

ONslow COUNTY SCHOOLS

PURCHASING DEPARTMENT

200 Broadhurst Road, Jacksonville, NC 28540
P. O. Box 99, Jacksonville, North Carolina 28541-0099
Phone (910) 455-2211 Fax (910) 455-1548

April 25, 2017

REQUEST FOR PROPOSAL

PROPOSAL NUMBER: **MA1045R**

BIDS WILL BE PUBLICLY OPENED: **May 11, 2017**

REPAIRING AND MAINTENANCE OF ASPHALT PARKING LOTS (CONVENIENCE CONTRACT)

Offeror:
Attention:
Address:

Refer Inquiries To: **Sherri Barnhardt**
Director, Procurement & Materials Mgt
Telephone Number: **(910) 455-2211 ext. 20603**
E-Mail Address: Sherri.barnhardt@onslow.k12.nc.us
Requisitioned By: **Dusty Oliver**
Director, Maintenance

NOTICE TO OFFEROR

Sealed Proposals, subject to the conditions made a part hereof, will be received at the Purchasing Department, Onslow County Schools, 200 Broadhurst Road, Jacksonville, NC 28540 (mailing address: Post Office Box 99), **until 2:00 p.m. on Thursday, May 11, 2017** and then publicly opened and read in the Purchasing Dept Room for furnishing the supplies, materials and/or services, as described herein. Refer to Instructions for Proposals, Item 8 for proper mailing instructions. Proposals and/or addenda submitted via E-Mail or facsimile (FAX) machine or Email in response to this Request for Proposals **will not** be acceptable. Proposals are subject to rejection unless submitted on this form.

EXECUTION

In compliance with this Request for Proposals, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this proposal, I certify that this proposal is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.

Failure to execute/sign proposal prior to submittal shall render proposal invalid. Late proposals are not acceptable.

OFFEROR:	FEDERAL ID OR SOCIAL SECURITY NO.	
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:	FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

If you desire to "no proposal" this requirement, sign and return only this page, check appropriate box(es).

NO PROPOSAL **REMOVE FROM MAILING LIST**

Offer valid for 45 days from date of opening unless otherwise stated here: _____ days (See Instructions for Proposals, Item 6) Prompt Payment Discount: _____% _____ days (See Instructions for Proposals, Item 7)

ACCEPTANCE OF PROPOSAL

If any or all parts of this proposal are accepted by Onslow County Schools, an authorized representative of the School System shall affix their signature hereto and this document and the provisions of the Instructions for Proposals, the special terms and the conditions specific to this Request for Proposal, the specifications, and the Onslow County Schools General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful offeror(s).

FOR ONSLOW COUNTY SCHOOLS USE ONLY

Offer accepted and contract awarded this _____ day of _____, 20____, as indicated on attached certification, by _____ (Authorized representative of Onslow County Schools).

INSTRUCTION FOR PROPOSALS

1. **READ, REVIEW AND COMPLY:** It shall be the offeror’s responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.

2. **NOTICE TO OFFERORS:**

All proposals are subject to the provisions of the Instructions for Proposals, special terms and conditions specific to this Request for Proposals, the specifications, and the Onslow County Schools General Contract Terms and Conditions.

The Onslow County Schools object to and will not evaluate or consider any additional terms and conditions submitted with a proposal response. This applies to any language appearing in or attached to the document as part of the offeror’s response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.**

By execution and delivery of this document, the offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

3. **DEFINITIONS:**

OFFEROR: Company, firm, corporation, partnership, individual, etc., submitting a response to a Request for Proposals.

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.

4. **EXECUTION:** Failure to sign under EXECUTION section will render proposal invalid.

5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this proposal, the order of precedence shall be (1) special terms and conditions specific to this proposal, (2) specifications, (3) Onslow County Schools General Contract Terms and Conditions, and (4) Instructions for Proposals.

6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, the offer shall be valid for 45 days from the date of proposal opening. Preference may be given to proposals allowing not less than 45 days for consideration and acceptance.

7. **PROMPT PAYMENT DISCOUNTS:** Offerors 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. **MAILING INSTRUCTIONS:**

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.

Mail only one fully executed proposal document, unless otherwise instructed, and only one proposal per envelope. Address envelope and insert proposal number as shown below. It is the responsibility of the offeror to have the proposal in this office by the specified time and date of opening.

<p><u>DELIVERED BY US POSTAL SERVICE</u></p> <p>PROPOSAL NO. <u>MA1045R</u> ONSLOW COUNTY SCHOOLS PURCHASING DEPARTMENT P. O. BOX 99 JACKSONVILLE, NC 28541-0099</p>

OR

<p><u>DELIVERED BY ANY OTHER MEANS</u></p> <p>PROPOSAL NO. <u>MA1045R</u> ONSLOW COUNTY SCHOOLS PURCHASING DEPARTMENT 200 BROADHURST ROAD JACKSONVILLE, NC 28540</p>

9. **TABULATIONS:** Verbal tabulations of proposals and award information can be obtained by calling the purchaser listed on the first page of this document.

10. 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 offeror will be held responsible therefore. Deviations shall be explained in detail. **The offeror shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

11. INFORMATION AND DESCRIPTIVE LITERATURE: Offeror is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this proposal, each offeror must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous offer will not satisfy this provision. Proposals which do not comply with these requirements will be subject to rejection.

12. RECYCLING AND SOURCE REDUCTION: It is the policy of Onslow County Schools 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 purchasers those products or packaging they offer which have recycled content and that are recyclable.

13. 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. The offeror is cautioned that the requirements of this proposal can be altered only by written addendum and that verbal communications from whatever source are of no effect.

14. ACCEPTANCE AND REJECTION: Onslow County Schools reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the offeror, to accept any item in the proposal. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

15. REFERENCES: Onslow County Schools reserves the right to require a list of users of the exact item offered. Onslow County Schools may contact these users to determine acceptability of the proposal. Such information may be considered in the evaluation of the proposal.

16. 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.

17. AWARD OF CONTRACT: As directed by statute, qualified proposals will be evaluated and acceptance may be made of the lowest and best proposal most advantageous to the Onslow County Schools as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the offerors; the substantial conformity with the specifications and other conditions set forth in the proposal; 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 the Onslow County Schools to be pertinent or peculiar to the purchase in question. Unless otherwise specified by the Onslow County Schools or the offeror, the Onslow County Schools reserves the right to accept any item or group of items on a multi-item proposal.

In addition, on TERM CONTRACTS, Onslow County Schools 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 the Onslow County Schools to be pertinent or peculiar to the purchase in question.

18. HISTORICALLY UNDERUTILIZED BUSINESSES: Pursuant to General Statute 143-48 and Executive Order #150, Onslow County School 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.

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- 19. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, Onslow County Schools will consider keeping trade secrets which the offeror does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the offeror. 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.

 - 20. **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 offeror's expense. Request for the return of samples must be made within 10 days following date of proposal opening. Otherwise the samples will become School property. Each individual sample must be labeled with the offeror's name, proposal 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.

 - 21. **PROTEST PROCEDURES:** When a bidder wants to protest a contract awarded by the Onslow County Schools resulting from this solicitation, they must submit a written request to the Purchasing Director, Onslow County Schools, 200 Broadhurst Road, Jacksonville, NC 28540. This request must be received in the Onslow County Schools' Purchasing Department within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Bid status and Award notices are available by contacting the Onslow County Schools' Purchasing Department at (910) 455-2211. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519.

 - 22. **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.

 - 23. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident bidders. The "Principal Place of Business" is defined as the principal place from which the trade or business of the bidder is directed or managed.

SCOPE OF WORK

1. **SCOPE:** It is the intent of this proposal invitation to obtain contract proposals for the repair and maintenance of asphalt parking lots for all the Onslow County Board of Education's Subsidiaries, Institutions, and Schools on an as needed basis. All products and/or services rendered by the vendor must meet all requirements of this invitation and be completely satisfactory to using agencies.
2. **USAGE AND DURATION:** This proposal is intended to cover our requirements for asphalt and paving projects for the period from July 1, 2017 through June 30, 2018. This contract may be extended, at the option of Onslow County Schools, for an additional period of three (3) years, renewable each year. No minimum or maximum asphalt and paving projects are implied or guaranteed herein. While it is not contemplated that any abnormal requirements will develop, however, if such should occur, Onslow County Schools reserves the right to call for separate proposals.
3. **BONDS:** NO Bid Bonds or Performance Bonds will be required for this project as the Terms and Conditions might require. Insurance certificates are required as the Terms and Conditions require.
4. **CONTRACTOR SHALL:**
 - a. Furnish all labor and equipment necessary to complete project.
 - b. Warranty labor, materials, and workmanship for a period of one (1) year to be free from all defects. If materials or workmanship fails, it shall be replaced at the Contractor's expense.
 - c. Be responsible for the cost of all licenses and permits.
 - d. Be responsible for all accidents and damages that might occur due to his equipment or personnel while upon the grounds or buildings used or owned by the Onslow County Board of Education.
 - e. Be responsible for all clean up and disposal of debris from premises during and after completion of job.
 - f. There shall be no tobacco products inside or outside of buildings, since all Onslow County Schools buildings and properties are tobacco-free.
 - g. There shall be no alcoholic beverages, drugs, or firearms on any Onslow County Schools' property.
 - h. The Contractor shall work with the Onslow County Schools on project work schedule. Contact person: Dusty Oliver, Maintenance Director, (910) 455-2211 ext. 20544.
 - i. By submission of a bid, the Contractor acknowledges that he has a complete understanding of the required scope of work, either as defined herein or described orally by the owner's designated representative.
5. **WORK TO BE PERFORMED:**
 - a. Contractors are responsible for their own measurements and calculations that they may need to bid and complete this project as required by this specification
 - b. All work shall be done in strict accordance with this specification and all Federal, State, and Local regulations, standards and codes.
 - 1. ASPHALT REPAIR**
 - (1) 4" base of crushed rocks.
 - (2) Saw cut (square) with 2" perimeter surrounding existing potholes.
 - (3) Base to be compacted to 95% hot mix to be re-rolled.
 - (4) All excess material and debris is to be removed by the contractor.

2. NEW ASPHALT APPLICATIONS – LOW TRAFFIC PARKING LOTS

- 1) Normal excavation of existing soil.
- 2) 4 1/2" base material crushed rock.
- 3) Base to be compacted to 95%.
- 4) Hot application of tack coat.
- 5) Lay hot mix asphalt concrete for **1- 1/2" thick**.
- 6) 10 ton static roller or 16 ton minimum tandem steel drum roller required.
- 7) Applications must be planned around acceptable weather conditions between 50-55 degrees (°F) and rising to prevent pooling.
- 8) Equipment must be capable of 1000 tons per 8 hour day or greater to expedite process.

3. NEW ASPHALT APPLICATIONS – MEDIUM TRAFFIC PARKING LOTS

- 1) Normal excavation of existing soil.
- 2) 4 1/2" base material crushed rock.
- 3) Base to be compacted to 95%.
- 4) Hot application of tack coat.
- 5) Lay hot mix asphalt concrete for **2" thick**.
- 6) 10 ton static roller or 16 ton minimum tandem steel drum roller required.
- 7) Applications must be planned around acceptable weather conditions between 50-55 degrees (°F) and rising to prevent pooling.
- 8) Equipment must be capable of 1000 tons per 8 hour day or greater to expedite process.

4. ASPHALT PAVEMENT EMULSION SEALING

- 1) Application of SealMaster Polymer Modified MasterSeal or equal emulsion sealer for protection.
- 2) Waiting period for new asphalt surfaces should be four weeks prior to application sealer.
- 3) Procedure should include two applications that are four hours apart.
- 4) Application should be one gallon per 70 square feet per each application for maximum effect.

Seal: MFG: _____ MODEL: _____

USER: Onslow County Schools

ATTENTION: E-Procurement rules WILL apply for Registered E-Procurement Vendors only. Reference the General Contract Terms and Conditions, (Contractual and Consultant Services), paragraphs 19 and 20.

SITE VISIT: Prospective bidders are **URGED** and **CAUTIONED** to visit the site of the project and apprise themselves of all conditions, which will affect the performance of the work called for or reasonably implied by the Request for Proposal. Arrangements to visit the site may be made by contacting Dusty Oliver, Maintenance Director at or (910) 455-2211 Ext 20544. Submission of a bid shall constitute sufficient evidence of this compliance and no allowance will be made for unreported conditions, which a prudent bidder would recognize as affecting the performance of the work called for in this Invitation for Quotations. Visited job site (yes/no)_____ Date_____.

PROJECT COMPLETION: Each project must be completed within 30 days of receipt of purchase order. All future projects will have similar completion dates each year, which will be coordinated by the project coordinator. State here whether this requirement can be met: yes/no_____. If this requirement cannot be met, state here your earliest possible completion date: _____. Onslow County Schools reserves the right to consider the project completion date in the award of this contract.

INCLEMENT WEATHER DELAYS: It will be the Contractor’s responsibility to notify Dusty Oliver, the project coordinator, via email, of any days that weather conditions makes it impossible for work to proceed in order for the project completion date to be adhered to. This notification must occur on that particular day as it occurs. If the project coordinator is convinced that the contractor is unable to proceed, he can add that day or any portion of that day to the end of the contract period at his discretion.

RECOURSE: It is the intention of the Onslow County Schools to ensure that the vendor awarded the paving contract adheres to the scheduled completion date. In the event that the awarded Contractor does default, Onslow County Schools will contract with another vendor to complete the projects at the awarded vendor’s expense.

NOTE: ONSLOW COUNTY SCHOOLS RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS.

ONSLOW COUNTY SCHOOLS RESERVES THE RIGHT TO ADJUST QUANTITIES UP OR DOWN AT THE UNIT PRICE AS BUDGETED FUNDS MAY ALLOW OR REQUIRE.

ONSLOW COUNTY SCHOOLS ALSO RESERVES THE RIGHT TO AWARD CONTRACT ON A SPLIT ORDER BASIS OR LUMP SUM BASIS IF IT IS IN OUR BEST INTEREST.

ALL MATERIALS SHOULD BE NEW AND CURRENT UNLESS OTHERWISE STATED.

INFORMATION REQUIRED WITH BID: Submit complete descriptive literature and specification on all items offered. Bids which fail to comply will be subject to rejection.

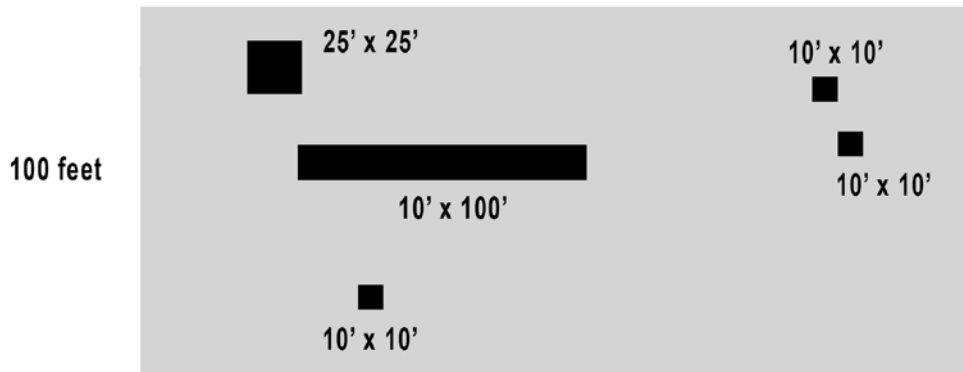
PENALTY CLAUSE: The Onslow County Schools will invoke a \$50.00 per day penalty if the contractor is found at fault in failing to complete work within the guaranteed time frame for work completion. The work completion dates will be coordinated between successful vendor and Dusty Oliver, Maintenance Director, on a project by project basis.

FURNISH, DELIVER, INSTALL AND LEAVE READY FOR USE:

Item	Quantity	Description	Materials	Labor	Total Cost
1.	1 lot	Asphalt Repair, as Specified a.) 1 Square Yard to 14.99 Square Yards b.) 15 Square Yards to 49.99 Square Yards c.) 50 Square Yards or more	_____	_____	_____
2.	1 lot	New Asphalt Applications – Low Traffic Parking Lots (1 1/2” Thick) as Specified a.) 51 Square Yards up to 99 Square Yards b.) 100 Square Yards up to 200 Square Yards c.) 201 Square Yards up to 300 Square Yards d.) 301 Square Yards up to 400 Square Yards e.) 401 Square Yards up to 500 Square Yards f.) Greater than 500 Square Yards	_____	_____	_____
3.	1 lot	New Asphalt Applications – Medium Traffic Parking Lots (2” Thick) as Specified a.) 51 Square Yards up to 99 Square Yards b.) 100 Square Yards up to 200 Square Yards c.) 201 Square Yards up to 300 Square Yards d.) 301 Square Yards up to 400 Square Yards e.) 401 Square Yards up to 500 Square Yards f.) Greater than 500 Square Yards	_____	_____	_____
4.	1 lot	Asphalt Pavement Emulsion Sealing as Specified a.) 51 Square Yards up to 99 Square Yards b.) 100 Square Yards up to 200 Square Yards c.) 201 Square Yards up to 300 Square Yards d.) 301 Square Yards up to 400 Square Yards e.) 401 Square Yards up to 500 Square Yards f.) Greater than 500 Square Yards	_____	_____	_____
5.	1 Each	Minimum Project Size <i>State the minimum square yards a project must be in order for your company to accept the project.</i>	_____ Square Yards		
6.	1 Each	Minimum Service Charge <i>The minimum service charge is to include the service performed and <u>only</u> be charged when the total amount would be less than the minimum charge.</i>	\$_____ Per Project		

BID EVALUATION #1

300 Feet



PROJECT # 1

ITEM #	MATERIALS	MATERIALS	LABOR	TOTAL COST
1.	25' X 25' Asphalt Repair	\$_____	\$_____	\$_____
2.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
3.	10' X 100' Asphalt Repair	\$_____	\$_____	\$_____
4.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
5.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
6.	100' X 300' Asphalt Pavement Emulsion Sealing	\$_____	\$_____	\$_____
PROJECT 1 TOTAL COST		\$_____	\$_____	\$_____

PROJECT # 2

ITEM #	MATERIALS	MATERIALS	LABOR	TOTAL COST
1.	25' X 25' Asphalt Repair	\$_____	\$_____	\$_____
2.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
3.	10' X 100' Asphalt Repair	\$_____	\$_____	\$_____
4.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
5.	10' X 10' Asphalt Repair	\$_____	\$_____	\$_____
6.	100' X 300' New Asphalt Application 1 1/2" Thick	\$_____	\$_____	\$_____
PROJECT 2 TOTAL COST		\$_____	\$_____	\$_____

GENERAL CONTRACT TERMS AND CONDITIONS

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(Contractual and Consultant Services)

1. **DEFAULT AND PERFORMANCE BOND:** If, through any cause, Vendor shall fail to fulfill in timely and proper manner the obligations under this agreement, Onslow County Schools shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In case of default by the Vendor for any reason, Onslow County Schools may procure substitute goods from other sources and hold the Vendor responsible for any excess cost occasioned thereby. Onslow County Schools reserves the right to require at any time a performance bond or other acceptable alternative guarantees from a successful Vendor without expense to Onslow County Schools.

In addition, in the event of default by the Vendor under this contract, Onslow County Schools may immediately cease doing business with the Vendor, immediately terminate for cause all existing contracts Onslow County Schools has with the Vendor, and debar the Vendor from doing future business with Onslow County Schools.

Upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, Onslow County Schools may immediately terminate, for cause, this contract and all other existing contracts the Vendor has with Onslow County Schools, and debar the Vendor from doing future business with Onslow County Schools.

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 Vendor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. Onslow County Schools 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.
4. **TERMINATION FOR NON-APPROPRIATION OF FUNDS:** Notwithstanding any other provision of this contract, Onslow County Schools shall not be obligated for Vendor/Contractor's performance hereunder or by any provision of this contract during any of Onslow County Schools' future fiscal years unless and until the Board of Education appropriates funds for this contract in the Onslow County Schools' budget for each such future fiscal year. In the event that funds are not appropriated for this contract, this contract shall terminate effective June 30 of the last fiscal year for which funds were appropriated. Onslow County Schools shall notify Vendor/Contractor in writing of any such non-appropriation of funds at the earliest possible date.
5. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
- a. 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 quote document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
- b. All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
- c. 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.
6. **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.
7. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.
8. **INSPECTION AT CONTRACTOR'S SITE:** Onslow County Schools 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 Onslow County Schools' 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.
9. **PAYMENT TERMS:** Onslow County Schools prefers payment to be made when entire purchase order is complete. Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Vendor under the contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, MasterCard, etc.) from other customers, and it shall be accepted by the Vendor for payment under the

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same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.

10. **AFFIRMATIVE ACTION:** The Vendor 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.
11. **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.
12. **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.

The complete product(s) offered herein, and NOT merely its component parts or subsystems, must comply with the above requirement for safety listing. Having the appropriate certification or safety label affixed to any device delivered pursuant to this solicitation, under the conditions described above, is a material condition of any contract awarded as a result of this solicitation. All costs for product and industry certifications and listings, and any other actions required to supply conforming products to Onslow County Schools as described in this RFQ, are the sole responsibility of the Vendor. The certifications or safety label shall be affixed and be visible on the OUTSIDE of all products that require a certification or safety label in order to pass the State Quality Acceptance Inspection.

13. **INTELLECTUAL PROPERTY INDEMNITY:** Vendor shall hold and save Onslow County Schools, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
14. **ADVERTISING:** Vendor agrees not to use the existence of this contract or the name of Onslow County Schools as part of any commercial advertising or marketing of products or services. A Vendor may inquire whether Onslow County Schools is willing to act as a reference by providing factual information directly to other prospective customers.
15. **ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this contract to verify accounts and data affecting fees or performance under the contract, as provided in G.S. § 143-49(9).
16. **ASSIGNMENT:** No assignment of the Vendor's obligations nor the Vendor'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 Vendor, Onslow County Schools may:
- a. Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
 - b. Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check.

In no event shall such approval and action obligate Onslow County Schools to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all contract obligations. Upon advance written request, Onslow County Schools may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and considered a material breach of this contract.

17. **INSURANCE:**

COVERAGE - During the term of the contract, the Vendor 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 Vendor 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 \$500,000.00, covering all of Vendor'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 \$500,000.00 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 Motor Vehicle Insurance Coverage shall be in an amount not less than \$300,000 for Bodily Injury, including Accidental Death, to any one person and subject to the same limit for each person, in an amount not less than \$500,000 on account of one accident; and Property Damage Insurance Coverage in an amount not less than \$100,000/\$300,000; Uninsured/Under Insured Motorist Insurance Coverage in an amount not less than \$150,000.00 and \$2,500.00 medical payment.

REQUIREMENTS: Providing and maintaining adequate insurance coverage is a material obligation of the Vendor 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 Vendor 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 Vendor's liability and obligations under the contract. Onslow County Schools will be required to be listed as an additional insured for general liability.

18. **GENERAL INDEMNITY:** The Vendor shall hold and save Onslow County Schools, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation that may be injured or damaged by the Vendor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days that Onslow County Schools has knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against Onslow County Schools' agents who are involved in the delivery or processing of contractor goods to Onslow County Schools. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

19. **REGISTERED E-PROCUREMENT VENDORS:**

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. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF GOODS INCLUDED ON 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. The transaction fee shall not be stated or included as a separate item on the proposed contract or invoice. There are no additional fees or charges to the Vendor for the services rendered by the Supplier Manager under this contract. Vendor 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 Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.

Vendor 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 activity for the prior month, or purchases for which the supplier invoice has been paid. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice for the transaction fee within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee. 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. Pursuant to North Carolina General Statute § 147-86.23, the Service will charge interest and late payment penalties on past due balances. Interest shall be charged at the rate set by the Secretary of Revenue pursuant to N.C.G.S. § 105-241.21 as of the date the balances are past due. The late payment penalty will be ten percent (10%) of the account receivable. Within thirty (30) days of the receipt of invoice, Vendor may dispute in writing the accuracy of an invoice. No interest shall be charged on disputed and overdue amounts to the extent the State agrees to reduce or adjust the amount in dispute. The Supplier Manager shall provide, whenever reasonably requested by the Vendor 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 Vendor on State Contract. Onslow County Schools or State approved user, not the Supplier Manager, shall be responsible for the solicitation, quotes received, evaluation of quotes received, award of contract, and the payment for goods delivered.

Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges by such employees. Vendor 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 Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

VENDOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ANY SUB-CONTRACTOR OR DEALER INVOLVED IN PERFORMANCE UNDER THIS CONTRACT IN THE EVENT THAT SUCH SUB-CONTRACTOR OR DEALER DEFAULTS ON PAYMENT.

20. **NON-REGISTERED E-PROCUREMENT VENDORS:** E-Procurement Rules **DO NOT** apply.
21. **COMPLIANCE WITH LAWS:** Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this contract, including those of federal, state and local agencies having jurisdiction and/or authority.
22. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This contract, any addenda hereto, and the Vendor's quotes are incorporated herein by reference as though set forth verbatim.
- All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.
23. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by Onslow County Schools and the Vendor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
24. **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 thirty (30) days prior notice in writing to the other party.
25. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases there under.
26. **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 Vendor to other customers.
- a. **Notification:** Must be given to Onslow County Schools, 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:** Onslow County Schools 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 Onslow County Schools reserving the right to accept or reject the increase, or cancel the contract. Such action by Onslow County Schools shall occur not later than fifteen (15) days after the receipt by Onslow County Schools of a properly documented request for price increase. Any increases accepted shall become effective not later than thirty (30) days after the expiration of the original fifteen (15) days reserved to evaluate the request for increase.
1. **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.
27. **WARRANTY:** The Vendor warrants to Onslow County Schools that all equipment furnished under this specification will be new, of good material and workmanship, and agrees to replace promptly any part or parts which by reason of defective material or workmanship shall fail under normal use, free of negligence or accident, for a minimum period of twelve (12) months from date put in operation. Such replacement shall include all parts, labor, and transportation cost to the location where equipment is down, free of any charge to the owner or his representative.

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28. **REGISTERED SEX OFFENDERS:** Vendor acknowledges that Onslow County Schools prohibits anyone registered or required to register as a sex offender from being present on any Onslow County Schools property for any reason, whether before, during or after school hours. Vendor expressly agrees that it, and any of its employees, will comply with this policy and acknowledges that any individuals that violate this policy are subject to removal from Onslow County Schools' property by Onslow County Schools and/or law enforcement officials and may also be subject to criminal prosecution. Vendor could be removed from additional opportunities that may become available with Onslow County Schools.
- If Vendor, any of Vendor's employees, or any of Vendor's subcontractors or employees of subcontractors will have any direct interaction with students, then Vendor or the subcontractor must (i) on an annual basis conduct a check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all such employees; and (ii) prohibit individuals listed on such registries from being on Onslow County Schools property.
29. **WAIVER:** The failure to enforce or the waiver by Onslow County Schools of any right, breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
30. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event of act of God.
31. **INDEPENDENT CONTRACTOR:** The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the Agency.
32. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval of the Agency's Contract Administrator. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
33. **TERMINATION:** The Agency may terminate this agreement at any time by 30 days notice in writing from the Agency to the Contractor. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the Agency, become its property. If the contract is terminated by the Agency as provided herein, the Contractor shall be paid for services satisfactorily completed, less payment or compensation previously made.
34. **CONFIDENTIALITY:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency.
35. **CARE OF PROPERTY:** The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the Onslow County Schools for loss of damage of such property.
36. **ADDENDA:** Any addenda to specifications issued during the time of bidding are to be considered covered in the proposal and in closing a contract they will become a part thereof.
- All addenda shall be acknowledged by the bidder(s) on the proposal form.
37. **RECEIPT OF BIDS:** Bids shall be received in strict accordance with requirements of the General Statutes of North Carolina. Bid security shall be required as prescribed by statute. Prior to opening of any bids on the project, the bidder will be permitted to change or withdraw his bid.
38. **BID EVALUATION:** The award of the contract will be made to the lowest responsible bidder as soon as practical. Before awarding a contract the Owner may require the apparent low bidder to qualify himself to be a responsible bidder.
39. **PROTECTION OF WORK, PROPERTY AND THE PUBLIC:** The Contractor shall be responsible for the safe and prudent use of the site and work in progress. The Contractor shall be responsible for any damage to OCS property, or of that of others on the job, and shall make good such damages.

The Contractor shall adhere to all applicable rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry.

The Contractor and its employees will observe the posted safety requirements of OCS and those required by law. The Contractor is responsible for the safety of its employees at all times while on OCS's premises.

40. **DRUG-FREE WORKPLACE:** The Contractor agrees to make a good faith effort to establish and maintain a drug-free workplace in connection with the performance of this contract. Consistent with the size and organization of its workforce, Contractor may wish

to consider taking the following or other appropriate actions in establishing a drug-free workplace: publicizing a drug-free workplace policy; initiating an employee drug awareness program or encouraging participation in existing community programs; informing employees of the general availability of drug counseling programs; etc.

- 41. **QUALIFICATIONS:** Bidders shall satisfy the Owner that he has a successful record of experience in the type of work specified. Otherwise, his proposal may not be considered.
- 42. **E-VERIFY:** Contractor shall comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes. Further, if Contractor utilizes a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes.
- 43. **IRAN DIVESTMENT ACT CERTIFICATION:** Contractor hereby certifies that Contractor, and all subcontractors, are not on the Iran Final Divestment List (“List”) created by the North Carolina State Treasurer pursuant to N.C.G.S. 143-6A-4. Contractor shall not utilize any subcontractor that is identified on the List.

06/29/2016