the Virginia Public Procurement Act (VPPA). In every contract over $10,000 the provisions in 19.1 and 19.2 below apply. During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in
employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with Federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

d. The Contractor will include the provision of 19(a), 19(b) and 19(c) in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

20. **ANTI-TRUST**

By entering into a contract, the Contractor conveys, sells, assigns, and transfers to MCPS all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by MCPS under said contract.

21. **APPLICABLE LAWS AND COURTS**

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, including but not limited to the Virginia Public Procurement Act, and any litigation with respect thereto shall be brought in the courts of Prince William County, Virginia, except to the extent that Federal Court is appropriate. The Contractor shall comply with applicable federal, state and local laws and regulations, and be legally authorized to do business in the Commonwealth of Virginia.

22. **ASSIGNMENT OF CONTRACT**

Neither party shall assign in whole or in part without the consent of each party.

23. **CHANGES TO THE CONTRACT**

MCPS may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to things such as services to be performed, the method of packing or shipment and the place of delivery or installation. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give MCPS a credit for any resulting savings. Additionally, an increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

24. **CONTRACT DOCUMENTS/PURCHASE ORDERS**

The Contract entered into by the parties shall consist of the Invitation for Bid/Request for Proposal, the signed bid submitted by the Contractor, the Notice of Award or Purchase Order/Contract, these General Terms and Conditions and any Special Terms and Conditions, and the listed specifications and drawings, if any, including all modifications thereof, all of which shall be referred to collectively as the Contract Documents. All time limits stated in the Contract Documents are of the essence of the Contract unless stated otherwise. Orders against contracts will be placed with the Contractor on a Purchase Order or Procurement Card.

25. **COOPERATIVE PURCHASING**

MCPS may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with, one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States, or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body’s contract even if it did not participate in the Request for Proposal (RFP) or Invitation for Bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

26. **GUARANTEES & WARRANTIES**

All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to MCPS before final payment on the contract is made. Unless otherwise stated, manufacturer’s standard warranty applies.

27. **INDEMNIFICATION**

Contractor shall indemnify, keep and save harmless MCPS, its agent, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against MCPS in consequence of the granting of a contract or which may otherwise result therefrom, if the act was
caused through negligence, error, omission, or reckless or intentional misconduct (or, in the case of intellectual property rights, by any act done without proper permissions) of the Contractor or his or her employees, or that the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs of other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against MCPS in any such action; the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend MCPS as herein provided.

28. MODIFICATION OF CONTRACT
MCPS may, upon mutual agreement with the Contractor, issue written modifications to the scope of work/specifications of this contract, and within the general scope thereof, except that no modifications can be made which will result in an increase of the original contract price by a cumulative amount of more than $50,000 or 25%, whichever is greater, without the advance written approval of the School Board. In making any modification, the resulting increase or decrease in cost for the modification shall be determined by one of the following methods. The written modification shall stipulate the mutually-agreed price for the specific addition to or deletion from the scope of work/specifications which shall be added to or deducted from the contract amount. The written modification shall stipulate the number of unit quantities added to or deleted from the contract and multiplied by the unit price which shall be added to or deducted from the contract amount.

The written modifications shall direct the contractor to proceed with the work and to keep, and present in such form as MCPS may direct, a correct amount of the cost of the change together with all vouchers therefore. The cost shall include an allowance for overhead and profit to be mutually agreed upon by MCPS and the Contractor.

29. PRICE REDUCTION
If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a “general price reduction” shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor’s customers generally or (2) in the Contractor’s price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a “general price reduction” under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating of the invoice that the reduction is pursuant to the “Price Reduction” provision of the contract documents. The Contractor, in addition, will within ten (10) days of any general price reduction, notify MCPS of such reduction by letter. FAILURE TO DO SO MAY RESULT IN TERMINATION OF THE CONTRACT FOR CAUSE. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by MCPS.

30. SMALL AND MINORITY BUSINESS ENTERPRISES
In connection with the performance of this contract, the Contractor agrees to use their best effort to carry out this intent and ensure that Small and Minority Businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract. Contractors may rely on oral or written representation by subcontractors regarding their status as small and/or minority business enterprises.

31. TERMINATION FOR CAUSE/DEFAULT
In case of failure to deliver goods or provide services in accordance with the contract terms and conditions, MCPS, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which MCPS may have. Specifically:
   a. If, through any cause, the Contractor fails to fulfill in a timely and proper manner their obligations, under the contract, or if the Contractor violates any of the covenants, agreements, or stipulations of the contract, MCPS shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models and reports prepared by the Contractor under the contract shall at the option of MCPS, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

32. TERMINATION FOR CONVENIENCE
MCPS reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, whenever the
Purchasing Agent determines that such a termination is in the best interest of MCPS. Any such termination shall be effected by delivery to the Contractor, at least ten (10) working days prior to the termination date, a Notice of Termination specifying the extent to which performance shall be terminated and date upon which such termination becomes effective. After receipt of a notice of termination, the Contractor must stop all work or deliveries under the purchase order/contract on the date and to the extent specified; however, any contract termination notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of termination. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

33. USE OF CONTRACT BY OTHER POLITICAL JURISDICTIONS – INTENTIONALLY DELETED.

34. VIRGINIA FREEDOM OF INFORMATION ACT
Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interest person, firm or corporation, in accordance with the Virginia Freedom of Information Act. Any inspection of procurement transaction records under this provision shall be subject to reasonable restrictions to ensure the security and integrity of the records.

a. Cost estimates relating to a proposed transaction prepared by or for a public body shall not be open to public inspection.
b. Any Bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening/receipt of all bids, but prior to award, except in the event that MCPS decides not to accept any of the bids and to re-solicit. Otherwise, bid records shall be open to public inspection only after award of the contract.
c. Bid records shall be open to the public only after award.
d. Any offeror who responds to an RFP shall be afforded the opportunity to inspect proposal records upon request within a reasonable time after the evaluation and negotiation of proposals are complete but prior to award, except in the event MCPS decides not to accept any of the proposals and to re-solicit.
e. Trade secrets or proprietary information submitted by any bidder, offeror, or Contractor in connection with a procurement transaction or prequalification application shall not be subject to public disclosure under the Virginia Freedom of Information Act if the bidder, offeror or Contractor invokes the protection of Virginia Code Section 2.2-4342F, in writing prior to or upon submission of the data or other materials, identifies the data or other materials to be protected, and states the reasons why protection is necessary.
f. Nothing contained in this section shall be construed to require MCPS to furnish a statement of the reason(s) why a particular bid/offer was not deemed to be the most advantageous.

DELIVERY/PAYMENT PROVISIONS:

35. DELIVERY CHARGES
Unless bought F.O.B. “Shipping Point” and the Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized by MCPS.

36. INVOICES
Invoices for goods and/or services ordered, delivered and accepted shall be submitted by the Contractor(s) directly to the payment address shown on the purchase order/contract. All invoices shall reference said purchase order/contract number and shall be in the same legal name of the Contractor as indicated on the Contract.

37. LABELING OF HAZARDOUS SUBSTANCES
If the items or products requested by this solicitation are “Hazardous Substances” as defined by Section 1261 of Title 15 of the United States Code (U.S.C.), then the Bidder/Offeror, by submitting his/her bid, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the Bidder/Offeror does not violate the prohibitions of Title 15 of U.S.C. or Section 1263.

38. MATERIAL SAFETY DATA SHEETS
Material Safety Data Sheets (MSDS) shall be provided in English, and if available, Spanish within two (2) business days upon request for each chemical and/or compound offered. Failure on the part of the Contractor to submit data sheets may be cause for declaring the Contractor in default.

39. PAYMENT AND LATE TERMS
Any payment terms requiring payment in less than forty-five (45) days will be regarded as requiring payment 45 days after invoice or delivery, whichever occurs last. However, this shall not affect offerors of discounts for payment in less than 45 days. Late payment interest may accrue at the rate of 1% per month.
40. **POINT OF DESTINATION**
   All materials shipped to the “Ship To” address must be shipped FOB Destination unless otherwise stated in the purchase order/contract.

41. **TAX EXEMPTION**
   MCPS is exempt from the payment of federal excise or Virginia State and Use Tax. The bid price must be net, exclusive of taxes. When under established trade practice, any federal excise tax is included in the list price, the Bidder/Offeror may quote the list price and shall show separately the amount of federal excise tax, either as a flat sum or as a percentage of the list price, which shall be deducted by MCPS. MCPS Federal Excise Tax Exemption number is 54-1207347. A copy of MCPS Sales and Use Tax Certificate Exemption is posted on the MCPS website: [www.mcpsva.org](http://www.mcpsva.org).

42. **TRANSPORTATION AND PACKAGING**
   By submitting their bids, all bidders/offerors certify and warrant that the price offered for FOB Destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with the purchase order number, commodity description and quantity.

**BIDDER/CONTRACTOR REMEDIES:**

43. **ACCEPTANCE OF BIDS/OFFERS BINDING 90 DAYS**
   Unless otherwise specified in the IFB or RFP, all formal bids/offers submitted shall be binding for ninety (90) days following bid opening date, unless extended by mutual consent of all parties.

44. **AWARD OR REJECTION OF BIDS/OFFERORS**
   The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of MCPS to accept it. Awards made in response to an RFP will be made to the highest qualified offeror whose proposal is determined in writing to be the most advantageous to MCPS taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of MCPS. Awards may be made to as many bidders/offerors as deemed necessary to fulfill the anticipated requirements of MCPS.

   The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsive bidder. In determining the responsibility of a bidder, the following criteria will be considered:
   
   a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
   b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
   c. The character, integrity, reputation, judgement, experience and efficiency of the bidder;
   d. The quality of performance of previous contracts or services;
   e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
   f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
   g. The quality, availability and adaptability of the goods or services to the particular use required;
   h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
   i. The number and scope of the conditions attached to the bid;
   j. Whether the bidder is in arrears to MCPS on debt or contract or is a defaulter on surety to MCPS or whether the bidder’s taxes or assessments are delinquent; and
   k. Such other information as may be secured by the Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsiveness, the Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

45. **CONTRACTUAL DISPUTES**
   Any dispute concerning a question of act including claims for money or other relief as a result of a contract with MCPS which is not disposed of by agreement shall be declared by the Purchasing Agent, who shall reduce a decision to writing and mail or otherwise forward a copy thereof to the Contractor within ten (10) days. The decision of the Purchasing Agent shall be final and conclusive unless the Contractor appeals within ten (10) days of receipt of the written decision. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment; however, as a condition precedent to consideration of the claim, the Contractor must give written notice of the intention to file such a claim.
at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pending claims shall not delay payment of amounts agreed due in the final payment.

46. DELIVERY/SERVICE FAILURES
Failure of a Contractor to deliver goods or services within the time specified, or within reasonable times as interpreted by MCPS, or to make replacements or corrections of rejected articles or services when so requested, immediately or as directed by MCPS, shall constitute grounds for MCPS to “Cover” by purchasing in the open market articles or services of comparable grade or quality to replace the articles or services rejected or not delivered. On all such purchases, the Contractor shall reimburse MCPS, within a reasonable time specified by MCPS, for any expense incurred in excess of contract prices, or, in MCPS’s sole discretion, MCPS shall deduct the cost of “Cover” from any amounts due to Contractor. Such purchases shall be deducted from the contract quantities, if applicable. Should public necessity demand it, MCPS reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by MCPS.

47. EXHAUSTION OF ADMINISTRATIVE REMEDIES
No potential Bidder/Offeror or Contractor shall institute any legal action until all administrative remedies available under this solicitation and resulting contract have been exhausted and until all statutory requirements have been met.

48. PROTEST OF AWARD OR DECISION TO AWARD
Any Bidder may protest the award or decision to award a contract by submitting a protest in writing to the Purchasing Agent no later than ten (10) calendar days after public Notice of Award or the announcement of the Decision to Award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten (10) calendar days after posting or publication of the notice of such contract. The written protest shall include the basis for the protest and the relief sought. The Purchasing Agent shall issue a decision in writing within ten (10) calendar days of the receipt of the protest stating the reasons for the action taken. Any offeror may protest the award or decision to award a contract by submitting a protest in writing to MCPS, or an official designated by MCPS, no later than ten (10) calendar days after the award or the announcement of the decision to award, whichever occurs first.

a. If, prior to award, it is determined that the decision to award is arbitrary or capricious then the sole relief shall be a finding to that effect. The Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by MCPS. Where the award has been made and performance has begun, the Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of MCPS. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

b. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this paragraph shall not be affected by the fact that a protest or appeal has been filed.

c. An award need not be delayed for the period allowed for a Bidder/Offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

49. RESPONSIBILITY FOR SUPPLIES TENDERED
Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designation point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, MCPS may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

50. MULTIPLE AWARDS
Except with a Requirements Contract, a contract for non-professional services or as expressly provided otherwise, the School Board intends to award a single contract.
Attachment D

MCPS SPECIAL CONDITIONS

1. STATE REGISTRATION OF CONTRACTOR:
Bidder(s) will be required to have a Class A Contractor’s License. A contract for construction, removal, repair or improvement of building or other real property is for one hundred twenty thousand dollars ($120,000) or more, or if the total value of all such contracts undertaken by the Bidder within any twelve-month period is seven hundred fifty thousand dollars ($750,000) or more, the Bidder is required under Title 54.1-1100, Code of Virginia (1950), as amended, to be licensed by the State Board of Contractors as a “Class A Contractor”.

If the bidder shall fail to provide this information on his bid or fail to promptly provide said Contractor license number to MCPS in writing when requested to do so before or after the opening of bids, she shall be deemed to be in violation of Section 54-1115 of the Code of Virginia (1950), as amended, and his bid will not be considered. If a bidder shall fail to obtain the required Class A License prior to submission of his/her bid, the bid shall not be considered.

The Code of Virginia does not allow an unlicensed contractor to submit a bid where the resultant contract will require a license. The bidder shall provide a copy of the license.

2. PERMITS AND LICENSES:
The Contractor is responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State and municipal laws, codes and regulations, in connection with the performance of the Work.

3. CONTRACT INSURANCE PROVISIONS:
Under this contract, the Contractor assumes all risks of direct and indirect damage or injury to the property or persons in connection with this work, and of all damage or injury to any person or property resulting from any action, omission, commission or operation. All required insurance shall be maintained by the Contractor and its independent contractors at their sole expense, in full force and effect during the life of the contract and until such time as all work has been approved and accepted by MCPS. The Certificate of Insurance must be submitted prior to Notice to Proceed.

The Contractor shall secure and maintain all insurance certificates of its subcontractors, which shall be made available to MCPS on demand. No change, cancellation, or non-renewal shall be made in any insurance coverage without a 45-day written notice to MCPS. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

Compliance by the Contractor and subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities provisions of the contract. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and MCPS. The Contractor shall be as fully responsible to MCPS for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by them.

MCPS, the School Board, its officers, and employees shall be named as an “Additional Insured” in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate that this coverage “is primary to all other coverage MCPS may possess”.

4. CONSTRUCTION SAFETY VIOLATIONS:
It shall be required that each bid submitted to MCPS for a contract for construction, alteration and/or repairs, including painting or decorating of a building, highway, street, bridge, sidewalk, culvert, sewer, excavation, grading, or any other construction, include a list of all the following actions which have become final in the three year prior to the bid submission:
   a. Willful violations, violations for failure to abate, or repeated violations, for which the bidder was cited by (a) the United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan for any other public jurisdiction;
   b. Three (3) or more serious construction safety violations for which the bidder was cited by (a) the United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan from any other public jurisdiction;
   c. Termination of a contract between the contractor and any public entity by their purchasing agent or his designee for safety violations.
If the bidder has not received or been the subject of any such violations in the three (3) years prior to the bid submission, then the bidder shall so indicate by certification on the bid form entitled Certificate of Safety Violations. The bidder will also indicate on this form each state in which work was performed in the three (3) years prior to the bid submission.

No bidder or contractor may bid on a County construction contract who has been the subject of any citations for the type and number of violations listed in the aforementioned paragraph, which have become final within the three (3) years prior to the bid submission.

Prior to bidding on a project, under the provisions of paragraphs above, a contractor may request that a determination be made by MCPS’s Purchasing Agent or designee, regarding their eligibility to submit a bid on a contract under the terms of this resolution. However, this request for determination and any subsequent adjudication process must be completed prior to submitting a bid on any project and the request for determination must be received by MCPS’s Purchasing Agent or designee no later than twenty-one (21) days before bids are due unless otherwise stated in the solicitation. A notice of the bidder’s request for determination of eligibility and all supporting documentation provided by the bidder to MCPS, in support of its request, shall be open to the inspection of any interested person, firm or corporation in accordance to the requirements of Manassas City Public School’s Purchasing Resolution and Virginia Freedom of Information Act.

Contractors may be subject to a special audit of their safety records as required. The criteria used in evaluating contractor’s eligibility shall include but not be limited to the following:

1. Corrective action taken by a bidder or contractor to prevent the recurrence of safety violations
2. Days Away From Work Incident Rate for the past three (3) years
3. Summary of Work-Related Injuries and Illnesses/Incident Rate for the past three (3) years
4. Worker’s Compensation Experience Modification Rate for the past three (3) years
5. Fatality record for the past five (5) years
6. Detailed information regarding the firm’s safety program including but not limited to a Safety and Health plan and qualifications of the safety personnel
7. Verification that management staff directly in charge of projects that experienced safety violations listed in the aforementioned Paragraph a will not be involved in MCPS’s project
8. Incorporation of safety and health related issues in to their new employee orientation programs
9. Incorporation of work safety as a part of an employee’s performance evaluation
10. Support of safety related matters by senior/corporate management. Does the firm have a safety policy statement signed by a member of senior/corporate management?
11. Designation of a full time Safety Manager. Does this person report to a high level, authoritative position within the Company?
12. Frequency and type of safety inspections conducted at the work sites
13. The number and type of safety training programs conducted for employees
14. Frequency of safety “tailgate meetings” conducted by the firm
15. Designation of an active safety committee, frequency of their meetings and list of members of the committee
16. Active membership in a recognized construction safety organization in the Washington Metropolitan area, or in the state of the contractor’s domicile

The determination of eligibility rendered by the Purchasing Agent or his designee shall be final.

MCPS may impose the following sanctions upon a contractor who willfully submits any false or misleading certification or information regarding material facts in connection with submissions pursuant to this Resolution, or willfully omits any certification or information regarding material facts in connection with submissions pursuant to this Resolution. The term willful shall include intentional or reckless acts or omissions. The following are sanctions that may occur:

A. Disqualify the prospective bidder from bidding a contract
B. Debar the contractor from bidding future contracts for a period not to exceed three (3) years
C. Terminate the contract awarded to the bidder after providing notice and opportunity to be heard

5. **REPRESENTATIONS OF CONTRACTOR:**

The Contractor represents and warrants:

a. The firm is financially solvent and that manager is experienced in and competent to perform the type of work, or to furnish the plans, materials, supplies or equipment to be so performed or furnished; and

b. The Contractor is familiar with all Federal, State, municipal and department laws, ordinances and regulations which may in any way affect the work of those employed, including but not limited to, any special acts relating to the work or to the project of which it is a part; and
c. That such temporary and permanent work required by the Contract Documents as is to be done by the contractor can be satisfactorily constructed and used for the purpose of which it is intended and that such construction will not injure any person or damage any property; and

d. That the contractor has carefully examined the plans, the specifications and the site of the work and that from the contractor’s own investigations, he/she has satisfied materials likely to be encountered, and character of equipment and other facilities needed for the performance of the work, the general and local conditions and all other materials which may in any way affect the work or its performance; and

e. The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

6. **USE OF PREMISES:**
   
The Contractor shall confine the apparatus, storage of materials, and activities of personnel on or about the premises and adjacent areas, in accordance with the law, ordinances, permits and the directions of the Owner’s representative. The Contractor shall not encumber the premises with such materials or apparatus or adjacent areas. The work site shall be kept in such orderly fashion as will not interfere with the progress of the work or the work of any other contractor.

   The Contractor is responsible for repairing or replacing any work damaged by his/her operations within ten (10) days after notification by the Owner’s representative.

   It is the responsibility of the Contractor to report in writing, to the Project Engineer, of any damages found prior to any work at the site.

7. **PROTECTION OF WORK AND PROPERTY:**
   
The Contractor shall protect the Owner’s property from injury or losses in connection with this contract at all times. The contractor’s own work and that of adjacent property (as provided by law and the contract documents) from damage shall be guarded. The contractor shall replace or make good on any such damage, loss or injury unless caused directly by errors contained in the contract documents or by the Owner or by his duly authorized representatives. All passageways, guard fences, lights and other facilities required for protection by local authorities or local conditions must be provided and maintained.

8. **STANDARD PRODUCTS:**
   
   All materials, supplies, and articles furnished shall be the standard products of recognized, reputable manufacturers, as specified and otherwise practicable. The standard products of manufacturers other than those specified, will be acceptable when it is proved to the satisfaction of the Engineer, that they are equal in strength, durability, usefulness and convenience for the purpose intended. Any changes required in the detail and dimensions indicated on the drawings, for the substitution of standard products other than those provided for, shall be made as approved by the Engineer and at the expense of the Contractor.

9. **WORKMANSHIP:**
   
   Only first-class work shall be performed and all materials furnished in carrying out this contract and shall be of character and quality required by the specifications. Such work or materials shall be the best of their respective kinds, where no standard is specified. Any unsatisfactory work done or materials furnished shall be immediately removed and satisfactorily replaced by the contractor when notified to do so by the Engineer at whatever time the inferior work or materials may be discovered.

   If the contractor neglects or refuses to remove such unsatisfactory work or materials within fourth-eight (48) hours after the receipt of notice, or if satisfactory progress is not made in doing so, the Engineer may effect removal of the inferior work or materials and the expense shall be charged to the contractor. Such expenses shall be deducted from any monies due or to become due to the contractor under the contract. Upon completion of the contract, the entire work shall be delivered to the Owner perfect and complete in satisfactory working condition.

   The contractor expressly undertakes at his own expense:
   
a. To effect all cutting, fitting or patching of his work required to make same conform to the plans and specifications and except with consent of the Engineer, in writing, not to cut or otherwise alter the work of any other contractor, and

b. To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work
10. **CHANGES AND ALTERATIONS:**
The Owner reserves the right to make alterations in the installation of items of work shown on the plans, as may be necessitated by conditions found during construction, that in the judgement of the Engineer appear advisable. The Contractor shall not claim forfeiture of contract by reasons of such changes.

11. **NECESSARY DETAILS NOT SPECIFICALLY MENTIONED:**
Any and all work that may be called for in the specifications and not shown on the plans, or shown on the plans and not called for in the specifications, shall be furnished and executed by the Contractor as if designated. The contractor shall furnish all required work or material which is not denoted in the plans and specifications either directly or indirectly, but which is necessary for the project.

12. **DECREASES IN WORK UNDER LUMP SUM ITEMS:**
The Owner or Engineer may, at any time, decrease in dimension, quantity of material or work, or alter the situation or levels or vary the form of dimensions of any part of the work or alter the project in any way. Such changes shall be made in writing in accordance with the contract and the difference in expense resulting from the decrease or changes ordered shall be deducted from the amount payable under this contract. If the incremental cost of the decrease is not identified in the project schedule, the Engineer shall determine the amount of deduction based on a proper, fair and reasonable allowance for the lesser amount of materials and labor required. If necessary in order to establish such fair allowance, the contractor may be required to submit a detailed breakdown of his original bid for the items of work involved. Alterations or changes that diminish the quantity of work to be done shall not constitute a claim for damages or for loss of anticipated profits in the work.

13. **WEATHER CONDITIONS:**
In the event of temporary suspension of work or during inclement weather, or whenever the Engineer shall direct, the Contractor will require any subcontractors to protect carefully all materials and work against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials have been damaged or injured by reason of failure on the part of the Contractor or any subcontractors to protect his work and materials shall be removed and replaced at the expense of the Contractor.

14. **CLEANING UP:**
The Contractor shall keep the premises and adjacent areas free from accumulations of waste material or rubbish at all times. At the completion of the work, all rubbish, tools, items used for work and surplus materials shall be removed from and about the premises and adjacent areas, and the area shall be “broom cleaned” and ready for use. In case of a dispute, Manassas City Public Schools may remove rubbish or otherwise clean up, and may charge the Contractor either by deduction from amounts unpaid to the Contractor, or by other means with such cost as the Project Engineer shall determine to be fair and equitable.

15. **EXAMINATION OF DEFECTIVE WORK:**
If required by the Engineer under execution of this contract, the Contractor shall at any time pull down or undo any part of the work and make such openings as may be required and enable the Engineer to make proper inspection and the contractor shall make good again the work so pulled down, undone or opened to the Engineer’s satisfaction. If the work is found faulty, in any respect the whole of the expenses incurred shall be incurred by the Contractor, but if the work be found not faulty by the Engineer, the expenses thereby incurred shall be incurred by the Owner.

16. **REJECTION OF INFERIOR MATERIALS:**
An inspection and approval of the materials by the Engineer shall not in any way subject the Owner to pay for any portion of the materials, even if said materials, incorporated in the work, turn out to be unfit. Such inspection shall not be considered as any waiver of objection to the work on account of the unsoundness of the material used.

17. **SUBCONTRACTING:**
If one or more subcontractors are required, the Contractor is encouraged to utilize small, minority-owned and women-owned business enterprises. For assistance in finding subcontractors, contact the Virginia Department of Small Business and Supplier Diversity: [http://www.sbsd.virginia.gov](http://www.sbsd.virginia.gov) and local chambers of commerce and other business organizations.

No portion of the work shall be subcontracted without prior written consent of the Purchasing and Contracting Office. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the Purchasing office the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
18. GUARANTEE OF WORK:
Except as otherwise specified, all work shall be guaranteed by the Contractor against defects to materials, equipment and workmanship for two (2) years from the date of final acceptance of the entire project by MCPS in writing.

If, within the guarantee period, defects are noticed by MCPS which require repairs or changes in connection with the guaranteed work, those repairs or changes being in the opinion of MCPS rendered necessary as the result of the use of materials, equipment or workmanship, which are defective, or inferior or not in accordance with the terms of the contract, then the Contractor shall promptly, upon receipt of notice from MCPS, such notice being given not more than two (2) weeks after the guarantee period expires, and without expense to MCPS perform the following corrective actions:

a. Place in satisfactory condition in every particular all such guaranteed work and correct all defects herein;

b. Make good all damage to the structure, site, equipment or contents thereof, which is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and make good any work, materials, equipment, contents of structures and/or disturbance of the site in fulfilling any such guarantee;

In any case, where in fulfilling the requirements of the contract or any guarantee embraced in or required thereby, the Contractor disturbs any work guaranteed under the contract, he shall restore such work to a condition satisfactory to MCPS and guarantee such restored work to the same extent as it was guaranteed under such other contract.

If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, MCPS may have the defects corrected and the Contractor shall be liable for all expenses incurred.
Attachment E

Agreement - MCPS

MANASSAS CITY PUBLIC SCHOOLS
MINOR GENERAL CONSTRUCTION AGREEMENT

This Contract (hereinafter, “Contract”) is entered into on and as of ________________ by and between the MANASSAS CITY SCHOOL BOARD, a school division of the Commonwealth of Virginia (hereinafter, “MCPS”), and __________________________ whose address is __________________________ (hereinafter “Contractor”), for Minor General Construction services identified herein, on the following terms and conditions.

A. PURPOSE OF THE CONTRACT:
The Contractor hereby agrees to provide Minor General Construction to the Manassas City School Board, as set forth in greater detail in Attachment A, Scope of Work.

B. CONTRACT PERIOD:
The initial term is through ________________ with an option for four (4) additional one-year renewal periods at the same terms and conditions for a maximum duration of five (5) years.

C. CONTRACT AMOUNT:
In return for the Minor General Construction work and subject to the Termination for Non-Appropriation provision of this Contract, MCPS shall compensate the Contractor in accordance with Attachment B – Pricing Schedule. The Contract unit prices will remain firm for the first Contract term. Unit price increases for ensuing Contract terms shall only be considered by the Purchasing Agent upon receipt of a written request from the Contractor substantiating to the satisfaction of the Purchasing Agent increased cost of performance over the preceding Contract term. Any increases approved by the Purchasing Agent shall be limited to an amount not to exceed the percentage of movement of the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, US City Average (CPI-U) [Series ID CUUR0000SA0] for the twelve (12) month period ending three (3) months prior to the end of the expiring Contract term. The Contract unit prices changed as a result of this formula will become effective on the commencement date of the new term and shall be binding on the Contractor for the ensuing Contract term.

II. FORMATION:

A. CONDITIONS PRECEDENT TO FORMATION:
Before any Contract between MCPS and the Contractor is effective, the following conditions precedent must be satisfied. Satisfaction of these conditions is the responsibility of the Contractor. If, after performance under the Contract, MCPS learns that a condition precedent was not met, MCPS may, if permitted by law, ratify the Contract by affirmative recorded vote or may disclaim it, in its sole discretion.

1. Insurance: If the Bid requires certain insurance, the Contractor must provide proof of insurance in the amounts required by the Bid with an insurance company licensed to do business in the Commonwealth of Virginia. As used in this provision, “proof of insurance” means a copy of the relevant portions of the insurance declaration page, or its equivalent, showing continuing coverage at the required amounts.

   a. Unless the Specifications state otherwise, MCPS shall be made an additional insured on all required policies of insurance.

   b. No change, cancellation (other than noted below), or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the Purchasing Agent. Notice for cancellation due to nonpayment of premium shall be no less than fifteen (15) days. Contractor shall furnish proof of insurance prior to any change or cancellation date. The failure of the Contractor to deliver such proof of insurance is grounds for termination of the Contract.
c. Insurance coverage required hereunder shall be in force throughout the Contract period. Should the Contractor fail to provide proof of insurance within ten (10) days of written notice requesting such at any time during the Contract term, MCPS shall have the absolute right to terminate the Contract.

d. Compliance by the Contractor and any subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor or any subcontractors of their liabilities and obligations under this Contract.

2. Bonds: If the Bid requires payment or performance bonds (or certified checks or bank draft or Irrevocable Letter of Credit), then bonds with surety satisfactory to MCPS attorney shall be submitted to the Purchasing Agent for approval.

3. Permits and licenses: If the procurement of the Minor General Construction that is the subject of this Contract requires possession of any licenses or receipt of any permits then the Contractor shall obtain those licenses and permits.

B. PARTIES:
1. The sole parties to this Contract are the Manassas City School Board and the Contractor.

2. It is understood and agreed that the Contractor is at all times herein acting as an Independent Contractor.

3. Neither this Contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written permission of MCPS in advance. No assignment without such permission will relieve the Contractor of any responsibility under this Contract.

C. AUTHORITY TO EXECUTE:
By executing this Contract on behalf of Contractor, the Contractor’s Representative warrants that he or she has full authority to do so.

D. INCORPORATION OF DOCUMENTS:
The Contract consists of the following documents, which are hereby incorporated by reference and fully made a part of the Contract. This Contract and the incorporated documents describe the subject of the Procurement, the particulars of its performance, the process and time for payment, and the rights and remedies of the parties (collectively, “the terms”). In case of any conflict between those documents’ terms, the documents shall be given precedence in the following order, from highest to lowest:

1. This Agreement and all modifications incorporated in the Agreement
2. Attachment A – Scope of Work
3. Attachment B – Pricing Schedule
4. Attachment C – Terms and Conditions
5. Attachment D – Special Terms and Conditions
6. Attachment E – Contractor Certification Regarding Criminal Convictions,
7. Attachment F – Job Authorization Form
8. Attachment G – Certificate of Insurance
9. ITB and any Associated Documents

III. PERFORMANCE:

A. CONTACTS:
In addition to MCPS Representative and the Contractor’s Representative, the parties may designate additional contacts for exchange of information.
B. BEGINNING PERFORMANCE
Contractor shall not begin performance under the Contract until the Purchasing Agent issues it a contract, purchase order, or other notification to proceed.

C. RISK OF LOSS AND ACCEPTANCE OF WORK:
1. Contractor shall perform the work and deliver all Goods in accordance with recognized and customarily accepted industry practices, and performance shall be considered complete when the MCPS Project Manager ((PM) approves the Services as acceptable. If the PM rejects any deliverable, the Contractor shall be notified and shall have fourteen (14) calendar days from date of issuance of notification to correct the deficiencies and resubmit the deliverable.

2. Unless MCPS provides the materials or supplies, the Contractor bears the risk of damage or loss for materials or supplies covered by the Contract until delivery to the designated point. If MCPS rejects any deliverable, the Contractor bears all risk of damage or loss on them after notice of rejection. The Contractor must remove rejected materials or supplies at its own expense promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of a rejected delivery. If the Contractor does not remove rejected materials within ten (10) days after notification of rejection, MCPS may return the rejected materials or supplies to the Contractor at Contractor’s risk and expense or may dispose of them as abandoned property.

D. WARRANTY:
1. The Contractor warrants that all Minor General Construction work it performs and delivers to MCPS will be of good quality and meet the specifications of this Contract and of all literature supplied by the Contractor as part of the selection process which led to the award of this Contract. “Literature” as used in this provision means any and all brochures, fliers, catalogs, Proposals, web sites, email, or other information, in whatever written form, relating to the quality, utility, economic advantages, or composition of the Goods or Services. This warranty is in addition to and does not substitute for the Contractor’s warranties of title, against infringement, of merchantability, and of fitness for particular purpose under Virginia Code §§ 8.2-312, 8.2-314, and 8.2-315, which the parties expressly agree apply to this Contract.

2. The Contractor shall furnish all guarantees and warranties that the terms of this Contract require to the Project Manager before MCPS makes final payment on the Contract. Unless otherwise stated, manufacturer’s standard warranty applies.

E. INVOICES:
1. Unless otherwise provided in the Bid, Contractor shall submit all its invoices for payment in the fiscal year in which the Minor General Construction work were provided every 30 days. MCPS operates on a fiscal year beginning on July 1 and ending on June 30 of each calendar year.

2. The Contractor shall submit a proper invoice detailing the Minor General Construction work provided, in duplicate. Invoice shall include a detailed breakdown of all charges and shall be based on completion of tasks for the period of time being billed. Invoices shall be submitted to: Manassas City School Board,
Attn: Shante Gee, P. O. Box 520, Manassas, VA 20108, email to: sgee@mcpsva.org.

F. NOTICES:
Any questions pertaining to the Scope of Work of this contract shall be directed to:
Director of Facilities and Maintenance
Mr. Russ Helton
8500 Public Works Drive
Manassas, Virginia 20110

Or
For any questions pertaining to this contract:
Guinevere Bruner, CPPB
Purchasing Agent
8700 Centreville Road
PO Box 520
Manassas, Virginia 20108

G. PAYMENT:
1. In return for the Minor General Construction work that is the subject of this Contract, and subject to the provision of this Contract relating to “Termination for Non-appropriation,” MCPS shall compensate the Contractor within forty-five (45) days after receipt of proper invoice for the amount of payment due.

2. MCPS reserves the right to withhold any or all payments or portions thereof for Contractor’s failure to perform in accordance with the provisions of the Contract or any modifications there to. MCPS will not pay for any rejected deliverable.

3. With Minor General Construction work contracts that provide for monthly progress payments in installments based upon an estimated percentage of completion, MCPS shall retain 5% of the amount earned for work done and materials delivered as retainage. Retainage shall be paid in the final payment to the Contractor.

4. Within seven days after receipt of amounts paid to the Contractor by MCPS for satisfactorily completed performance, the prime contractor agrees to:
   a. Pay the subcontractor for the proportionate share of the total payment received from MCPS attributable to the work performed by the subcontractor under that contract; or
   b. Notify MCPS and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor’s payment with the reason for nonpayment.

   If the Contractor after having received payment from MCPS fails to pay each subcontractor its proportionate share of the total payment, the Contractor shall be obligated to pay interest to each subcontractor on all amounts that remain unpaid after the seven days following receipt by the Contractor of payment from MCPS.

5. The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

6. A Contractor that is an individual must provide his or her social security number and a Contractor that is any form of business entity must provide its federal employer identification number on a completed W-9 “Request for Taxpayer Identification Number and Certification” form. This information is required prior to start of work.

IV. TERMINATION OF CONTRACT:

A. TERMINATION FOR DEFAULT:
1. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.
2. Except in an emergency endangering life, safety, or the operation of MCPS government, the party claiming default shall provide notice and an opportunity to cure the default to the other party before terminating the Contract for default.
   
a. Notice of Default shall be given at least ten business days before the date set for termination and shall set forth the grounds for claiming default of the other party and the steps demanded to cure the default.

b. If the party receiving the Notice of Default cures the default before the end of the cure period set out in the Notice, then the party sending the Notice of Default shall not terminate the Contract for default.

3. If the period for cure passes without curing of the default, then the party sending the Notice of Default may send a Notice of Termination for default to the defaulting party.

4. Default of one party shall not excuse the default of the other party. If both parties, are in default either or both, may send a Notice of Default and, if warranted, a Notice of Termination.

B. TERMINATION FOR CONVENIENCE:

1. MCPS may terminate this Contract or any work or delivery required hereunder from time-to-time either in whole or in part, whenever the Project Manager, with the concurrence of the Department Director, determines that such termination is in the best interest of MCPS.

2. Termination may occur in whole or as to any discrete part of the Contract. A partial termination shall set forth the portions of the Contract which are terminated.

3. The effective date of the termination shall be three (3) days after issuance of a Notice of Termination signed by the Department Director or designee, and its mailing or delivery to the Contractor, or any later date specifically set forth in the Notice of Termination.

C. TERMINATION FOR NON-APPROPRIATION:

1. If funds are not appropriated for purposes of this Contract for any succeeding fiscal year subsequent to the one in which this Contract is entered into, then MCPS may terminate this Contract upon thirty (30) days written notice to the Contractor. The notice shall set forth the grounds for termination and its effective date.

2. If MCPS terminates for non-appropriation, MCPS shall be liable only for payments due through the effective date of termination.

3. Until the effective date of the termination, the Contractor shall continue to perform its duties under the Contract and is not excused from any portion of the Contract.

D. CLAIMS UPON TERMINATION FOR CONVENIENCE:

1. Upon receipt of a Notice of Termination, the Contractor shall:

   a. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;

   b. Place no further orders with any subcontractors except as may be necessary to perform any portion of the Contract not subject to the Notice (in the case of partial termination);
c. Terminate all subcontractors except to the extent necessary to complete work which was not subject to the Notice (in the case of partial termination);

d. Settle all outstanding liabilities and claims which may arise out of such termination, with the Department Director; and

e. Use its best efforts to mitigate any damages which may be sustained by the Contractor or any of its subcontractors as a consequence of termination under this clause.

2. After complying with the foregoing provisions, the Contractor shall submit a termination claim within thirty days. This termination claim shall document all amounts due under this provision. Costs for remaining work such as overhead and profit will not be considered.

a. Upon receipt of the Contractor’s termination claim, MCPS shall review and determine the costs of termination, including a reasonable amount for profit on Services delivered or completed. In no event shall this amount be greater than the original Contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the Minor General Construction work not delivered, or the Minor General Construction work not performed.

b. If the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Department Director, with the approval of the Purchasing Agent, shall pay the Contractor the amounts determined as follows, without duplicating any amount which may have already been paid under the preceding paragraph of this clause:

i. With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

- Cost of the Goods delivered or work performed; and
- The cost of settling and paying any reasonable claims as provided above; and
- A sum as profit on work performed determined by the Department Director and Purchasing Agent to be fair and reasonable.

ii. The total sum to be paid shall not exceed the original Contract price, as reduced by the amount of payments otherwise made, and as further reduced by the Contract price of the Minor General Construction work not terminated.

c. If the Contractor is not satisfied with any payments which the Department Director and Purchasing Agent determines to be due under this provision, the Contractor may make a claim in accordance with paragraph VI.C.1 herein.

3. The Contractor shall include similar provisions for termination in any subcontracts and shall require subcontractors to make reasonable efforts to mitigate damages if the Contract is terminated. Failure to include such provisions shall bar the Contractor from any recovery from MCPS whatsoever for loss or damage sustained by a subcontractor as a consequence of termination.

V. STATUTORY REQUIREMENTS:

A. EMPLOYMENT DISCRIMINATION:
In all contracts, regardless of contract amount, the Contractor will abide by the provisions of the Americans with Disabilities Act, and will require each subcontractor to do so. If this Contract is for a consideration in excess of Ten Thousand Dollars ($10,000.00), then during the performance of this Contract, the Contractor agrees as follows:
1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state or federal law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Contractor, in all solicitations for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this paragraph.

3. The Contractor will include the provisions of this Contract paragraph in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. ETHICS IN PUBLIC CONTRACTING:
The provisions contained in Chapter 43, Article 6, Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act, as set forth in the 1950 Code of Virginia, as amended, apply to this Contract. The provisions of Article 6 of Chapter 43 supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

C. DRUG-FREE WORKPLACE:
During the performance of this Contract the Contractor agrees to:

1. Provide a Drug-Free Workplace for the Contractor’s employees. Post in conspicuous places, available to employees and applicants for employment a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. State in all solicitations or advertisement for employees placed by or on behalf of the Contractor that the Contractor maintains a Drug-Free Workplace. Include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000.00, or so that the provisions will be binding upon each subcontractor or vendor.

D. FAITH-BASED ORGANIZATIONS:
MCPS does not discriminate against faith-based organizations.

E. FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH:
1. A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. MCPS may void any Contract with a business entity if the business entity fails to remain current and in compliance with this provision.

F. LEGAL COMPLIANCE:
1. The Contractor shall be solely responsible for complying with all applicable federal, state and municipal laws, codes and regulations during the performance of the Contract.
2. The Contractor has the responsibility to ensure that its forces and its subcontractors under this Contract comply with all applicable Occupational Safety and Health Administration (OSHA) requirements and all applicable State and City safety and occupational health standards.

3. The Contractor agrees that it does not, and shall not during the performance of the Contract for Goods and Services, knowingly employ unauthorized alien or aliens as defined in the Federal Immigration Reform and Control Act of 1986.

4. By law, MCPS will not receive any materials, products, or chemicals which may be hazardous to an employee’s health unless accompanied by a Material Safety Data Sheet (MSDS) when received. If the MSDS is rejected, the Contractor must identify a substitute that will meet MCPS’s criteria for approval.

VI. DISPUTES:

A. GOVERNING LAW:
   This Contract is governed by the law of the Commonwealth of Virginia, including but not limited to the Virginia Public Procurement Act (VPPA), Sections 2.2-4300 et seq. of the Code of Virginia (1950), as amended.

B. HOLD HARMLESS:
   1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless MCPS and its officers, agents, employees, community representatives, volunteers or others working on behalf of MCPS from any and all claims, judgments, suits, losses, damages, payments, costs, fines and/or fees levied against MCPS and expenses of every nature and description, including attorney’s fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if the Contractor subcontracts for work, it will require in its subcontracts that each subcontractor indemnify, defend, and hold harmless MCPS and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.

   2. To the fullest extent permitted by law, the Contractor shall also indemnify, defend, and hold harmless MCPS officers, agents, employees, community representatives, volunteers or others working on behalf of MCPS against all costs, including reasonable attorney’s fees, arising from liens encumbering MCPS’s Property filed by subcontractors, sub-subcontractors, material suppliers, and all other persons and entities acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

C. CONDITIONS PRECEDENT TO PURSUIT OF LEGAL REMEDIES:
   Before the Contractor may exercise any legal remedy it may have in relation to rights arising out of this Contract, it must comply fully and strictly with each of the applicable conditions below. Failure to comply fully and strictly with an applicable condition precedent bars the Contractor from exercising any legal remedies it may otherwise have in relation to this Contract until it complies with the condition precedent or MCPS intentionally waives the condition precedent.

   1. A Contractor must submit any dispute arising out of this Contract to the Project Manager immediately and prior to substantial completion. In doing so, it shall provide all relevant evidence that bears on MCPS’s liability for the amount claimed or responsibility to grant any non-monetary relief requested.

   2. Disputes by the Contractor with respect to this Contract shall be decided within fifteen (15) days from submission by the Purchasing Agent, who shall reduce his/her decision to writing, and furnish a copy thereof to the Contractor. This decision shall be final and binding unless within five (5) days from the date of such decision the Contractor submits a written appeal to the Superintendent. The Superintendent shall consider the appeal and render his or her written decision within seventy (70) days. The decision of the Superintendent shall be final and binding unless set aside by a court of competent jurisdiction as
fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or as not supported by any evidence.

D. VENUE:
Any action brought under this Contract must be brought in the state courts for the MCPS and may not be removed to the Federal Court system. Contractor expressly waives any objection to venue or jurisdiction of the Prince William County Circuit Court, Manassas, VA.

E. LIMITATIONS ON ACTIONS:
Any action brought under this Contract, except an action for breach of warranty, shall be brought within the statutory limitations period.

F. WAIVER OF JURY TRIAL:
In any action brought under this Contract, the parties expressly waive their right to trial by jury and agree to submit all questions of fact to the judge as trier of fact.

VII. GENERAL PROVISIONS:

A. TIME OF THE ESSENCE:
Time shall be of the essence to this Contract, except where it is herein specifically provided to the contrary.

1. If the Contractor at any time finds that the schedule will not be met for any reason, the Contractor shall so notify the Project Manager in writing.

2. Where Contractor is prevented from completing any part of the Work within the Contract Period due to abnormal weather conditions the Contract Period may be extended.

3. Contractor acknowledges and agrees that adjustments in the Contract Period will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by Contractor; (ii) could not be limited or avoided by the Contractor's timely notice to MCPS of the delay or reasonable likelihood that a delay will occur; and (iii) is of a duration not less than one day. Such an adjustment of time shall be Contractor’s sole and exclusive remedy for the delays described in this Section, except to the extent the delay is caused by acts or omissions of MCPS and due to causes within its control.

4. Upon commencement of on-site activities and continuing throughout the Minor General Construction work, Contractor shall record daily the occurrence of adverse weather and resultant impact to normally scheduled work and within 30 days of the last day of any month (hereinafter referred to as the “Reporting Month”), Contractor shall submit a written adverse weather report, including copies of Contractor’s daily weather reports and applicable climatologically data from the National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location. Notwithstanding any other provisions, failure to submit the required written report within the time specified above shall be deemed to be and shall constitute a waiver by Contractor of any and all claims for delay due to adverse weather conditions occurring during said Reporting Month.

5. MCPS shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

Contractor shall not be entitled to an adjustment in Contract Price or Contract Period for delays within the control of Contractor. Delays attributable to and within the control of a subcontractor or supplier shall be deemed to be delays within the control of Contractor.
B. INTERPRETATION AND MODIFICATION OF THE CONTRACT:

1. This Contract, including its incorporated documents, contains the whole agreement between the parties as to its subject, and no prior or contemporaneous communications, representations, or agreements, written or verbal, may alter, add to, or contradict any provision in it. There are no promises, terms, conditions, or obligations related to the subject of this Contract other than those contained herein.

2. All modifications and changes to the Contract shall be in writing and signed by the Purchasing Agent.

3. If a Court of competent jurisdiction finds any provision of this Contract to be invalid, such ruling shall not invalidate the entire Contract but shall apply only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect to the maximum extent permitted by law.

4. The Project Manager, with the concurrence of the Department Director, shall have the authority to order changes in this Contract, which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a “Change Order” and signed by the Purchasing Agent or Superintendent.

   a. Such orders shall be limited to reasonable changes in the supplies, Services to be performed or the time of performance; provided that the Contractor shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.

   b. Contractor need not perform any work described in any Change Order unless it has received a written certification from MCPS that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

   c. The Contractor shall make a demand for payment for completed changed work within 30 days of completion of Change Order, unless such time period is extended in writing, or unless the Purchasing Agent requires submission of a cost proposal prior to the initiation of any changed work or Services.

   d. No claim for changes made by Change Order shall be considered if made after final payment in accordance with the Contract.

C. EXAMINATION OF RECORDS:

1. The Contractor agrees that MCPS or any duly authorized representative of MCPS may have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract. This right shall expire on the third anniversary of the issuance of final payment under this Contract. This paragraph shall also apply to the Contractors subcontractors where work was for more than $10,000.

D. ASSIGNMENT OF RIGHTS:

1. Antitrust: By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to MCPS all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular Goods or Services purchased or acquired by MCPS under said Contract.

2. Warranty: By entering into a Contract, the Contractor conveys, sells, assigns and transfers all warranties related to Goods or Services provided to MCPS under this Contract.

IN TESTIMONY WHEREOF, the Manassas City School Board has caused its name to be hereunto subscribed pursuant to authority heretofore duly granted by the School Board of Manassas City School Board; and
Contractor has caused its name to be hereunto subscribed by Contractor’s Representative, and (if a Corporation) has caused its corporate seal to be duly affixed and attested by the person authorized to do so, signifying that it intends to be bound by this Contract.

MANASSAS CITY SCHOOL BOARD
P.O. BOX 520
MANASSAS, VA  20108

By: _________________________________  _________________________________
   Authorized Signature             Contractor’s Authorized Representative

Print Name _________________________________  Print Name _________________________________

Title ______________________________________  Title ______________________________________

Date ______________________________________  Date ______________________________________
Information Item No. 1

Question: Regarding Minimum Qualifications, Item 10.3 on page 11, please confirm you do not need all applicable classifications to bid the project. For instance would a Class A License with only a CBC classification be sufficient to bid the project?

Answer: No. A CBC classification does not cover Electrical (ELE), HVAC (HVA), Plumbing (PLB) or Gas Fitting Contracting (GFC) so a Class A License with only a CBC Classification would make your Bid Non-Responsive.

Question: Can we use a Mechanical or Electrical Subcontractor to cover the ELE, HVA and PLB trades?

Answer: Per Section 4.8 of the Scope of Work, Subcontractors will be permitted only after written authorization from the Project Manager. Per Section 10.3.3, the subcontractor’s DPOR Class A Contractor’s License with the appropriate classifications must accompany your Bid.
# Pre-Bid Conference Attendance List

**Bid # 20FY19 – Provision of Minor General Construction**

Conference Date – November 14, 2019 @ 10:00 AM

<table>
<thead>
<tr>
<th>Company</th>
<th>Print Name</th>
<th>E-Mail Address</th>
<th>Signature</th>
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<tbody>
<tr>
<td>Manassas City Public Schools Purchasing Agent</td>
<td>Guinevere Bruner, CPPB</td>
<td><a href="mailto:gbruner@mcpsva.org">gbruner@mcpsva.org</a></td>
<td></td>
</tr>
<tr>
<td>Manassas City Public Schools Facilities Department</td>
<td>Steve Potts</td>
<td><a href="mailto:spotts@mcpsva.org">spotts@mcpsva.org</a></td>
<td></td>
</tr>
<tr>
<td>Covenant Contract</td>
<td>Courtney Shibadeh</td>
<td>cs@<a href="mailto:shibadeh@gmail.com">shibadeh@gmail.com</a></td>
<td></td>
</tr>
<tr>
<td>MCN Build</td>
<td>Bassem Melhem</td>
<td><a href="mailto:bassem.melhem@mcnbuild.com">bassem.melhem@mcnbuild.com</a></td>
<td></td>
</tr>
<tr>
<td>MCA Construction</td>
<td>General Roberts</td>
<td>gr@<a href="mailto:roberts@mca-construction.com">roberts@mca-construction.com</a></td>
<td></td>
</tr>
<tr>
<td>APS</td>
<td>Steven Bemis</td>
<td><a href="mailto:b@mca-construction.com">b@mca-construction.com</a></td>
<td></td>
</tr>
<tr>
<td>Coyle Construction</td>
<td>Rich Coyle</td>
<td>coyrecste@com</td>
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