	<p align="center">GUILFORD COUNTY SCHOOLS Invitation for Bid Addendum #3 04/22/2024 Purchasing Department 501 W. Washington Street Greensboro, NC 27401</p>
Direct all inquiries to:	Invitation for Quote: 6645
Velicia Moore	Proposal due date: April 30, 2024
gaddyv@gcsnc.com 336.370.3240	Commodity: Fuel Pipe Replacement

NOTICE TO BIDDERS

Please be advised that this document serves as Addendum #3 to Q #6645 – Fuel Pipe Replacement for the 2022 Bond. The following statement has been provided by Guilford County Schools (GCS) and questions asked by vendors. The answers were provided by GCS, please see below.

Statement

The proposed bid date for this project has been changed to **2:00 pm April 30, 2024** at gaddyv@gcsnc.com.

Revised Bid Documents are included within this addendum.

Below is the scope of work as determined by Guilford County Schools (Addendum #2)

1. Obtain permit from Guilford County Fire Marshall for removal and replacement of existing underground fuel lines.
2. Use a private location firm as well as 811 for existing underground utilities.
3. Remove residual fluids/sludge from UST’s and piping for disposal. Assume UST’s have less than 2 inches of fluid to be disposed of, if necessary.
4. Purge vapors from the inside of UST’s to bring tank interiors and document lower explosive level (LEL) and % oxygen readings for fire marshal.
5. Remove and replace associated underground piping to all dispensers and tanks.
6. All excavations will be backfilled with soil or other suitable material and compact to 95% Standard Proctor once soil sampling is complete.
7. GCS will contract with a NCDEQ approved environmental consultant to sample all required soil samples where existing fuel lines were located. All information will be collected per NCDEQ guidelines and submitted to NCDEQ.
8. The contractor will be responsible for obtaining the required permits from the City of Greensboro or Guilford County. All engineering necessary for permitting to be included in proposal.
9. Remove and replace 6000 sf of concrete. 1500 sf of the 6000 sf is assumed to be 12-15” thick. The remainder is assumed to be 6-8” thick reinforced with rebar.
10. Provide a unit cost per square yard for concrete removal and replacement.

11. Install bollards on the island.
12. Any additional scope of work the bidder deems pertinent to the project, based on experience and expertise, shall be listed on the proposal, and included in the bid price.

Questions

Q1. In speaking with GCS staff, it was stated that the UST's will not be removed. Can you please let us know if that has changed because it changes the bid considerably?

A1. The UST's will not be removed.

Q2. Do you have any specifics on how many bollards and their associated placement on the islands and does this requirement also include the bulk fueling island?

A2. There will be a total of (12) 6" bollards. This does include the bulk fueling island.

Q3. Will there be a drawing sent with the dimensions of the limits of construction outlined?

A3. There will not be drawings, please refer to #9 for bidding purposes.

Q4. Do we replace the island forms? What are the dimensions? How many?

A4. The forms are not being replaced currently.

Q5. Will there be an additional STP? If so, what size?

A5. Yes. 4 HP.

Q6. With the issuance of Addendum #2 on April 19, 2024, can the bid date be extended?

A6. The bid date has been extended to April 30, 2024.

REQUEST FOR QUOTATION - THIS IS NOT AN ORDER

REQUEST FOR QUOTATION	
NUMBER Q# 6645	DATE Pre-Bid 04/10/24 at 10:00 am
PURCHASING DEPARTMENT	
TELEPHONE 336-370-3240	PURCHASING AGENT Velicia Moore

GUILFORD COUNTY SCHOOLS
PURCHASING DEPARTMENT
501 W. Washington St.
GREENSBORO, NC 27401
PHONE: 336-370-3240
FAX: 336-271-3346

QUOTE NO LATER THAN

DATE: April 30, 2024 TIME: 2:00 pm (EST)

Req.

<p>CONTRACTOR FILL IN NAME & ADDRESS IN THIS SECTION</p>

WHERE APPLICABLE, ALL PROPOSALS SHALL BE SUBJECT TO THE ATTACHED FORM AS-53, INSTRUCTIONS TO BIDDERS.

Note: Prices and any other entry made hereon by the bidder shall be considered firm and not subject to change or withdrawal.

Bidder also certifies under penalty of perjury that this bid has not been arrived at collusively and that he has not violated any Federal or North Carolina antitrust laws.

TERMS

ITEM	DESCRIPTION	AMOUNT
	<p>Per below Specifications and Instructions to Bidders, vendors are to supply all labor and materials to complete the Fuel Pipe Replacement at GCS Transportation Department.</p> <p>Quotes shall be returned via email to ATTN: Velicia Moore at gaddyv@gcsnc.com by the date listed above.</p> <p>The Guilford County BOE Reserves the right to reject any or all bids presented and to waive any informalities and irregularities. Guilford County Schools reserves the right to award this project in part or in whole, whichever is deemed to be in the best interest of the district. The award is contingent upon availability of funds.</p> <p>Minority businesses are encouraged to submit proposals for this project. The Board of Education awards public contracts without regard to race, religion, color, creed, national origin, sex, age or handicapped condition as defined by North Carolina General Statutes, Section 168A-3.</p> <p>(Guilford County Schools is NOT tax exempt)</p>	<p align="right">Labor Cost: _____</p> <p align="right">Material Cost: _____</p> <p align="right">Freight Charge: _____</p> <p align="right">Taxes: _____</p> <p align="right">Total: _____</p>

WE QUOTE YOU AS ABOVE

NAME OF COMPANY _____

BY (SIGNATURE AND TITLE) _____

FEDERAL/SOCIAL SECURITY I.D. NO. _____

N.C. SALES & USE TAX REGISTRATION NO. _____

PHONE: () _____

FAX: () _____

SCOPE OF WORK

This work includes:

1. Obtain permit from Guilford County Fire Marshall for removal and replacement of existing underground fuel lines.
2. Use a private location firm as well as 811 for existing underground utilities.
3. Remove residual fluids/sludge from UST's and piping for disposal. Assume UST's have less than 2 inches of fluid to be disposed of, if necessary.
4. Purge vapors from the inside of UST's to bring tank interiors and document lower explosive level (LEL) and % oxygen readings for fire marshal.
5. Remove and replace associated underground piping to all dispensers and tanks.
6. All excavations will be backfilled with soil or other suitable material and compact to 95% Standard Proctor once soil sampling is complete.
7. GCS will contract with a NCDEQ approved environmental consultant to sample all required soil samples where existing fuel lines were located. All information will be collected per NCDEQ guidelines and submitted to NCDEQ.
8. The contractor will be responsible for obtaining the required permits from the City of Greensboro or Guilford County. All engineering necessary for permitting to be included in proposal.
9. Remove and replace 6000 sf of concrete. 1500 sf of the 6000 sf is assumed to be 12-15" thick. The remainder is assumed to be 6-8" thick reinforced with rebar.
10. Provide a unit cost per square yard for concrete removal and replacement.
11. Install bollards on the island. This includes the bulk fueling island.
12. Any additional scope of work the bidder deems pertinent to the project, based on experience and expertise, shall be listed on the proposal, and included in the bid price.
13. Modify the bulk fueling rack, so both sides can serve diesel.
14. Include an additional 4 HP STP.

The total value of minority business contracting will be (\$)_____.

AFFIDAVIT A

This Affidavit and **ALL THREE (3) SECTIONS** Herein Must Be Completed By **ALL BIDDERS** and Submitted with Bid.

Section I - Listing of the Good Faith Effort

Bidder must earn at least 50 points from the Good Faith Efforts list for their Bid to be considered responsive and must submit documentation supporting all items checked within the timeframes set forth in Section III below.

I have made Good Faith Effort to comply under the following areas checked:

- 1 - Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed. "Contact" means contact by letter, fax, e-mail or other means to a viable and active address. CONTRACTOR MUST ATTACH EVIDENCE OF CONTACT TO THIS AFFIDAVIT AND SUBMIT WITH BID.** Value = 10 points.
- 2-Made the construction plans, specifications and requirements available for review by prospective MWBE businesses, or providing these documents to them at least 10 days before the bids are due.** Value = 10 points.
- 3 - Broken down or combined elements of work into economically feasible units to facilitate minority participation.** Value = 15 points.
- 4 - Worked with MWBE trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of MWBE'S.** Value = 10 points.
- 5 - Attended prebid meetings scheduled by the public owner.** Value = 10 points.
- 6 - Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.** Value = 20 points.
- 7 - Negotiated in good faith with interested MWBE'S and did not reject them as unqualified without discussing with MWBE'S sound reasons based on their capabilities. CONTRACTOR MUST ATTACH TO THIS AFFIDAVIT AND SUBMIT WITH BID COPIES OF QUOTES OR RESPONSES FROM ALL FIRMS SUBMITTING QUOTES OR RESOPNSES, AND, IF APPLICABLE, WRITTEN JUSTIFICATION FOR ANY REJECTION OF A MWBE BASED ON LACK OF QUALIFICATION.** Value = 15 points.
- 8 - Provided assistance to an otherwise qualified MWBE in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help MWBE businesses in establishing credit.** Value = 25 points.
- 9 - Negotiated joint venture and partnership arrangements with MWBE businesses in order to increase opportunities for MWBE business participation on the construction or repair project when possible.** Value = 20 points.
- 10 - Provided quick pay agreements and policies to enable MWBE contractors and suppliers to meet cash-flow demands.** Value = 20 points.

The undersigned hereby certifies that he or she has read the terms of the MWBE business commitment, that the bidder has made the Good Faith Efforts in the areas checked above, and that he or she is authorized to bind the bidder to the commitment herein set forth.

Date:_____ Name of Authorized Officer:_____

Signature:_____

Section II - Portion of the Work to be Performed by Minority Firms

I will expend a minimum of _____% of the total dollar amount of the contract with MWBE. MWBE will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

(Attach additional sheets if necessary)

Name and Phone Number	*MWBE Category	Work description	Dollar Value

*MWBE categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Section III – Documentation of Good Faith Efforts

ALL BIDDERS, regardless of percentage of MWBE participation, **MUST** provide documentation of all Good Faith Efforts checked in Section I within the timeframes set forth in Parts A and B below.

Failure to submit these documents / information shall be grounds for deduction of Good Faith Points. In the event such a deduction results in a failure to achieve the required number of Good Faith Points, the Bid shall be rejected unless the bidder has otherwise demonstrated Good Faith Efforts.

PART A (Documentation Required to be Submitted With Bid)

Documentation **MUST** be provided **WITH THE BID** in order for the bidder to receive credit for certain items checked. If the bidder checked Items 1 or 7 in Section I, the bidder **MUST** provide documentation supporting those Good Faith Efforts **WITH THE BID**.

Examples of such documentation include, but are not limited to, the following:

ITEM 1

- Copies of solicitations for quotes to at least three (3) MWBE's from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- Copies of quotes and responses received from each firm responding to the solicitation.
- A telephone log of follow-up calls to each firm sent a solicitation.

ITEM 7

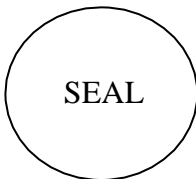
- Copies of quotes or responses received from all firms submitting quotes or responses for each subcontract, and, if applicable a letter detailing the reason(s) for any rejection of minority business(es) due to lack of qualification.

I do certify the attached documentation as true and accurate representation of my good faith efforts.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

PART B (Documentation Required to be Submitted Within 72 Hours of Notification)

Certain documentation **MUST** be provided within 72 hours of notification of being the apparent lowest responsible, responsive bidder in order to receive credit for certain additional Items checked. If the bidder checked Items 2, 3, 4, 5, 6, 8, 9 or 10, the bidder **MUST** provide documentation supporting those Good Faith Efforts within 72 hours of notification of being the apparent lowest responsible, responsive bidder.

Examples of such documentation include, but are not limited to the following:

ITEM 2

- Invitation to view construction plans, specifications and requirements.
- Cover letter enclosing construction plans, specifications and requirements.

ITEM 3

- Copies of all bid solicitations or request for proposals broken down by scope of work.
- Letter detailing contractor's efforts to break down or combine elements of work into economically feasible units to facilitate minority participation.

ITEM 4

- Documentation of any contacts or correspondence to MWBE, community, or contractor organizations in an attempt to meet the goal.

ITEM 5

- Copy of pre-bid roster.

ITEM 6

- Letter documenting efforts to provide assistance in obtaining required bonding or insurance for MWBE.

ITEM 8

- Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

ITEM 9

- Letter documenting negotiations with MWBE businesses to create joint venture or partnership arrangement for the construction or repair project.

ITEM 10

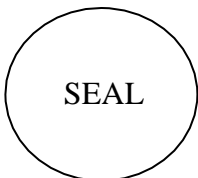
- Copy of quick pay agreements.
- Copy of quick pay policies.

I do certify the attached documentation as true and accurate representation of my good faith efforts.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

AFFIDAVIT B Intent to Perform Contract with Own Workforce.

County of _____

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____
_____ contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

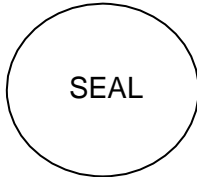
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

**GUILFORD COUNTY SCHOOLS
SERVICES AGREEMENT**

THIS SERVICES AGREEMENT (this “Agreement”) is entered into effective this the __ day of _____, 202_ (the “Effective Date”) by and between GUILFORD COUNTY BOARD OF EDUCATION, a North Carolina public school board operating under the auspices of N.C. General Statute § 115C-40, et seq. (the “Board”), and the contractor set forth in Table 1 below (“Contractor”). The Board and Contractor are collectively referred to herein as the “Parties” and each individually as a “Party.”

Table 1 (Contractor Information):

Contractor Name:	
Address, City, State, Zip:	
SSN / TIN:	
Email:	
Phone Number:	

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Services and Deliverables. During the Term (as defined below), Contractor shall perform the following services (the “Services”) and deliver the following deliverables (the “Deliverables”), subject to the terms and conditions of this Agreement:

The Services and Deliverables described above shall be provided to the Board by Contractor on or before the following dates:

Service(s) / Deliverable(s)	Date

2. Fees; Payment.

2.1 Fees. In consideration for the Services and Deliverables provided under this Agreement, the Board shall pay to Contractor the fees and expenses set forth in Table 2 below (the “Fees”).

Table 2 (Fees):

Service or Deliverable	Amount / Rate
TOTAL:	\$

NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, THE TOTAL FEES, IN AGGREGATE, PAID BY THE BOARD FOR SERVICES AND DELIVERABLES UNDER THIS AGREEMENT SHALL NOT EXCEED \$[MAXIMUM AMOUNT].

2.2 Invoicing and Payment. Unless otherwise set forth in this Agreement, Contractor shall issue monthly invoices to the Board detailing the Fees owed for Services performed and Deliverables under this Agreement. The Board shall pay all Fees owed to Contractor within thirty (30) days after the Board receives the applicable invoice, except for any amounts disputed by the Board in good faith. Notwithstanding anything to the contrary contained in this Agreement, Contractor must submit the final invoice by June 5 of the Board's fiscal year during which the Services are to be performed. In the event Contractor does not timely submit the final invoice, then the Board shall have no obligation to pay Contractor the Fees applicable to such invoice.

Each invoice shall contain at least the following information: (i) Contractor contact information, (ii) the date(s) the Services were provided, (iii) the total hours of Services performed, (iv) the amount of Services performed, but unbilled (i.e., the outstanding balance owed to Contractor), (v) the hours of Services remaining under this Agreement, (vi) any other information as mutually agreed to by the Parties in writing.

2.3 Disputed Fees. In the event of a payment dispute, the Board shall deliver a written statement to Contractor no later than ten (10) days before the payment is due, listing all disputed Fees and providing a reasonably detailed description thereof. Notwithstanding the foregoing, undisputed fees shall be deemed accepted and shall be paid within the period set forth in Section 2.2.

2.4 Taxes. Contractor shall pay all federal, state and FICA taxes of Contractor for providing Services under this Agreement. Upon reasonable request by the Board, Contractor shall provide a breakdown of all sales and use taxes paid on labor, materials, parts and supplies. N.C.G.S. § 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of N.C.G.S. § 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. By executing this Agreement, Contractor certifies that it collects, and will continue to collect, the appropriate taxes.

3. GCS Contract Administrator. The Board hereby designates _____ as the GCS contract administrator.

4. Term; Termination.

4.1 Term. This Agreement shall commence on the Effective Date and shall be effective until the earlier of: (i) June 30 of the Board's fiscal year during which the Services are provided, or (ii) the completion of the Services, in each case unless sooner terminated pursuant to this Agreement. The Term of this Agreement may be extended as mutually agreed to by the Parties in writing.

4.2 Termination.

a. *Termination for Convenience.* The Board may terminate this Agreement at any time, with or without reason, upon thirty (30) days' prior written notice to Contractor. In the event this Agreement is terminated by the Board pursuant to this Section 4.2(a), Contractor shall only be entitled to the amounts due and payable under this Agreement, if any, for Services actually performed prior to the effective date of termination.

b. *Termination for Cause.* Either Party may terminate this Agreement immediately upon written notice to the other Party in the event: (i) the other Party becomes insolvent or is subject to proceedings under any law relating to bankruptcy, insolvency or relief of debtors, or (ii) upon a material breach of this Agreement, which is not cured within thirty (30) days after receiving written notice of such breach from the non-breaching Party. In the event this Agreement is terminated pursuant to this Section 4.2(b), Contractor shall only be entitled to the

amounts due and payable under this Agreement, if any, for Services actually performed on or prior to the effective date of termination; provided, that Contractor shall refund the unused portion of any prepaid amounts for such Services. Notwithstanding the foregoing, if the Board terminates this Agreement pursuant to this Section 4.2(b), Contractor shall be liable for (x) the reasonable costs and expenses incurred by the Board to find a suitable third party to complete the applicable Services, and (y) the reasonable costs to complete the Services that are in excess of the Fees for such Services contemplated hereunder. The Board may withhold any payment due to Contractor hereunder for the purpose of setoff until such time as the exact amount of such costs and expenses and/or excess fees can be determined. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the Board.

c. *Termination due to Non-Appropriation of Funds.* This Agreement is contingent upon the continued availability of appropriations. If sufficient funds are not appropriated by the Board, or sufficient funds are otherwise unavailable to the Board, this Agreement is subject to termination, in whole or in part, without penalty. Contractor will not be entitled to recover any damages in connection with termination under this Section 4.2(c) including, but not limited to, lost profits.

d. *Effect of Termination.* Upon expiration or termination of this Agreement, for whatever reason, Contractor shall return any property furnished to Contractor by the Board for use in connection with the performance of the Services and will reimburse the Board for loss or damage to such property.

Notwithstanding the foregoing, the payment obligations incurred under Section 2 (Fees; Payment) and Section 4 (Term; Termination), and the terms, conditions and obligations of the Parties under Section 5 (Data Privacy and Security), Section 6 (Intellectual Property), Section 7 (Indemnification), Section 8 (Limitation of Liability), and Sections 9-21 (Miscellaneous) shall survive any termination or expiration of this Agreement.

5. Data Privacy and Security.

5.1 Addendum. Contractor agrees to comply with the requirements set forth in the Addendum attached hereto as Exhibit A (the “Addendum”), as the same may be amended, modified or updated from time to time by the Board in its sole discretion.

5.2 Student Data from State Student Data System. The State of North Carolina maintains certain Student Data (as defined herein) electronically through a student data system pursuant to N.C.G.S. § 115C-402.5. The sharing of any Student Data from or access to the State of North Carolina’s student data system under this Agreement shall be subject to the terms and conditions of this Section 5.2. “Student Data” means any de-identified data, aggregated data sets, personally identifiable information about students, and other student information including without limitation student data, metadata and user content. Notwithstanding anything contained to the contrary in this Agreement, prior to the disclosure of any Student Data from the State of North Carolina’s student data system hereunder:

a. authorized representatives of each of the Board and Contractor shall execute the Department of Public Instruction (DPI) Data Confidentiality and Security Agreement attached hereto as Exhibit B, in its entirety and without any modifications;

b. Contractor shall complete the Third-Party Data Collection Reporting Worksheet in substantially the form attached hereto as Exhibit C, clearly articulating: (1) the statewide systems to which Contractor will be connecting, (2) Contractor’s method of integration (API, AutoComm, SFTP, etc.), (3) specific data fields requested and the rationale for their inclusion in the request, including how the data will be used in the target system, (4) a description of how the data will be restricted to the users who have a legitimate business need to see the data, and (5) a description of any data written back to the statewide system;

c. Contractor shall submit a Vendor Readiness Assessment Report. “Vendor Readiness Assessment Report” means a report that demonstrates Contractor’s compliance with the baseline security controls in accordance with NIST Special Publication 800-53. Contractor shall use the applicable form of the Vendor Readiness Assessment Report found at: <https://it.nc.gov/documents/vendor-readiness-assessment-report>;

d. Contractor shall submit a third-party conducted assessment report prepared within the previous twelve (12) months, such as and without limitation a Federal Risk and Authorization Management Program (FedRAMP) authorization, Security Operations Center 2 Type 2 audit, ISO 27001 certification, or HITRUST certification; and

e. Contractor must submit documentation with respect to its alignment with the North Carolina Department of Information Technology Statewide Information Security Manual; and

f. Contractor must submit any other certificates, instruments and documents as shall be necessary in connection with the sharing of Student Data under this Agreement as may be reasonably requested by the Board.

6. Intellectual Property. During the performance of the Services under this Agreement, Contractor may create certain intellectual property, including, without limitation, ideas, know-how, techniques, and documentation (collectively, “Intellectual Property”). Except as otherwise stated in this Agreement, any such Intellectual Property that is exclusively created as part of a Deliverable, including all rights in, to and under such Intellectual Property, shall be the sole and exclusive property of the Board. To the extent pre-existing Intellectual Property of Contractor is incorporated into a Deliverable, Contractor hereby (i) assigns to the Board all rights in, to and under the Deliverables, other than said pre-existing Intellectual Property of Contractor, and (ii) grants the Board a perpetual, irrevocable, royalty-free license to use such pre-existing Intellectual Property of Contractor in connection with its use of the Deliverables. Notwithstanding the foregoing, each Party shall retain title and full ownership rights to all of its pre-existing Intellectual Property under the copyright laws of the United States or any other jurisdiction or under any federal, state, or foreign laws, provided, that nothing contained in this clause shall grant Contractor any ownership, use, or distribution rights to Data (as defined in the Addendum) other than as may be required to fulfill Contractor’s obligations under this Agreement. Contractor agrees that, if applicable, the Deliverables shall be considered “works for hire.” Contractor warrants that any Intellectual Property of the Contractor as modified through Services provided hereunder will not infringe upon or violate any patent, property right or trade secret right of any third party.

7. Indemnification. Contractor agrees to indemnify, defend and hold harmless the Board, Guilford County Schools (“GCS”), and their respective officers, directors, employees, agents and/or representatives (collectively, “Board Indemnified Parties”) from and against all losses, claims, damages, demands, liabilities, costs and expenses (including, without limitation, attorneys’ fees, expenses and costs of investigation) arising out of or related to (i) the performance of the Services by Contractor and its agents, subcontractors and representatives under this Agreement; and (ii) a breach by Contractor or any of Contractor’s agents, subcontractors and representatives of this Agreement. Contractor shall not, without the prior written consent of the Board (which consent shall be in the Board’s sole discretion) settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought pursuant to this sentence (whether or not any Board Indemnified Parties is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of each of the Board Indemnified Parties from all liability arising out of such claim, action or proceeding.

8. Limitation of Liability.

8.1 EXCEPT AS OTHERWISE STATED IN SECTION 8.3 BELOW, IN NO EVENT SHALL THE BOARD OR CONTRACTOR, OR THEIR RESPECTIVE EMPLOYEES, REPRESENTATIVES AND AFFILIATES, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGE LOSS OR DAMAGE OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE.

8.2 EXCEPT AS OTHERWISE STATED IN SECTION 8.3 BELOW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF A PARTY AND ITS AFFILIATES FOR DAMAGES UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL BE THE FEES PAID AND/OR OWED (AS APPLICABLE) BY THE BOARD UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE BREACH FOR THE SERVICES THAT ARE THE SUBJECT OF THE BREACH. THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR CONTRACTOR PROVIDING SERVICES TO THE BOARD, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

8.3 THE LIMITATIONS SET FORTH IN SECTIONS 8.1 AND 8.2 ABOVE SHALL NOT APPLY IN THE CASE OF (I) DAMAGES CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF EITHER PARTY; OR (II) ANY BREACH OF SECTION 5 (DATA PRIVACY AND SECURITY) OR SECTION 6 (INTELLECTUAL PROPERTY) OF THIS AGREEMENT. IN EACH CASE, THE AGGREGATE LIABILITY SHALL BE LIMITED TO THE GREATER OF (X) THE AGGREGATE AMOUNT PAID BY THE BOARD TO CONTRACTOR UNDER THIS AGREEMENT DURING THE TWENTY-FOUR (24) MONTHS IMMEDIATELY PRECEDING NOTICE OF THE CLAIM BY THE NON-BREACHING PARTY, AND (Y) THREE MILLION DOLLARS (\$3,000,000).

9. Persons on GCS Campuses. If, during the performance of the Services, Contractor or any Person (for purposes of this Agreement, "Person" means means an individual, corporation, limited liability company, partnership, association, trust, unincorporated organization or other entity) working at the direction or on behalf of Contractor is anticipated to be on the property of GCS for any reason, each such Person shall be subject to the following requirements:

9.1 Criminal background investigations of all individuals working on school property (sites occupied with students and sites not occupied with students) are required. At a minimum, Contractor shall obtain a complete criminal background investigation for Contractor and all of its agents and subcontractors who will work on a site, covering a period for the last seven (7) years. The company providing such information must be recognized by local law enforcement agency as qualified to do so. All costs associated with criminal background checks of Contractor are the responsibility of Contractor. Any individual, including Contractor, with the following criminal convictions or pending charges will NOT be permitted on any school project or property: (i) child molestation or abuse or indecent liberties with a child; (ii) rape; (iii) any sexually-oriented crime; (iv) drugs; felony use, possession or distribution; (v) murder, manslaughter or other death-related charge; or (vi) assault with a deadly weapon or assault with intent to kill. Any individual with a prior conviction or pending charges contained in the aforementioned list shall not be permitted on school property or to perform Services hereunder.

9.2 Contractor will submit with an executed copy of this Agreement evidence of Covid-19 safety protocols. Contractor will also read and be bound by GCS's Covid-19 protocols and any other requirements related to health and safety in place at the time Services are provided. This includes, without limitation, notification of exposure to Covid-19 or any other communicable disease, adherence to all safety protocols, including without limitation masking requirements, testing requirements and other safety measures.

9.3 At all times during the provision of Services on GCS's property, Contractor and its personnel, representatives, agents and permitted subcontractors shall wear and display name badges accurately identifying said personnel, employee, representative, agent or permitted subcontractor, and each of such parties shall follow the applicable GCS office procedures for signing in and out of any building of GCS that they attend.

10. Compliance with Laws. Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, district, and local agencies having jurisdiction and/or authority.

11. Care of Property. Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to Contractor or purchased by Contractor for the benefit of the Board or GCS for use in connection with the performance of this Agreement and will reimburse the Board for loss or damage of such property.

12. Federal Uniform Guidance. Notwithstanding anything contained in this Agreement to the contrary, any use of an award or expenditure of federal financial assistance under this Agreement shall be subject to the terms and conditions of The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance") at 2 C.F.R. Part 200. In the event the Services under this Agreement are subject to this Section 12, the Parties agree to reasonably cooperate with each other and their respective representatives in connection with any steps required to comply with the Uniform Guidance, including without limitation executing and delivering such additional documents, agreements and other instruments, and performing such other acts required by the Uniform Guidance to reasonably carry out the intent of this Agreement.

13. Advertising. Contractor shall not use the award of this Agreement as part of any news release or commercial advertising.

14. Notice. All notices and other communications required to be given to a Party pursuant to the terms of this Agreement shall be in writing, shall be addressed, unless such other address is provided by notice in writing to the other Party, to Contractor at the address set forth in the recitals of this Agreement, and (ii) to the Board in accordance with the information listed below:

Guilford County Board of Education
712 North Eugene Street
Greensboro, NC 27401
Attn: _____
Email: _____

Each such notice or other communication shall be deemed to have been received (a) when delivered, if delivered personally or by commercial delivery service, (b) three (3) days after deposit with the U.S. Mail, if mailed by registered or certified mail (return receipt requested), (c) one (1) day after the timely deposit of the notice or other communication with a recognized national courier service for next day delivery, or (d) on the day of delivery by facsimile or email transmission (with acknowledgment of complete transmission or receipt).

15. Governing Law; Venue. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the Parties shall be governed, construed and interpreted in accordance with the laws of the State of North Carolina, without giving effect to its conflict of laws provisions. The

Parties hereby irrevocably agree that the exclusive forum for any suit, action or other proceeding arising out of or in any way related to this Agreement shall be in the federal or state courts located within Guilford County, North Carolina.

16. Relationship of Parties. Contractor shall be considered an independent contractor and as such shall be wholly responsible for the Services to be performed. Contractor shall not at any time or manner represent that it or any of its subcontractors or agents are in any manner agents or employees of the Board or GCS.

17. Waiver. No delay or failure by a Party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right. Any waiver by either Party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision, and any failure to enforce strict performance of any provision of this Agreement shall not be construed as a waiver or relinquishment to enforce strict performance with respect to such provision on any future occasion.

18. Modification. This Agreement may be amended or modified only by a written instrument signed by the Parties.

19. Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, such provision will be enforced to the maximum extent permissible by law to effect the intent of the Parties and the remaining provisions of this Agreement will remain in full force and effect.

20. Assignment. This Agreement, including all amendments, addendums and exhibits hereunder, shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties. Notwithstanding the foregoing, neither Contractor's obligations, nor Contractor's right to receive payment under this Agreement may be assigned with the express written consent of the Board.

21. Entire Agreement; Counterparts. This Agreement, together with all amendments, addendums, exhibits and other writings referred to herein or delivered pursuant hereto, constitutes the entire agreement and understanding of the Parties with respect to the subject matter contained herein and supersedes any prior agreement and understandings with respect to those matters. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement (and by facsimile or pdf transmission, which facsimile or pdf transmission signatures shall be considered original executed counterparts).

[Signatures on following page.]

IN WITNESS WHEREOF the parties have executed this Services Agreement as of the Effective Date.

[CONTRACTOR NAME]

By: _____
Name: _____
Title: _____

GUILFORD COUNTY BOARD OF EDUCATION

By: _____
Name: _____
Title: _____

INSTRUCTIONS TO BIDDERS

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions.
The Guilford County Schools (GCS) objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **DEFINITIONS:**
 - **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
 - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
 - **STATEWIDE TERM CONTRACT:** A term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
 - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
 - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.
5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions to Bidders.
6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective.
We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.
Companies are strongly urged to bring to the attention of the purchasers in the Division of Purchase and Contract those products or packaging they offer which have recycled content and that are recyclable.
11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the Division of Purchase and Contract. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.

12. **ACCEPTANCE AND REJECTION:** GCS reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
13. **REFERENCES:** GCS reserves the right to require a list of users of the exact item offered. GCS may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.
14. **TAXES:**
- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
 - **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
 - Any applicable taxes shall be invoiced as a separate item.
15. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to GCS as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by GCS to be pertinent or peculiar to the purchase in question. Unless otherwise specified by GCS or the bidder, GCS reserves the right to accept any item or group of items on a multi-item bid. In addition, on TERM CONTRACTS, GCS reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by GCS to be pertinent or peculiar to the purchase in question.
- All contracts are awarded contingent upon the availability of funds.**
16. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, GCS invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
17. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, the GCS will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.
18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become GCS property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
19. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded pursuant to this solicitation, that is over \$10,000, they must submit a written request to the GCS Purchasing Officer at the address given in the solicitation document entitled "Mailing Instructions". This request must be received in the Purchasing Department within (5) consecutive business days of the e-mail notification to the offeror of GCS' intent to maintain the original award. The offeror must submit a written protest letter to the GCS Purchasing Officer. This letter must contain specific reasons and any supporting documentation for the protest.
20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.
21. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, Guilford County Schools (GCS) may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. GCS reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to GCS.
22. **SPECIAL REQUIREMENTS REGARDING CRIMINAL BACKGROUND**
- A. Criminal Background Investigations of individuals working on school property (sites occupied with students and sites not occupied with students).

- B. At a minimum, the contractor shall obtain a complete North Carolina statewide criminal background investigation for all employees and subcontractors who will work on this project, covering a period for the last seven (7) years. If the contractor or subcontractor is from out of state, the criminal background investigation shall be broadened to include their home state, as well as the state of North Carolina as outlined above. The company providing such information must be recognized by local law enforcement agency as qualified to do so. All costs associated with these criminal background checks is the responsibility of the contractor.

Each prime contractor will be responsible for all their employees and all of their subcontractors working under them.

On sites that are occupied with students and staff, a daily sign-in sheet will be presented by each prime contractor to the principal and SRO – Student Resource Officer by 9:00 a.m. each morning. If there is no SRO – provide to the Principal. This list will contain the name of each person on site and the company they work for.

- C. Any individual with the following criminal convictions or pending charges will NOT be permitted on any school project or property.
1. Child Molestation or Abuse or indecent liberties with a child;
 2. Rape;
 3. Any Sexually Oriented Crime;
 4. Drugs: Felony use, possession or distribution;
 5. Murder, manslaughter or other death related charge; or
 6. Assault with a deadly weapon or assault with intent to kill.
- D. Any individual with a prior conviction or pending charges contained in the aforementioned list, shall be banned (not allowed) from any school project or property.
- E. Each person on site must wear a plastic laminated identification badge that identifies the name of the company and the person's name. These badges are to be computer produced at a font large enough to be clearly visible. All costs associated with these criminal background checks is the responsibility of the contractor. The ID badge template will be made available to the successful prime contractors at the Pre-Construction Meeting.
- F. Guilford County Schools, may, at any time, request verification of criminal background investigation for any employee or subcontractor on school property.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, Guilford County Schools (GCS) may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. GCS reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to GCS.
2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. GCS reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the contractor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement. No goods or services should be shipped or provided prior to issuance of a Purchase Order to the vendor/contractor by Guilford County Schools.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.

G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

5. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
7. **INSPECTION AT CONTRACTOR'S SITE:** GCS reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for GCS determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
8. **PAYMENT TERMS:** Payment terms are Net 30 days after receipt of correct invoice or acceptance of goods. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AFFIRMATIVE ACTION:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
10. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
11. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

12. **PATENT:** The contractor shall hold and save GCS, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.
13. **ADVERTISING:** Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.
14. **ACCESS TO PERSONS AND RECORDS:** The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance).
15. **ASSIGNMENT:** No assignment of the contractor's obligations nor the contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, may:
 - a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and
 - b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check.In no event shall such approval and action obligate the State to anyone other than the contractor and the contractor shall remain responsible for fulfillment of all contract obligations.
16. **INSURANCE COVERAGE:** - During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
 - a. **Worker's Compensation** - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of contractor's employees who are engaged in any work under the contract. If any work is sublet, the contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.
 - b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
 - c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.**REQUIREMENTS:** Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.
17. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
18. **ELECTRONIC PROCUREMENT (APPLIES TO ALL CONTRACTS THAT INCLUDE E-PROCUREMENT AND ARE IDENTIFIED AS SUCH IN THE BODY OF THE SOLICITATION DOCUMENT):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third-party agent shall serve as the Supplier Manager for this E-Procurement Service.
19. **THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE** This applies to all purchase orders, regardless of the quantity or

dollar amount of the purchase order. This transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the contractor for the services rendered by the Supplier Manager under this contract. Contractor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the contractor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the contractor's failure to perform or comply with specifications or requirements of the contract.

Contractor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Contractor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Contractor shall have waived its right to later dispute the accuracy and completeness of the invoice.

Payment of the transaction fee by the Contractor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, contractor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Contractor. If payment of the transaction fee is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the contractor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate contractor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, bids received, evaluation of bids received, award of contract, and the payment for goods delivered.

Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a contractor is a corporation, partnership or other legal entity, then the contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges by such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the contractor's account, contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

20. **ELECTRONIC PROCUREMENT (APPLIES ONLY TO STATEWIDE TERM CONTRACTS):** Within ten (10) calendar days of notice, the contractor shall provide supplier information, contract pricing and other product-related information requested by the State or the Supplier Manager. This information shall include such information as contractor name, SKU, brand/manufacturer, product name and a brief description, unit of measure, price, and other similar information or properly requested by the State or the Supplier Manager to facilitate purchasing from the contract. This information shall be posted by the contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to use, reproduce, transmit, distribute and publicly display this information. In addition, for the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the contract. The Supplier Manager shall create and maintain, with contractor's timely assistance, web-based placement of contract information, where appropriate, that includes the contract items distributed by the contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the contract, to the Supplier Manager immediately upon such change. If the contractor is not the manufacturer, then it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this contract, including any appropriate intellectual property rights of the manufacturer. If the contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

CONTRACTOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ITS AUTHORIZED RESELLERS IN THE EVENT THAT THE AUTHORIZED RESELLER(S) DEFAULTS.

21. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 180 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party. Such notice of cancellation, as required herein, shall be transmitted via U.S. MAIL, Certified, Return Receipt Requested. The 30 days' notice for cancellation shall begin on the day the return receipt is signed and dated.
22. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.
23. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.
 - a. **Notification:** Must be given to GCS, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
 - b. **Decreases:** GCS shall receive full proportionate benefit immediately at any time during the contract period.
 - c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with GCS reserving the right to accept or reject the increase, or cancel the contract. Such action by GCS shall occur not later than 15 days after the receipt by GCS of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
 - d. **Invoices:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.