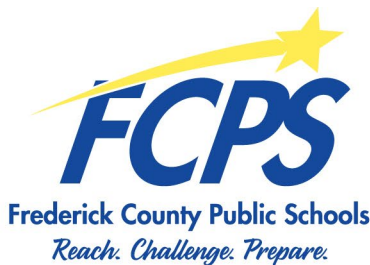


Purchasing Office
191 South East St
Frederick, Maryland 21701
301-644-5204 phone
301-644-5213 fax



Bill Meekins CPPB, CPPO, NIGP-CPP,
CSBO, CPCP, Purchasing Manager
Kim Miskell, CSBO, Assistant Purchasing
Manager
Roy McHaffa, CPP, CPDW, Purchasing Agent
David Guzman, Purchasing Agent

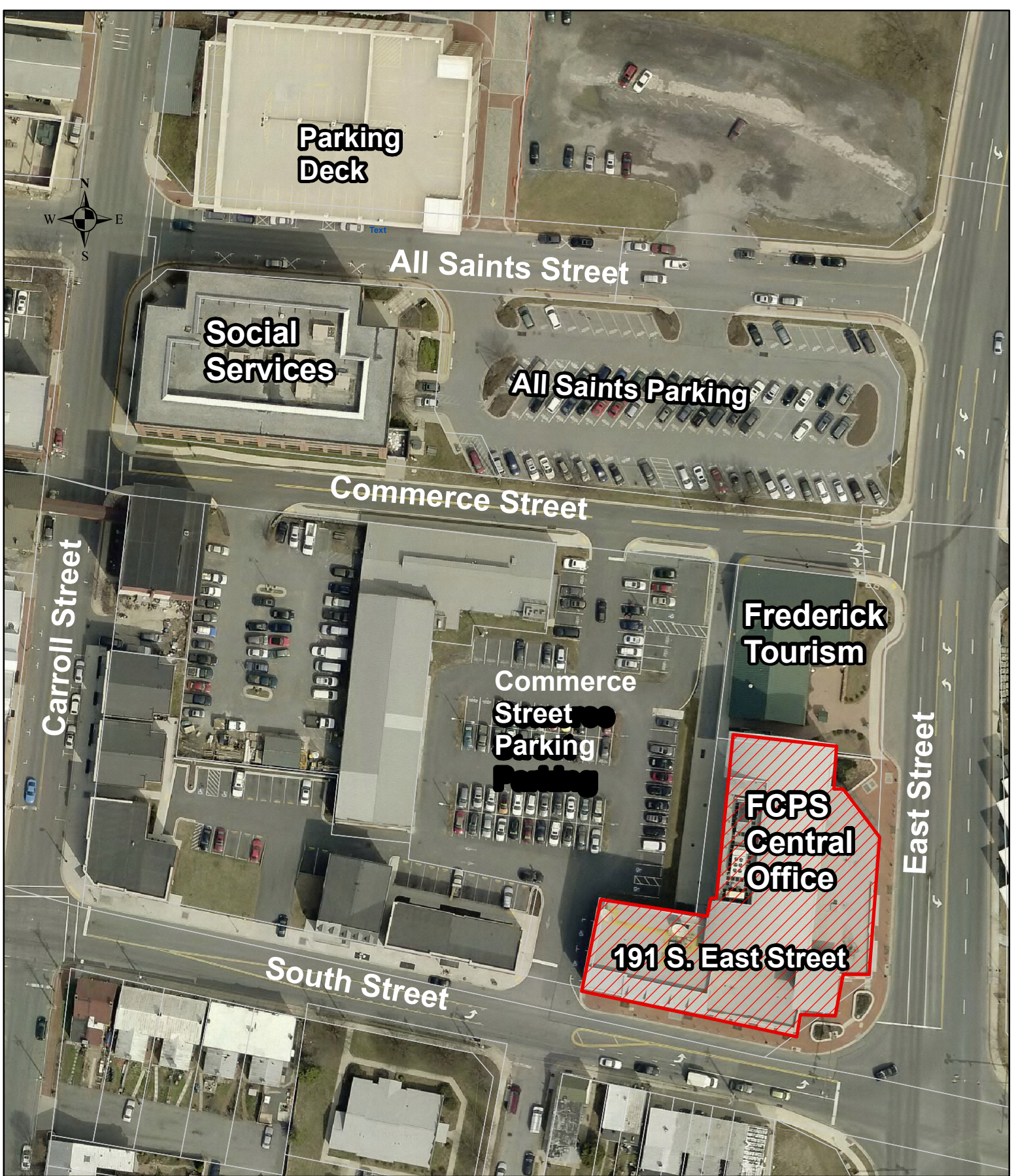
BID NUMBER/NAME:	24M2, Unit Price Contract for Excavation and Earthworks/Stormwater Maintenance
BID ISSUE DATE:	September 1, 2023
BID CONTRACT MANAGER:	David Guzman, Purchasing Agent david.guzman@fcps.org
BID CONTRACT ADMINISTRATOR:	Tony Ray, Project Manager III, Capital Programs tony.ray@fcps.org
QUESTIONS:	Questions due no later than 3:00 P.M., local time, on September 20, 2023. Submit questions in writing via OpenGov.
PRE-BID DATE:	1:00 P.M., local time, September 7, 2023 (Attendance is encouraged, but not mandatory.)
PRE-BID LOCATION:	This meeting will be held virtually via Google Meet. Google Meet joining info: Video call link: https://meet.google.com/pag-bnps-baw Or dial: (US) +1 662-591-1528 PIN: 434 073 356#
OBTAINING BID DOCUMENTS:	To view and/or download this solicitation package please visit our webpage at: https://secure.procurenow.com/portal/fcps . If you have problems downloading this bid or applicable addenda, contact: staci.greeley@fcps.org
BONDS REQUIRED:	NO
MBE REQUIREMENTS:	NO
BID DUE:	4:00 P.M., local time, on September 27, 2023. Bids will be opened and publicly read on Google Meet Google Meet joining info: Video call link: https://meet.google.com/ijj-qqca-wch Or dial: (US) +1 218-296-8921 PIN: 319 451 148# Bidders can create a FREE account with OpenGov Procurement by signing up at http://secure.procurenow.com/signup .
SEALED BID DELIVERED TO:	FCPS is accepting electronic bid submissions through OpenGov Procurement. Bidders can create a FREE account with OpenGov Procurement by signing up at http://secure.procurenow.com/signup .
TENTATIVE AWARD DATE:	BOE Work Session, scheduled on: October 25, 2023
ELIGIBILITY TO BID:	All Frederick County Public School vendors and or contractors interested in bidding on FCPS projects must register at eMaryland Marketplace Advantage www.procurement.maryland.gov . FCPS will no longer accept bidder's applications.

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THE SCHOOL YEAR AT A GLANCE

2023

August 23 (Wednesday)	First Day of School
September 4 (Monday)	Schools* and Offices Closed
September 22 (Friday)	3 1/2-Hour Early Dismissal for Students
September 25 (Monday)	Schools* Closed
October 11 (Wednesday)	4-Hour Delayed Opening: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open on Time
October 12 (Thursday)	4-Hour Delayed Opening: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open on Time
October 13 (Friday)	3 1/2-Hour Early Dismissal: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open Full Day
October 20 (Friday)	Schools* Closed for Students
October 27 (Friday)	Schools* Closed for Students
November 22 (Wednesday)	Schools* and Offices Closed
November 23-24 (Thursday-Friday)	Schools** and Offices Closed
December 1 (Friday)	2-Hour Early Dismissal for Students
December 25-26 (Monday-Tuesday)	Schools** and Offices Closed
December 27-29 (Wednesday-Friday)	Schools** Closed

2024

January 1 (Monday)	Schools** and Offices Closed
January 15 (Monday)	Schools** and Offices Closed
January 16 (Tuesday)	Schools Closed*
January 17 (Wednesday)	Schools Closed*
February 16 (Friday)	2-Hour Early Dismissal for Students
February 19 (Monday)	Schools** and Offices Closed
March 22 (Friday)	Schools* Closed for Students
March 29 (Friday)	Schools** and Offices Closed
April 1 (Monday)	Schools** and Offices Closed
April 2-5 (Tuesday-Friday)	Schools* Closed for Students
May 2 (Thursday)	2-Hour Early Dismissal for Students
May 14 (Tuesday)	Schools** and Offices Closed
May 27 (Monday)	Schools** and Offices Closed
June 5*** (Wednesday)	2-Hour Early Dismissal/Last Day of School for Students

*BOE Determined

**State Mandated

***FCPS will make up days closed for inclement weather or other emergencies in the following sequence: June 6, 7, 10, 11 and 12. If no snow days are used, the last day for students is Wednesday, June 5. The June 2-hour early dismissal will occur on the last day of school for students. The school year will provide 180 days for students. Dates are subject to BOE revision.

Get Calendar Details:

www.fcps.org/calendar

Like us on Facebook: FCPS Maryland

Follow us on Twitter: @FCPSMaryland

Follow us on Instagram: @FCPSMaryland

Select FindOutFirst email calendar updates and emergency-closing announcements:

www.fcps.org/fof

See the Calendar Handbook months pages



FCPS Maryland



@FCPSMaryland



www.fcps.org/fof

DIRECTORY OF SCHOOLS

ELEMENTARY

1. **Ballenger Creek ■** 240-236-2500
5250 Kingsbrook Drive
Frederick, MD 21703
Fax 240-236-2501
<https://edu.fcps.org/bces/>
2. **Blue Heron ■◆●** 240-566-0700
7100 Eaglehead Drive
New Market, MD 21774
Fax 240-566-0701
<https://edu.fcps.org/bhes/>
3. **Brunswick ■** 240-236-2900
400 Central Avenue
Brunswick, MD 21716
Fax 240-236-2901
<https://edu.fcps.org/bes/>
4. **Butterfly Ridge ■◆●◆◆▲** 240-566-0300
601 Contender Way
Frederick, MD 21703
Fax 240-566-0301
<https://edu.fcps.org/bres/>
5. **Carroll Manor ■◆●** 240-236-3800
5624 Adamstown Road
Adamstown, MD 21710
Fax 240-236-3801
<https://edu.fcps.org/cmes/>
6. **Centerville ■◆●** 240-566-0100
3601 Carriage Hill Drive
Frederick, MD 21704
Fax 240-566-0101
<https://edu.fcps.org/ces/>
7. **Deer Crossing ■** 240-236-5900
10601 Finn Drive
New Market, MD 21774
Fax 240-236-5901
<https://edu.fcps.org/dces/>
8. **Emmitsburg ■** 240-236-1750
300 South Seton Avenue
Emmitsburg, MD 21727
Fax 240-236-1751
<https://edu.fcps.org/ees/>
9. **Glade ■◆●** 240-236-2100
9525 Glade Road
Walkersville, MD 21793
Fax 240-236-2101
<https://edu.fcps.org/ges/>
10. **Green Valley** 240-236-3400
11501 Fingerboard Road
Monrovia, MD 21770
Fax 240-236-3401
<https://edu.fcps.org/gves/>
11. **Hillcrest ■◆▲** 240-236-3200
1285 Hillcrest Drive
Frederick, MD 21703
Fax 240-236-3201
<https://edu.fcps.org/hes/>
- B) Woodsboro ■** 240-236-3700
Grades Pre-K–2
101 Liberty Road
Woodsboro, MD 21798
Fax 240-236-3701
<https://edu.fcps.org/woes/>
22. **North Frederick ■◆◆★** 240-236-2000
1010 Fairview Avenue
Frederick, MD 21701
Fax 240-236-2001
<https://edu.fcps.org/nfes/>
23. **Oakdale ■** 240-236-3300
5830 Oakdale School Road
Ijamsville, MD 21754
Fax 240-236-3301
<https://edu.fcps.org/oes/>
24. **Orchard Grove ■** 240-236-2400
5898 Hannover Drive
Frederick, MD 21703
Fax 240-236-2401
<https://edu.fcps.org/oges/>
25. **Parkway ■** 240-236-2600
300 Carroll Parkway
Frederick, MD 21701
Fax 240-236-2601
<https://edu.fcps.org/pes/>
26. **Spring Ridge ■◆◆** 240-236-1600
9051 Ridgefield Drive
Frederick, MD 21701
Fax 240-236-1601
<https://edu.fcps.org/sres/>
27. **Sugarloaf** 240-566-0500
3400 Stone Barn Drive
Frederick, MD 21704
Fax 240-566-0501
<https://edu.fcps.org/sues/>
28. **Thurmont** 240-236-0900
Grades 3–5
805 East Main Street
Thurmont, MD 21788
Fax 240-236-0901
<https://edu.fcps.org/tes/>
29. **Thurmont Primary ■** 240-236-2800
Grades Pre-K–2
7989 Rocky Ridge Road
Thurmont, MD 21788
Fax 240-236-2801
<https://edu.fcps.org/tps/>
30. **Tuscarora ■** 240-566-0000
6321 Lambert Drive
Frederick, MD 21703
Fax 240-566-0001
<https://edu.fcps.org/tues/>

Middle (continued)

42. **Governor Thomas Johnson** 240-236-4900
1799 Schifferstadt Boulevard
Frederick, MD 21701
Fax 240-236-4901
<https://edu.fcps.org/gtjms/>
43. **Middletown** 240-236-4200
100 Martha Mason Street
Middletown, MD 21769
Fax 240-236-4250
<https://edu.fcps.org/mms/>
44. **Monocacy ★** 240-236-4700
8009 Opossumtown Pike
Frederick, MD 21702
Fax 240-236-4701
<https://edu.fcps.org/gtjhs/>
45. **New Market** 240-236-4600
125 West Main Street
New Market, MD 21774
Fax 240-236-4650
<https://edu.fcps.org/nmms/>
46. **Oakdale** 240-236-5500
5810 Oakdale School Road
Ijamsville, MD 21754
Fax 240-236-5501
<https://edu.fcps.org/oms/>
47. **Thurmont** 240-236-5100
408 East Main Street
Thurmont, MD 21788
Fax 240-236-5101
<https://edu.fcps.org/tms/>
48. **Urbana** 240-566-9200
3511 Pontius Court
Ijamsville, MD 21754
Fax 240-566-9201
<https://edu.fcps.org/ums/>
49. **Walkersville** 240-236-4400
55 West Frederick Street
Walkersville, MD 21793
Fax 240-236-4401
<https://edu.fcps.org/wms/>
50. **West Frederick ★** 240-236-4000
515 West Patrick Street
Frederick, MD 21701
Fax 240-236-4050
<https://edu.fcps.org/wfms/>
51. **Windsor Knolls** 240-236-5000
11150 Windsor Road
Ijamsville, MD 21754
Fax 240-236-5001
<https://edu.fcps.org/wkms/>
52. **Brunswick** 240-236-8600
101 Cummings Drive
Brunswick, MD 21716
Fax 240-236-8601
<https://edu.fcps.org/bhs/>

HIGH

53. **Catoctin** 240-236-8100
14745 Sabillasville Road
Thurmont, MD 21788
Fax 240-236-8101
<https://edu.fcps.org/chs/>
54. **Frederick** 240-236-7000
650 Carroll Parkway
Frederick, MD 21701
Fax 240-236-7015
<https://edu.fcps.org/fhs/>
55. **Governor Thomas Johnson** 240-236-8200
1501 North Market Street
Frederick, MD 21701
Fax 240-236-8201
<https://edu.fcps.org/gtjhs/>
56. **Linganore** 240-566-9700
12013 Old Annapolis Road
Frederick, MD 21701
Fax 240-566-9701
<https://edu.fcps.org/lhs/>
57. **Middletown** 240-236-7400
200 Schoolhouse Drive
Middletown, MD 21769
Fax 240-236-7450
<https://edu.fcps.org/mhs/>
58. **Oakdale** 240-566-9400
5850 Eaglehead Drive
Ijamsville, MD 21754
Fax 240-566-9401
<https://education.fcps.org/ohs/>
59. **Tuscarora** 240-236-6400
5312 Ballenger Creek Pike
Frederick, MD 21703
Fax 240-236-6401
<https://edu.fcps.org/thhs/>
60. **Urbana** 240-236-7600
3471 Campus Drive
Ijamsville, MD 21754
Fax 240-236-7601
<https://edu.fcps.org/uhs/>
61. **Walkersville** 240-236-7200
81 West Frederick Street
Walkersville, MD 21793
Fax 240-236-7250
<https://edu.fcps.org/whs/>
62. **Career and Technology Center** 240-236-8500
7922 Opossumtown Pike
Frederick, MD 21702
Fax 240-236-8501
<https://edu.fcps.org/ctc/>
63. **Carroll Creek Montessori Public Charter School** 240-566-0600
7215 Corporate Court
Frederick, MD 21703
Fax 240-566-0601
<https://carrollcreekmontessori.org/>
64. **FCPS Remote Virtual Program**
c/o Deer Crossing ES
10601 Finn Drive
New Market, MD 21774
Elementary/Middle 240-236-8970
Fax 240-236-8971
<https://edu.fcps.org/emsvrp/>
High 240-236-8450
c/o GTJMS
1799 Schifferstadt Boulevard
Frederick, MD 21701
Fax 240-236-8451
<https://edu.fcps.org/hsrvp/>
65. **Frederick Classical Charter School** 240-236-1200
8445 Spires Way, Suite CC
Frederick, MD 21701
Fax 240-236-1201
<https://frederickclassicalcharterschool.org/>
66. **Frederick County Virtual School** 240-236-8450
c/o GTJMS
1799 Schifferstadt Boulevard
Room 116
Frederick, MD 21701
Fax 240-236-8451
<https://edu.fcps.org/fcvs/>
67. **Heather Ridge School** 240-236-8000
1445 Taney Avenue
Frederick, MD 21702
Fax 240-236-8001
<https://edu.fcps.org/hrs/>
68. **Monocacy Valley Montessori Public Charter School** 240-236-6100
64 Thomas Johnson Drive
Frederick, MD 21702
Fax 240-236-6101
<https://mvmpcs.org/>
69. **Rock Creek School** 240-236-8700
55B West Frederick Street
Walkersville, MD 21793
Fax 240-236-8701
<https://edu.fcps.org/rcs/>
70. **Sabillasville Environmental Charter School** 240-236-6000
16210-B Sabillasville Road
Sabillasville, MD 21780
Fax 240-236-6001
<https://edu.fcps.org/ses/>

SPECIALIZED SCHOOLS & PROGRAMS

12. **Kemptown** ■●● 240-236-3500
3456 Kemptown Church Road
Monrovia, MD 21770
Fax 240-236-3501
<https://edu.fcps.org/kes/>
13. **Lewistown** ■●● 240-236-3750
11119 Hessong Bridge Road
Thurmont, MD 21788
Fax 240-236-3751
<https://edu.fcps.org/les/>
14. **Liberty** ■ 240-236-1800
11820 Liberty Road
Frederick, MD 21701
Fax 240-236-1801
<https://edu.fcps.org/libes/>
15. **Lincoln** ■★▲ 240-236-2650
200 Madison Street
Frederick, MD 21701
Fax 240-236-2651
<https://edu.fcps.org/lnes/>
16. **Middletown** 240-236-1100
Grades 3-5
201 East Green Street
Middletown, MD 21769
Fax 240-236-1150
<https://edu.fcps.org/mes/>
17. **Middletown Primary** ■●● 240-566-0200
Grades Pre-K-2
403 Franklin Street
Middletown, MD 21769
Fax 240-566-0201
<https://edu.fcps.org/mps/>
18. **Monocacy** ★▲ 240-236-1400
7421 Hayward Road
Frederick, MD 21702
Fax 240-236-1401
<https://edu.fcps.org/moes/>
19. **Myersville** 240-236-1900
429 Main Street
Myersville, MD 21773
Fax 240-236-1901
<https://edu.fcps.org/myes/>
20. **New Market** ■ 240-236-1300
93 West Main Street
New Market, MD 21774
Fax 240-236-1301
<https://edu.fcps.org/nmes/>
21. **New Midway-Woodsboro A) New Midway** 240-236-1500
Grades 3-5
12226 Woodsboro Pike
Keymar, MD 21757
Fax 240-236-1501
<https://edu.fcps.org/woes/>
31. **Twin Ridge** ■●● 240-236-2300
1106 Leafy Hollow Circle
Mt. Airy, MD 21771
Fax 240-236-2301
<https://edu.fcps.org/tres/>
32. **Urbana** ■●● 240-236-2200
3554 Urbana Pike
Frederick, MD 21704
Fax 240-236-2201
<https://edu.fcps.org/ues/>
33. **Valley** ■ 240-236-3000
3519 Jefferson Pike
Jefferson, MD 21755
Fax 240-236-3001
<https://edu.fcps.org/ves/>
34. **Walkersville** ■ 240-236-1000
83 West Frederick Street
Walkersville, MD 21793
Fax 240-236-1050
<https://edu.fcps.org/wes/>
35. **Waverley** ■★▲ 240-236-3900
201 Waverley Drive
Frederick, MD 21702
Fax 240-236-3901
<https://edu.fcps.org/waves/>
36. **Whittier** ■●● 240-236-3100
2400 Whittier Drive
Frederick, MD 21702
Fax 240-236-3101
<https://edu.fcps.org/whes/>
37. **Wolfsville** ■ 240-236-2250
12520 Wolfsville Road
Myersville, MD 21773
Fax 240-236-2251
<https://edu.fcps.org/wfes/>
38. **Yellow Springs** ■ 240-236-1700
8717 Yellow Springs Road
Frederick, MD 21702
Fax 240-236-1701
<https://edu.fcps.org/yses/>

MIDDLE

39. **Ballenger Creek** 240-236-5700
5525 Ballenger Creek Pike
Frederick, MD 21703
Fax 240-236-5701
<https://edu.fcps.org/bcms/>
40. **Brunswick** 240-236-5400
301 Cummings Drive
Brunswick, MD 21716
Fax 240-236-5401
<https://edu.fcps.org/bms/>
41. **Crestwood** 240-566-9000
7100 Foxcroft Drive
Frederick, MD 21703
Fax 240-566-9001
<https://edu.fcps.org/cms/>



KEY

- Gen Ed 4-year-old Full Day Pre-K
- ▶ Inclusive Program 3-year-old Half Day Pre-K
- Inclusive Program 4-year-old Full Day Pre-K
- ◆ Self Contained Special Education Full Day Pre-K
- ★ STAR Schools
- ▲ Judy Center Schools

FREDERICK COUNTY PUBLIC SCHOOLS (FCPS)
GENERAL TERMS AND CONDITIONS
SECTION I

1. BIDDER REGISTRATION

- a. All Frederick County Public School (FCPS) suppliers and or contractors interested in bidding on FCPS projects must register on eMaryland Marketplace Advantage <https://emma.maryland.gov> FCPS will no longer accept bidder's applications.
- b. Contractors are required to register with eMaryland Marketplace Advantage <https://emma.maryland.gov> within five days following notice of award. Maryland law requires local and state agencies to post award notices on eMaryland Marketplace Advantage. This cannot be done without the contractor's self-registration in the system. Registration is free. Failure to comply with this requirement may be considered grounds for default. It is recommended that any interested bidder register with eMaryland Marketplace Advantage regardless of the award outcome for this procurement as it is a valuable resource for bid notification for municipalities through Maryland.

2. PRE-BID MEETING

- a. A Pre-Bid Meeting will be held at the date and time indicated on the cover page of this solicitation package.
- b. Attendance at the Pre-Bid Meeting is not mandatory; however, all suppliers are strongly encouraged to attend.
- c. The agenda for this Pre-Bid Meeting will include the following: introduction of staff; description of scope of work; timeline/scheduling; budget priorities/concerns; and procurement responsibilities.
- d. Questions shall be submitted, via email, to the person(s) indicated on the cover page of this solicitation package. Due to possible changes and/or additions to the specifications, bids should not be submitted prior to the Pre-Bid meeting.
- e. If FCPS offices are closed, or operating on a modified schedule, due to inclement weather on the day a Pre-Bid is scheduled, the Pre-Bid is cancelled and will not be rescheduled unless an addendum is issued. Bidders are advised that they are to email questions to the identified Contract Manager by the date and time required within this solicitation. For the fastest, most reliable information, regarding closures and/or delays check the following:
 - www.fcps.org
 - Social Media: FCPS on Twitter and FCPS on Facebook
 - Email/Text Messages: Sign up for FindOutFirst email and emergency-only text messages
 - FCPS TV: Comcast Channel 18 (Frederick area)
 - Local radio and TV stations

3. PREPARATION OF BID

- a. Should any bidder be in doubt as to the meaning of the specifications, or should they find any discrepancy or omission, they shall notify the Contract Manager listed on the solicitation cover

sheet. If required, bidders will be notified of clarifications and/or additional information by means of addendum.

- b. Bidders, or their authorized representatives, are expected to fully inform themselves as to the conditions and requirements of the specifications before submitting bids. Failure to do so will be at the bidder's own risk.
- c. Bidder must submit their proposal with original signatures. Signatures may be in ink (wet) or digitally signed. Signatures submitted with a script-style font will be accepted. Bids must be prepared on the proposal form(s), if provided. FCPS proposal forms format shall not be altered.
- d. Each bid shall show the full business address and contact information of the bidder and be signed by the person(s) legally authorized to sign contracts. All correspondence concerning the bid and contract, including notice of award, copy of contract, and purchase order, will be emailed, or mailed, to the address shown on the bid in the absence of written instructions from the bidder to the contrary.
- e. The following items must be included in submission:
 - i. Proposal pages completely and accurately filled out:
 - Verify all mathematical calculations.
 - Strike through errors, initial and make correction.
 - Initial corrections.
 - ii. Signature Acknowledgement Form completed and signed.
 - iii. Statutory Affidavit and Non-Collusion Certification form completed and signed.
 - iv. Certificate of Compliance form completed and signed.
 - v. Conflict of Interest Form completed and signed.
 - vi. W-9 (This is the company information that will be entered in the FCPS supplier database).
 - vii. Certificate of Insurance (if applicable).
- f. Bidders shall be required under Article 56, Section 270(4), Annotated Code of Maryland, to provide proof of Certificate of Registry and must be licensed to do business in the State of Maryland and must provide a tax certification number. Visit the following website to ensure compliance: www.Egov.maryland.gov/BusinessExpress.
- g. Bids by partnerships must be signed with the partnership name, followed by the signature and designation of the person having authority to sign. When requested, satisfactory evidence of authority of the person signing will be furnished. Anyone signing the bid as an agent shall file satisfactory evidence of their authority to do so, if requested.
- h. Bids by corporations must be signed with the name of the corporation, which must match the information on the submitted W-9, followed by the signature and designation of the person having authority to sign. When requested, satisfactory evidence of authority of the person signing will be furnished. Anyone signing the bid as an agent shall file satisfactory evidence of their authority to do so, if requested.
- i. Failure to sign the bid document will result in rejection of the bid as non-responsive.
- j. FCPS will not be responsible for any costs incurred by a bidder in preparing and submitting a proposal in response to this solicitation.
- k. If the bidder has made an error, the bidder may request, in writing, to have their bid withdrawn. Approval of a bidder's request is not automatic and may be given only by the Purchasing Manager.

Requests for withdrawal are usually denied, unless the bidder proves to the satisfaction of the Purchasing Manager that the mistake was either a scrivener's error or another type of clearly unintentional error so departing from customary and reasonable business practices as to be obvious and to legitimately and substantially impair the supplier's business.

4. BID PRICING

- a. Prices quoted shall not exceed the prices established under any governmental price control regulations.
- b. All proposals submitted shall be irrevocable for a period of 90 days following the proposal due date, and FCPS has within that time period after due date to accept the proposal. FCPS reserves the right to reject any offer that specifies less than 90 days of acceptance time. Upon mutual agreement between FCPS and the contractor, the acceptance time may be extended. Proposals may not be withdrawn during this period.
- c. FCPS retains the right, with mutual consent of the bidder(s), to utilize the bid pricing and approved price changes for future purchases for as long as the bidder(s) mutually agrees to extend the prices.
- d. If the contract includes equipment, all prices must be FOB-Destination (inside delivery), unless specifically authorized in Section II – FCPS Specific Terms and Conditions.
- e. Charges for express delivery will only be allowed if authorized by FCPS in writing.
- f. The bidder(s) are encouraged to bid only one product per line item that most nearly meets the specifications. If the bidder believes that there is more than one product available, a limit of two offers will be considered for each line item.
- g. If two or more particular brands, models, or makes are listed in the specifications (under Base and Alternate Bids) and the bidder has not indicated in the bid which of the two or more brands, models, etc., is being bid, it shall be understood that FCPS may require the bidder to furnish whichever is preferred by FCPS.
- h. All unit prices on items bid shall be completed on the provided proposal sheet(s). A "NO BID" or "N/A" notation should be completed for each item not being bid. Blank spaces in the proposal sheet will be considered as not being bid.
- i. In case of an error in the extension of prices in the bid, the unit price shall govern.
- j. Neither law nor regulations make allowance for errors either of omission or commission on the part of the bidders. In case of error in multiplication of unit price when arriving at total price per line item, the unit price shall govern. If there is a discrepancy between the price written in numbers and the price written in words, the words will govern.
- k. Unit Prices must be rounded off to no more than two decimal places unless so specified in Section II – FCPS Specific Terms and Conditions.
- l. FCPS reserves the right to consider discounts in evaluating a bid with line item pricing requirements. The bidder should calculate all discounts, other than prompt payment, as part of their unit pricing.

5. TAXES

- a. No charge will be allowed for federal excise, state, and/or municipal sales and use taxes, from which the Board of Education of Frederick County is exempt.
- b. A contractor is not eligible, per the Maryland Comptroller's Office, to utilize the tax exemption certificate for governmental agencies.

6. ADDENDUM

- a. All changes to the bid solicitation will be made through appropriate addendum issued from the Purchasing Department.
- b. Addendum will be available on the FCPS Purchasing Department webpage. All suppliers who are known by the Purchasing Department to have downloaded the bid documents will receive an email notification.
- c. Addendum will be issued a minimum of four days prior to the bid opening date, unless the addendum issued extends the due date. (verified with COMAR, which states addendums within a "reasonable" time)
- d. Each bidder shall ascertain, prior to submitting a bid that they have received all addendum issued and the bidder shall acknowledge receipt on the Signature Acknowledgement Form. Failure of any bidder to acknowledge the receipt of addendum will not relieve that bidder from any obligations under this solicitation as amended by addendum. All addendum so issued will become a part of the award and contract documents.

7. RECEIPT OF BIDS

- a. Bids are to be uploaded to OpenGov Procurement, the online sourcing website utilized by FCPS. Submissions may be uploaded at any time prior to the bid due date and time. Bidders may modify their bid submissions up until the bid due date and time.
- b. Bids uploaded after the designated date and/or time will not be accepted. It is the responsibility of the supplier to ensure that submittals are uploaded on time.
- c. In the event of inclement weather on the date when bids are scheduled to be opened and the FCPS offices are closed, or operating under a modified schedule, bids will be opened on the next business day at the same time as previously scheduled. The bid submission date will not change based on inclement weather, unless changed by an addendum. Often when schools are closed due to inclement weather, administrative offices remain open. When in doubt, refer to Section 2(e) for closing and delays.

8. OPENING OF BIDS

- a. Sealed bids will be publicly opened at the date and time indicated on the solicitation cover sheet.
- b. All bids received must be signed by a person legally authorized to sign the company into a contract. Bids will be submitted on-line via OpenGov Procurement.
(<https://secure.procurenow.com/portal/fcps>).
- c. Complete evaluation of the proposals will not take place at the bid opening and no indication of award will be made. A final recommendation(s) shall be prepared for review and approval by the Board of Education of Frederick County.

- d. The recommended award will be posted to the FCPS BoardDocs website a minimum of three days prior to the Board of Education meeting in which it will be presented.
- e. Final award recommendation, and the bid tabulation, will be posted on the FCPS webpage, www.fcps.org/bidlist, after the Board of Education of Frederick County approval.

9. STANDARD OF QUALITY, "OR EQUAL CLAUSES," AND SUBSTITUTIONS

- a. Any make/model specified in the solicitation is used only to establish a quality level, unless specifically noted in Section II – FCPS Specific Terms and Conditions. Any material or article that will perform adequately the duties imposed by the general design will be considered equal and satisfactory. FCPS retains the right to determine if items are equivalent and will be accepted.
- b. It will be the responsibility of the bidder to submit a clear and concise proposal wherein each substitution and deviation is identified and described, in writing, at the time of solicitation submission.
- c. In the absence of any statement to the contrary by the bidder, the submission will be interpreted as being the exact brand and/or qualities, etc., enumerated in the detailed specifications, whenever the specifications indicate a product of a particular manufacturer, model or brand.
- d. Bidders must submit detailed literature if bidding an item other than the specified item. Detailed literature is defined as product features or specifications relating to construction and/or performance.
- e. The detailed literature is to be arranged and labeled according to item number referenced on the solicitation document.
- f. It is the bidders' responsibility to submit required literature, or links to webpages, with the bid submission. Failure to submit such data as required and/or at the time designated by the Purchasing Department shall be cause for rejection of that item.
- g. No substitutions or deviations will be permitted following the award of the contract unless "cause and effect" is presented in writing and approved by the Contract Manager. A statement of any credit or extra cost involved will be included with the request.
- h. FCPS shall not be responsible to provide personnel, testing facilities, or other resources necessary to search out substitutions and deviations in bid proposals which are unclear through the nebulous terms such as "comparable", or blanket statements of deviation such as "our standard design, construction, hardware, finishes, etc."
- i. The bidder will, upon request and with no cost to the FCPS, furnish documents, independent laboratory tests reports, and/or similar materials of proof to substantiate that the substitutions and deviations of the items they propose to furnish do not prevent these items from being truly and factually equal to, or exceeding, that which is specified.
- j. The cost of testing a representative sample of an order or shipment for acceptance and compliance with specifications shall be borne by FCPS. If the order or shipment is rejected for failure to meet the requirements of the specifications or purchase description, the cost of testing will be charged to the awarded suppliers.

10. SAMPLES

- a. Samples will be requested for testing and evaluation purposes. Failure to submit samples as required at the time designated may be cause for rejection of that item.
- b. All samples must be delivered with all charges prepaid to the designated point of delivery. Samples must be marked as "SAMPLE" and include the name of the bidder, bid name and number, and return instructions, if applicable.
- c. The right is reserved to retain any sample submitted with bids for the purposes of examination and testing. FCPS reserves the right to use all samples in any manner which may best serve the final determination of the successful bidder, even if said examination and testing results in damage to or destruction of the sample.
- d. FCPS retains the right to determine the method of testing to be utilized.
- e. Samples that are not retained by FCPS must be removed within two weeks upon notification. Return shipping must be prepaid by the suppliers. Samples not removed within this two-week period shall be retained, or disposed of, at the discretion FCPS, and without compensation to the bidder.

11. GUARANTEES AND WARRANTIES

- a. The awarded supplier(s) will guarantee the material and workmanship on all services, equipment, materials, supplies, and labor, furnished by them, for a minimum period of one year from the date of acceptance, unless a longer period of time is specified in Section II – FCPS Specific Terms and Conditions.
- b. If, within the guarantee period, any defects or signs of deterioration are noted, the awarded supplier(s) at their expense, shall correct the condition or they shall replace the part or entire unit of work/equipment to the complete satisfaction of FCPS. These repairs, replacements, or adjustments shall be made only at such times as will be designated by FCPS to minimize the disruption to building/school operations.
- c. Should the awarded supplier(s) fail to comply with the terms of this guarantee, FCPS may have such work performed as it deems necessary to fulfill the guarantee, charging the cost to the awarded supplier(s).

12. AWARDS OR REJECTION OF BIDS

- a. The basis of award shall be the lowest responsible bidder submitting a responsive bid that conforms to the specifications established in the solicitation with consideration given to the quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, the ability of the bidder to perform satisfactory service, and the plan for utilization of minority contractors, if applicable.
- b. FCPS reserves the right to determine completeness and/or timeliness of bids, to reject any or all bids in whole or in part, to make partial awards, to waive any informality in any quotation, to increase or decrease quantities if quantities are listed in the bid, to reject any bid that shows any omissions, alterations of form, additions not called for, conditions, or alternate proposals, and to make any such award as is deemed to be in its best interest.

- c. Bidders may be required, before the awarding of a contract, to show to the complete satisfaction of FCPS, that they have the necessary facilities, ability and financial resources to execute the contract in a satisfactory manner, and within the time specified. Bidders may be required to demonstrate they have the necessary experience, history and references to assure FCPS of their qualifications.
- d. The Board of Education of Frederick County reserves the right to award the bid within 90 days from the date of the bid opening unless a different time period is stated in the bid document.
- e. Unless stated otherwise in Section II – FCPS Specific Terms and Conditions, the contract may be awarded by line item, group, or in the aggregate, whichever is in the best interest of FCPS.
- f. In the event of a tie, where all other factors, such as past performance, are considered comparable, the award shall be made to the Frederick County based bidder; the closest Maryland out-of-county based bidder; and the closest out-of-state based bidder, in that order of preference.
- g. FCPS does not have local, state or federal preference requirements except when mandated by a targeted funding source.
- h. If, after competitive sealed bids have been opened, the Purchasing Manager determines that only one responsible bidder has submitted a responsive bid, the procurement contract may be negotiated with that one bidder as sole source procurement.
- i. A recommendation for the award of a contract will be presented to the Board of Education of Frederick County for approval. Upon approval of the award of contract, the bidder(s) shall be notified of their award(s). If applicable, an FCPS contract document shall also be issued.
- j. The Board of Education of Frederick County reserves the right to reject the bid of a bidder who has, in the opinion of FCPS, failed to properly perform under previous contracts, or, who investigation shows, is not in a position to perform the contract.
- k. The Board of Education of Frederick County retains the right to reject any and all bids, if it is deemed in the best interest of FCPS to do so.
- l. If, during the life of the contract, a product or service does not meet the solicitation terms and conditions, FCPS retains the right to cancel the awarded item(s) and award to a new bidder, as long as that bidder mutually agrees to the award.

13. CONTRACT FORMATION

- a. Notification of the contract award will be made by letter after approval by the Board of Education of Frederick County.
- b. The primary form of contract is the purchase order(s), and any agreed upon schedules, addendum, shop drawings, and documents associated with the bid solicitation/submission/award.
- c. A secondary form of contract, if required, may be noted in Section II – FCPS Specific Terms and Conditions, of this bid solicitation.
- d. No amendment, modification or change to the contract shall be effective unless such change is in writing and mutually agreed upon by authorized representatives of FCPS and the awarded supplier(s). Changes may not significantly alter the original scope of the agreement.

14. PROTESTS

- a. The Purchasing Manager shall attempt to resolve, informally, all protests of bid award recommendations. Bidders are encouraged to present their concerns promptly to the Contract Manager for consideration.
 - i. The bidder must submit their concern, in writing, addressed to the Purchasing Manager. It should include the following:
 - Name, address, contact information of the protestor;
 - Statement of reasons for the protest;
 - Supporting documentation to substantiate the claim;
 - The remedy sought.
 - ii. The protest must be received by the Purchasing Manager at least two calendar days prior to the date of the Board of Education meeting at which the recommendation will be presented. It is the supplier's responsibility to ascertain the date and time of award.
 - iii. A bidder who does not file a timely protest before the contract is awarded by the Board of Education of Frederick County is deemed to have waived any objection.
- b. The Purchasing Manager shall inform the Chief Financial Officer and/or general counsel upon receipt of the protest, and shall confer with them prior to the issuance of a decision regarding disputes of contracts or awards valued at \$50,000 or above.
- c. The Purchasing Manager shall issue a decision in writing.
- d. Should the protestor disapprove of the Purchasing Manager's decision, they have the right to address the Board of Education of Frederick County during the public comment section of the same Board meeting where the award recommendation is scheduled for award.
- e. The Board of Education of Frederick County's decision is deemed the final action at the local level.
- f. A bidder may appeal a decision of the Board directly to the Maryland State Board of Education in accordance with Board Policy 105.11 and Maryland law.

15. CONTRACT DISPUTES

- a. Any dispute arising under this contract shall be decided by the Contract Administrator, the Contract Manager and the Purchasing Manager, who will communicate their decision to writing and furnish a copy to the supplier. This decision shall be final and conclusive unless, within 30 days, the supplier furnishes a written appeal addressed to the Board of Education of Frederick County. The local Board of Education has the right to hear appeals as provided by Maryland law.
- b. The Board of Education of Frederick County, or its duly authorized representative, will review the appeal for the determination of such appeal and their finding shall be final and conclusive. In connection with any appeal preceding under this clause, the supplier will be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute, the supplier shall proceed diligently with the performance of the contract and in strict accordance with the FCPS staff's decision. Exceptions are decisions determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as to imply bad faith, or not

supported by evidence.

- c. This clause does not preclude consideration of laws questioned in connection with the decision provided for above.

16. CONTRACT ASSIGNMENT

- a. The awarded supplier(s) will not assign or transfer any portion of their interest or obligation under this Agreement to any third party, without the prior written consent of the Contract Manager. Nothing herein shall be construed to create any personal or individual liability upon any employee, officer, elected official of the Board of Education of Frederick County, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties to this Agreement.
- b. The awarded supplier(s) will, when required, submit to the Contract Manager, in writing, the name of each subcontractor they intend to employ, the portion of the material to be furnished, their place of business, and any such information as may be required in order to know whether such subcontractor is reputable and reliable and able to furnish satisfactorily the material as called for in the specifications.
- c. FCPS reserves the right to approve or disapprove all subcontractors to be employed on a project. FCPS further reserves the right to approve or disapprove a change of subcontractor once an initial subcontractor has been approved. Any increased cost associated with the change of a subcontractor shall be the full obligation and responsibility of the awarded supplier(s).
- d. The awarded supplier(s) will not legally, or equitably, assign any of the funds payable under the contract, or its claim thereto, unless by, and with, the consent of the Contract Manager.
- e. The awarded supplier(s) will have the same provisions inserted in all subcontracts relative to the terms of the general conditions and other contract documents. Nothing contained in this contract shall create any contractual relations between any subcontractor and FCPS.

17. MULTI-YEAR CONTRACT

- a. Contracts that require funding appropriation for more than one fiscal year automatically terminate if money sufficient for the continued performance is not appropriated for any fiscal year. The date of termination is the last day of the fiscal year for which money was last appropriated, or the date provided in the termination clause of the procurement contract, whichever is earlier.
- b. If the multi-year contract is terminated due to lack of funding, FCPS shall reimburse the supplier for the reasonable value of any nonrecurring costs that were incurred as a result of the multi-year contract, but not amortized in the price of the supplies or services delivered under the multi-year contract. The reasonable value will be negotiated, and mutually agreed upon, by FCPS and the supplier
- c. The cost of termination may be paid from any appropriation available for that purpose.

18. HOLD HARMLESS

It is understood that the awarded supplier shall defend and hold harmless the Board of Education of Frederick County, and its representatives, from all suits, actions, or claims of any kind brought about as a result of any injuries or damages sustained by person(s) or property during the performance of this

contract.

19. TERMINATION FOR DEFAULT

- a. When an awarded supplier has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of FCPS. FCPS may, by written notice of default to the supplier terminate the whole or any part of the contract in any of the following circumstances:
 - i. If the supplier fails to perform the services or provide the products within the time and manner specific herein or any extension thereof, or:
 - ii. If the supplier fails to perform any of the provisions of this contract, or fails to make progress as to endanger performance of this contract, in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten calendar days (or longer as authorized by the Purchasing Manager) after receipt of written notice from the Purchasing Manager of such failure, or:
 - iii. If the supplier willfully attempts to perform the services other than specified as to coverage, limits, protections, and quality or otherwise, without specified authorization in the form of contract amendment, or:
 - iv. If a determination is made by FCPS that the obtaining of the contract was influenced by an employee FCPS having received a gratuity, or a promise therefore, in any way or form.
- b. In the event FCPS terminates the contract in whole or in part, FCPS may procure such products and services, in a manner the Purchasing Manager deems appropriate, and the supplier shall be liable to FCPS for any additional cost(s) incurred.
- c. If, after notice of termination of this contract under provisions of this clause, it is determined for any reason that the supplier was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to a termination for convenience.

20. TERMINATION FOR CONVENIENCE

The contract may be terminated by FCPS in accordance with this clause in whole, or in part, whenever FCPS determines that such a termination is in the best interest of FCPS. Written notice shall be given a minimum of 30 days in advance. FCPS will pay for all services, in accordance with contract pricing, up to the date of the termination. However, the awarded supplier(s) shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Under this contract, the awarded supplier does not have a right to unilateral termination for convenience.

21. GOVERNING LAW AND VENUE

- a. The supplier will comply with all Federal, State, and local laws, ordinances and regulations pertaining to work under their charge. If the supplier performs any work which it knows or should know to be contrary to such laws, ordinance, and regulations and without such notices to FCPS they shall bear all costs arising therefrom.
- b. All suppliers and subcontractors must abide by the Board of Education of Frederick County policies and FCPS regulations while working on school property.

- c. The supplier certifies that their firm adheres to or follows non-discriminatory practices with respect to the employment and promotion of personnel without regard to color, creed, race, sex, or national origin.
- d. The solicitation shall be construed in accordance with, and interpreted under, the laws of the State of Maryland. Any lawsuits shall be filed in the appropriate State Court located in Frederick County, Maryland.

22. MULTI-AGENCY PARTICIPATION

- a. FCPS reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the state of Maryland, as well as, any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This is conditioned upon mutual agreement of all parties pursuant to special requirements, which may be appended thereto. The awarded supplier(s) agrees to notify the issuing body of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested.
- b. By agreeing to extend the contract to other agencies, the supplier(s) reaffirms and warrants his original commitment to FCPS so that afterwards all items and services shall continue to conform to the requirements and conditions of the original agreement for its duration. Agencies who utilize the contract agree to notify FCPS Purchasing Department of any significant experiences, problems or issues which may, or may have the potential to, affect our administration of this contract.
- c. FCPS assumes no obligation on behalf of any other agency and shall be held harmless if either party is damaged due to the agency or supplier's failure to become informed of, or comply with, any provision or pricing under this agreement. All purchase orders and billing will be transacted between the supplier and the public agency.
- d. Each participating jurisdiction or agency shall enter into its own contract with the awarded supplier(s) and this contract shall be binding only upon the principals signing such an agreement. Invoices shall be submitted in duplicate "directly" to the ordering jurisdiction for each unit purchased. Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract. Disputes must be resolved solely between the participating agency and the awarded supplier(s). The Lead Agency does not assume any responsibility other than to obtain pricing for the specifications provided.

23. PACKAGING AND DELIVERY REQUIREMENTS

- a. All materials must be securely packed in accordance with accepted trade practices.
- b. A packing list will be included in each shipment. This list shall contain the following information: Purchase Order Number, Supplier Name, Item Description, Item Number, Quantity and Delivery Location. Failure to comply with this condition may be considered sufficient reason to refuse to accept the goods.
- c. All materials, supplies and equipment for FCPS shall be delivered F.O.B Destination. Unless otherwise noted in Section II – FCPS Specific Terms and Conditions, all items shall be delivered inside the office, school, or warehouse.
- d. Special delivery and handling instructions will be defined in Section II – FCPS Specific Terms and Conditions, of each bid.

- e. All school deliveries shall be made during the hours of 9:00 A.M. and 2:00 P.M. local time and only on regular school days, see School Calendar Closings enclosed, except where modified in Section II – FCPS Specific Terms and Conditions.
- f. All warehouse deliveries shall be made during the hours of 9:00 A.M. to 2:30 P.M. on all regular scheduled school days, see School Calendar Closings enclosed, except where modified in Section II – FCPS Specific Terms and Conditions.
- g. Bulk materials, delivered to the Warehouse, are to be delivered on skids, or pallets, to the Warehouse receiving platform.
- h. No help for unloading will be provided. Suppliers shall notify their delivery personnel accordingly.
- i. The awarded supplier(s) shall be held responsible for and shall be required to make good at their expense, any and all damage done or caused by their employees in the execution of the contract as determined by FCPS.
- j. The supplier will be required to furnish proof of signed delivery in every instance. Delivery receipts indicating only the number and weight of cartons received will not constitute "proof" of delivery in the event of a dispute. FCPS will not accept responsibility for deliveries that have not been signed for by an FCPS employee.

24. BILLING AND PAYMENT

- a. Invoices shall be submitted to: accounts.payable@FCPS.org or in duplicate to:

FREDERICK COUNTY PUBLIC SCHOOLS
Accounts Payable Department
191 South East Street
Frederick, MD 21701
- b. Invoices and packing slips must contain the following information:
 - i. Bid Number
 - ii. Purchase Order Number
 - iii. Item Number (if applicable)
 - iv. Quantity (if applicable)
 - v. Brief Description of Item or Work Performed including the dates worked
 - vi. Unit Price Bid/Partial Payment Amount
 - vii. Extended Total for Each Item
 - viii. Grand Total
 - ix. Public School Construction Number (PSC) (if applicable)
- c. Payments will be made by FCPS check, single use credit account or credit card. Credit card statements with level three data are preferred. Bidders are prohibited from charging additional costs or fees from their bid price to process such orders.
- d. Invoices to be submitted once commodities have been received and/or services have been rendered.

25. COMPLIANCE WITH SPECIFICATIONS

- a. The awarded supplier(s) will abide by, and comply with, the true intent of the specifications and not take advantage of any unintentional error or omission, but will fully complete every part as to the true intent and meaning of the specifications and drawings.
- b. Whenever mention is made of any article, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's code, A.S.M.E. regulations, or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.
- c. Where the requirements of the specifications call for a higher grade and are not in conflict with the laws, ordinances, etc., the specifications shall govern.
- d. In the case of any apparent conflict between the specifications and such laws, ordinances, etc., the awarded supplier(s) will contact the Contract Administrator and the Contract Manager for a decision before proceeding with any work.

26. FAILURE TO PERFORM/DELIVER

- a. If the awarded supplier(s) fails to provide the services, equipment, or other items required within the prescribed time limits, or established delivery schedule, the Contract Manager may elect to obtain services, equipment, or other items necessary from an alternate source.
- b. The awarded supplier(s) will pay any additional cost(s) incurred by FCPS for obtaining replacement services, equipment, and other necessary items.
- c. FCPS shall have the unilateral right of alternate source selection to perform the work when the awarded supplier(s) does not perform the required work.
- d. In addition to, or in lieu of, paying for any incurred replacement costs(s), the awarded supplier(s) may pay liquidated damages, in the amount of \$150 per day, for any delay or failure in performance, as well as any related damages sustained by FCPS.
- e. The assessment of liquidated damages by FCPS against the awarded supplier(s) does not supersede or affect the right of FCPS to impose other remedies that may be available.

27. SAFETY REQUIREMENTS

- a. When applicable, all machinery/equipment must meet OSHA-MOSHA requirements as to the safety of the operation of the equipment. All required safety devices shall be included in the price(s) bid.
- b. When applicable, kitchen equipment and supplies must meet Maryland State Health Department, National Sanitation Foundation (NSF) and Frederick County Health Department requirements.
- c. All construction activities must be conducted in strict compliance with OSHA/MOSHA requirements.
- d. Equipment offered which fails to comply with any applicable section of the National Electrical Code, or is not U.L. Listed (where U.L. Listings have been established for that type of device) shall be rejected.
- e. The awarded supplier(s) shall submit Safety Data Sheets (SDS) for all items awarded to that supplier provided under the terms of this proposal, if applicable.

- f. The awarded supplier(s) and subcontractor(s) are required to comply with all provisions of the Access to Information about Hazardous and Toxic Substances Act, a part of the Maryland Occupational Safety and Health Law.
- g. The awarded supplier(s) is responsible to report to FCPS any asbestos material or suspected material found or uncovered that is not part of the scope of the project. In addition, they may not introduce new asbestos or asbestos bearing materials into the site.
- h. It is the responsibility of the awarded supplier(s) to comply with all Municipal, State, and Federal EPA regulations and laws when handling or disposing of asbestos materials.
- i. If the awarded supplier(s) intentionally endangers or jeopardizes the health of any building/school occupant(s) through mishandling of hazardous material, the supplier(s) will be held liable for such action.

28. PATENTS

The supplier will defend all suites or claims for infringement of any patent rights and will save the Board of Education of Frederick County harmless from loss.

29. TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS

All FCPS technology based instructional products (instructional software, online resources, and computer-based equipment) must be consistent with the federal Rehabilitation Act, Maryland Subpart B Technical Standards, Section 508, and the most recent revision of WCAG Standards at level AA, for accessibility by students and staff, with disabilities unless doing so would fundamentally alter the nature of the instructional activity or result in undue financial and administrative burdens. Requests for bids, proposals, procurement contracts, and grants will follow established procedures for evaluating compliance to accessibility standards in all purchase decisions.

30. EMPLOYMENT OF CHILD SEX OFFENDERS AND PERSONS WITH UNCONTROLLED ACCESS TO STUDENTS

a. Registered Sex Offenders

Individuals who are registered sex offenders are not eligible to work on any FCPS' property. Section 11-722 of the Criminal Procedure Article, Annotated Code of Maryland states, "a person who enters into a contract with a County Board of Education or a non-public school may not knowingly employ an individual to work at a school if the individual is a registrant." A supplier violating this Law is guilty of a misdemeanor and may be subject to imprisonment not exceeding five years or a fine not exceeding \$5,000, or both.

It is the responsibility of each awarded supplier to screen their workforce to ensure that a Registered Sex Offender is not assigned to perform work at any FCPS school or project. The term workforce includes direct employees, subcontractors, and material and equipment suppliers the awarded supplier will use to perform the work.

b. Other Crimes

An awarded supplier(s), or subcontractors), may not knowingly assign an employee to work on FCPS school premises with direct, unsupervised, and uncontrolled access to children, if the

employee has been convicted of:

- i. An offense under § 3-307 or § 3-308 of the Criminal Law Article, or an offense under the laws of another state that would constitute a violation of § 3-307 or § 3-308 of the Criminal Law Article if committed in the State; or
 - ii. Child sexual abuse under §3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under §3-602 of the Criminal Law Article if committed in the State; or
 - iii. A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in this state.
- c. Violation of any of these provisions may result in immediate Termination for Cause.

31. CRIMINAL BACKGROUND CHECKS

- a. Contracted service providers who have regular, direct and unsupervised access to children cannot begin service without undergoing the same process as new employees per FCPS Regulation 300-33. The criminal background check includes both fingerprinting and disclosure forms and will be completed by the FCPS Human Resources Department by appointment only.
- b. In the event a provider is unable to be fingerprinted by the FCPS Human Resources Department due to distance (living more than 200 miles from FCPS located at 191 South East Street, Frederick, MD) or any other mutually agreeable reason, then the following alternative fingerprinting and disclosure process will be followed:
 1. A contract service provider must request via email a paper fingerprint card from the FCPS Human Resources Department for manual fingerprinting by the contract service provider's local law enforcement.
 2. The contract service provider must be fingerprinted under the Adam Walsh Act background transaction (commonly referred to as the Child Care background check).
 3. The FCPS Human Resources Department will mail a paper fingerprint card to the mailing address provided by the requesting contract service provider.
 4. Upon being fingerprinted, the contract service provider will return the completed fingerprint card via mail to the FCPS Human Resources Department.
 5. The FCPS Human Resources Department will independently submit the contracted service provider's fingerprint card to the state's Criminal Justice Information System (CJIS) for state and federal criminal background check processing.
 6. The FCPS Human Resources Department will receive the state and federal background check results and maintain a copy.
 7. In the event the FCPS Human Resources Department receives a criminal background check which requires explanation by the contract service provider, the FCPS Human Resources Department will hold a conference (either by phone or virtually) directly with the contracted service provider to determine if the individual would be detrimental to the safety of children and staff and/or if the nature of the crime is such that business operations would be at risk.

8. In the event the FCPS Human Resources Department deems a contract service provider's criminal background check to be unacceptable, the FCPS Human Resources Department will notify the contract service provider in writing of ineligibility to have regular, direct, and unsupervised access to FCPS students. The awarded supplier(s), or subcontractor(s), may not knowingly assign an employee to work on FCPS school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of a crime identified as a crime of violence.

The fingerprinting and background process may change based upon direction from CJIS. If required, an awarded supplier(s) is responsible for payment of the full cost of the criminal background check.

Additional information regarding this requirement will be found in Section II – FCPS Specific Terms and Conditions

- c. In addition, with the passing of Maryland Law MD. Code, Educ. 6-113.2, employers of all contracted staff must obtain background information relating to child sexual abuse or sexual misconduct. This means that all contracted staff having direct contact with students must meet all of the FCPS and Maryland State Department of Education (MSDE) requirements before doing business with FCPS. For additional information, visit:
- [Maryland State Department of Education Website](#);
 - [House Bill 486 Child Sexual Abuse and Sexual Misconduct Prevention](#);
 - [MSDE Guidelines For MD. Code, Educ. 6113.2](#);
 - [Employment History Review Form for Child Abuse and Sexual Misconduct](#)

32. DRUG, ALCOHOL, AND TOBACCO-FREE WORKPLACE

- a. All awarded suppliers and subcontractors must abide by Board Policy 112 while working on any FCPS property at all times.
- a. The Board of Education of Frederick County endorses the provisions of Public Law 100-690, Title V, Subtitle D (Drug-Free Workplace Act of 1988) and Public Law 101-226 (The Drug-Free Schools and Communities Act of 1989) and regulations promulgated there under and establishes a drug-free and alcohol-free workplace and school system.
- b. Maryland State Law (COMAR 13A.02.04) provides that each local school system is required to maintain a tobacco-free school environment.

33. WEAPON POSSESSION ON SCHOOL PROPERTY

- a. The criminal code of Maryland makes it illegal to possess a weapon on school property.
- b. No person shall carry or possess any rifle, gun, knife, or deadly weapon of any kind on FCPS property.
- c. Any awarded supplier(s) whose employees violate this clause may be subject to the termination of the contract for cause.

34. FOREIGN LANGUAGE TRANSLATOR REQUIREMENT

- a. An awarded supplier(s) that assigns employees to an FCPS project that do not speak English must

have an on-site, full time interpreter.

- b. Failure of an awarded supplier(s) to have an on-site, full time interpreter that is fluent in speaking and understanding an employee's native language for those employees that do not speak English is reason for immediate termination of the contract for cause.

35. ILLEGAL IMMIGRANT LABOR

The use of illegal immigrant labor to fulfill contracts solicited by FCPS is in violation of the law and is strictly prohibited. Awarded supplier(s) and subcontractors must verify employment eligibility of workers in order to assure that they are not violating federal/state/local laws regarding illegal immigration. A compliance audit may be conducted.

36. STUDENT/STAFF CONFIDENTIALITY

- a. The Contractor shall comply with all federal, state, and county laws and regulations applicable to the Contract regarding data collection, privacy, and security, including but not limited to the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations (34 C.F.R. part 99), the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. § 6501-6505, and its implementing regulations (16 C.F.R. § 312, et seq.), the Protection of Pupil Rights Amendment, (PPRA) 20 U.S.C. § 1232(h) and its implementing regulations (34 C.F.R. § 98.1 et seq.), the Maryland Student Privacy Act of 2015, Md. Ed. Code Ann., §4-131, Code of Maryland Regulations (COMAR) 13A.08, as well as applicable Board of Education policies and FCPS regulations, including, but not limited to, FCPS Regulation 200-32, Data Security, and FCPS Regulation 400-20, Student Records.
- b. Questionnaires, survey instruments, or any other form of data collection from FCPS students, staff, parents/guardians or others pursuant to the Contract or otherwise must be reviewed and approved by FCPS.
- c. Access to Confidential Information
 - 1) To assist the Contractor in its work under the Contract, FCPS may disclose to the Contractor, either in writing or orally, records or information which FCPS deems to be proprietary and/or confidential (hereinafter, "Confidential Information"). For purposes of the Contract, Confidential Information is any information or data labeled or identified as confidential in the Contract or at the time of disclosure. This definition and the obligations of this article shall not extend to any information that: (i) the Contractor possesses prior to acquiring it from FCPS; (ii) becomes available to the public or trade through no violation by the Contractor; or (iii) is developed by the Contractor independently of and without reliance on confidential or proprietary information provided by FCPS.
 - 2) Confidential Information also includes any and all "Personally Identifiable Information" regarding FCPS students, parents/guardians, employees, or others in any medium, including but not limited to any user-generated content that FCPS students, parents/guardians, employees, or others ("FCPS Users") input to access or use the Contractor's deliverables, products, and/or services (e.g., log-in information or responses to assessment questions), as well as "Metadata." Metadata includes but is not limited to: information about how long a FCPS User took to perform a task; information about how long a FCPS User's mouse hovered over an item; keystroke data; location data; or other data about the FCPS User's use of the Contractor's deliverables, products, and/or services that has not been stripped of all direct and indirect identifiers. With respect to FCPS students, Personally Identifiable Information, as defined under

applicable law, includes:

- a. A student's name;
 - b. The name of the student's parent/guardian or other family members;
 - c. The address of the student or student's family;
 - d. A personal identifier, such as the student's social security number, student number, or biometric record;
 - e. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
 - f. Other information (including but not limited to Metadata) that, alone or in combination, is linked or linkable to a specific student or family that would allow a reasonable person in the FCPS community, who does not have personal knowledge of the relevant circumstances, to identify the student or family with reasonable certainty; or
 - g. Information requested by a person, who is not an authorized representative of the educational agency and who FCPS and/or the Contractor reasonably believes knows the identity of the student to whom the education record relates.
- 3) Confidential Information shall be maintained in confidence during the Contract and thereafter, except to the extent that it is required to be either disclosed or protected from disclosure by law, regulation or judicial or administrative process. The Contractor shall use the Confidential Information solely for the purposes of the Contract. The Contractor shall protect the Confidential Information from any Data Security Breach (as defined below), loss, theft, or disclosure using a commercially reasonable care commensurate with the sensitivity of the Confidential Information that in no circumstances is less than the degree of care that the Contractor uses to protect its own confidential information. The Contractor agrees to assist FCPS in maintaining the privacy of Confidential Information as may be required by all federal, state, and county laws and regulations applicable to the Contract including but not limited to the requirements listed above.
 - 4) The Contractor shall not permit unauthorized access to the Confidential Information to any individual or entity at any time or provide Confidential Information to any person, party, or organization ineligible or prohibited from receiving such information pursuant to any federal, state, and county laws and regulations applicable to the Contract including but not limited to the requirements listed above.
 - 5) In the event that the Contractor is required by law, regulation, or judicial or administrative process to disclose any Confidential Information, the Contractor will promptly notify FCPS in writing, if permitted by law, prior to making any such disclosure in order to facilitate FCPS' seeking of a protective order or other appropriate remedy from the appropriate body. Should the proprietary or confidential status of any such information be disputed, the Parties agree to work in good faith to reach a mutually satisfactory disposition.
 - 6) To the extent that Confidential Information includes Personally Identifiable Information regarding FCPS Users, FCPS may require additional data sharing protocols, as agreed in writing by the Parties, prior to its disclosure to the Contractor. The Contractor also agrees to comply with the re-disclosure limitations set forth in FERPA, including in 34 C.F.R. § 99.33, and shall not authorize access to Confidential Information to any of its employees, agents, affiliates, and

subcontractors, or to any auditor, unless such employee, agent, affiliate, subcontractor, or auditor (i) requires such access in order to allow the Contractor to provide the deliverables, products, and/or services set forth in the Contract or to fulfill the Contractor's obligations under the Contract; and (ii) has signed a non-disclosure agreement no less restrictive than the terms of the Contract that will (a) prohibit the such individual or entity from using any Confidential Information for any purpose other than providing the contracted service to, or on behalf of the Contractor; (b) prohibit the individual or entity from disclosing any Confidential Information provided by the Contractor to third parties; (c) require the individual or entity to implement and maintain strict security procedures and practices that, at a minimum, comply with industry standards for data security; and (d) require the individual or entity to promptly notify the Contractor if the individual or entity becomes aware of any unlawful access to any Confidential Information stored on its equipment or facilities resulting in loss, disclosure, or alteration of Confidential Information. Such non-disclosure agreements shall be made available for inspection, upon demand, to FCPS. The Contractor agrees to remind (in writing) individuals or entities who cease working with the Contractor of their non-disclosure obligations at the time of departure, and to terminate the network access of such individuals or entities at the time of separation.

- 7) Notwithstanding any other provision of the Contract, FCPS and/or FCPS Users, as appropriate, retain all right, title, and interest in and to the Confidential Information provided by FCPS and/or FCPS Users. Neither the Contractor, nor any successor or entity to which the Contractor's assets are sold, acquires rights in the Confidential Information, other than the rights FCPS grants to the Contractor to perform the work contemplated in the Contract. If the Contractor becomes subject to dissolution or insolvency, FCPS' and FCPS Users' Confidential Information will not be considered an asset or property of the Contractor. FCPS reserves the right to demand the prompt return of any Confidential Information at any time and for any reason whatsoever. The disclosure of Confidential Information to the Contractor shall not be construed as a grant of any right or license with respect to the information other than for the purposes set forth in the Contract.

d. Use of Confidential Information

- 1) The Contractor shall collect, use, and store only such Confidential Information that is necessary in connection with the Contractor's obligations under the Contract.
- 2) The Contractor may collect and use aggregated de-identified Confidential Information to provide the deliverables, products, and/or services set forth in the Contract, for the Contractor's lawful quality assurance, and for no other purpose; provided, however, that all direct and indirect personal identifiers are permanently removed and there is no reasonable basis to believe that the remaining information in the records can be used to successfully link the de-identified information to an identifiable individual or to FCPS. Furthermore, the Contractor agrees not to: (i) attempt to re-identify de-identified Confidential Information; and/or (ii) transfer de-identified Confidential Information to any party unless that party agrees not to attempt to re-identify the de-identified Confidential Information and unless FCPS has provided written express consent of the transfer.
- 3) Neither the Contractor nor any of its employees, agents, affiliates, and subcontractors shall: (i) engage in targeted advertising to FCPS Users; (ii) engage in targeted advertising when the targeting of the advertising is based on Confidential Information; (iii) use Confidential Information to amass a profile about a FCPS User, except in connection with the Contractor's performance of its obligations under the Contract; (iv) sell Confidential Information; or (v) share with any individual or entity outside FCPS, without prior review and approval from FCPS, any report, data, or research findings that are based on Confidential Information or the

use by FCPS or FCPS Users of the Contractor's deliverables, products and/or services and that could be linked to an identifiable FCPS User, stakeholder, school, or the district.

- 4) The Contractor acknowledges that there are no user agreements (whether electronic, click-through, verbal or in writing) in existence or contemplated between the Contractor and any FCPS Users in connection with their access and use of the Contractor's deliverables, products, or services, and this Contract shall supersede any user agreements that may be adopted during the term of the Contract.

e. Security of Confidential Information

- 1) The Contractor shall implement and maintain a comprehensive data-security program in accordance with commercial best practices for the protection of Confidential Information, whether the Confidential Information is stored electronically and/or in hard copy. Such data-security program shall include, but is not limited to, the following:
 - a. Security policies for the Contractor's employees, agents, affiliates, and subcontractors related to the storage, access, retention, transportation, and disposition of data containing Confidential Information;
 - b. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
 - c. Secure access controls to Confidential Information, including but not limited to passwords;
 - d. Procedures for data recovery, incident response and processes, and business continuity processes and procedures;
 - e. Encryption of Confidential Information in accordance with industry standard encryption when it is stored or transmitted electronically;
 - f. Protocols for regular backups that include retention of backup copies for such period of time as may be required by FCPS, or by federal, state, and county laws and regulations;
 - g. Audit logs of its system on a secured server with restricted access to prevent tampering or altering of audit data; and
 - h. A process for reviewing policies, procedures, and security measures, as well as training on security policies for employees who have access to Confidential Information, at least annually.
- 2) The Contractor certifies that it has implemented policies, procedures, and security measures to protect against reasonably foreseeable unauthorized access to, or disclosure of, Confidential Information, and to prevent other reasonably foreseeable events that may result in substantial harm to FCPS. In addition, the Contractor shall not maintain or store Confidential Information outside of the United States. To the extent that the Contractor uses cloud computing services, all Confidential Information provided by FCPS or FCPS Users shall be securely stored with a commercially reasonable third-party vendor using physical servers located solely within the United States and subject to network security measures consistent with industry standards. The Contractor will confirm to FCPS that the third-party vendor agrees to the non-disclosure agreement terms described in Article 18.C.6.
- 3) Access to the Contractor's server(s) hosting Confidential Information shall be limited to the

Contractor's operations employees, agents, affiliates, or subcontractors who: (i) have access to Contractor's access keys and are specifically trained to manage and secure data; and/or (ii) are involved in providing the Contractor's deliverables, products and/or services.

- 4) Any computer, server, or database on which Confidential Information, or any analysis conducted pursuant to the Contract, is maintained shall have anti-virus, configuration control, monitoring/alerting, automated backups, and regular vulnerability testing. Such computer, server, or databases shall be password protected and securely stored at all times with proper authentication and authorization procedures and with access limited to the Contractor's operations personnel and personnel directly involved in implementing the Contract. The Contractor shall not permit Confidential Information to be maintained or stored on any portable memory device, such as thumb drives or portable hard drives, without the express written consent of FCPS. The Contractor shall not permit Confidential Information to be maintained or stored on mobile computing devices (e.g. laptops or tablets), unless such device is being used in connection with the Contractor's backup and recovery procedures. In the event that such a device is being used in connection with the Contractor's backup and recovery procedures, the Contractor will ensure that such mobile computing devices are encrypted, centrally managed with respect to configuration updates and anti-virus, password protected, and that all such devices will be scanned at the expiration or termination of the Contract to ensure that no Confidential information remains stored on such mobile computing devices.
 - 5) The Contractor will regularly backup or cause to be backed up all Confidential Information under its control and will securely store and retain backups for such period of time as may be required by federal or state law or regulation, or by FCPS. The Contractor will remove Confidential Information from backups in a manner consistent with technology best practices and industry standards for secure data disposal methods. If the Contractor is required to restore any materials from its backups, it will purge all personally identifiable Confidential Information not currently in use in the production systems from the restored backups.
- f. FCPS reserves the right in its sole discretion to perform audits of the Contractor at its sole expense to ensure compliance with this article. The Contractor shall reasonably cooperate in the performance of such audits. The Contractor also will conduct regular internal monitoring and vulnerability assessments of the computers, computing environment, servers, and physical data centers that the Contractor uses to collect, process, maintain, or store FCPS' Confidential Information that includes Personally Identifiable Information regarding FCPS Users, and to hire a third party to conduct no less than annual security audits, which includes penetration testing. The Contractor shall review audit findings and will implement recommended security program changes and enhancements where practical and appropriate. The Contractor will provide FCPS, upon request, summary data of the above audits, scans, and tests. The Contractor will take reasonable measures, including maintaining audit trails, to protect Confidential Information against deterioration or degradation of data quality and authenticity.
- g. Data Security Breach
- 1) A "Data Security Breach" is any instance in which the Contractor has actual knowledge or a reasonable basis on which to suspect or conclude that there has been an unauthorized release or access of Confidential Information, regardless of whether the Contractor stores and manages data directly or through a contractor such as a third-party cloud computing vendor. A Data Security Breach may take various forms, including but not limited to: hackers gaining access to data through a malicious attack; lost, stolen, or temporarily misplaced data or equipment (e.g., mobile computing devices or portable memory devices); employee negligence (e.g., leaving a password list in a publicly-accessible location, technical staff misconfiguring a security service or device); or policy and/or system failure.

- 2) The Contractor shall notify the FCPS Project Contact immediately of any Data Security Breach or data loss, and inform FCPS (to the extent known) what data has been compromised, but in no event later than twenty-four (24) hours after the Contractor learns of the Data Security Breach or data loss. If the Contractor becomes aware of a Data Security Breach or data loss, it shall cooperate with FCPS regarding recovery, remediation, and the necessity to involve law enforcement, if any. The Contractor shall be responsible for performing an analysis to determine the cause of the Data Security Breach or data loss, and for producing a remediation plan in consultation with FCPS. FCPS and the Contractor agree to work together to determine an appropriate notification plan to any FCPS Users of the Contractor's deliverables, products and/or services regarding any such Data Security Breach or data loss. In addition, to the extent not prohibited, the Contractor agrees to notify FCPS of Data Security Breaches or data losses that affect its customers generally.
 - 3) In addition to any other remedies available to FCPS, at law or in equity, the Contractor will reimburse FCPS in full for all costs incurred by FCPS in investigating and remediating any Data Security Breach or data loss caused in whole or in part by the Contractor or its employees, agents, affiliates, or subcontractors. The Contractor shall use commercially reasonable efforts to mitigate any negative consequences caused to FCPS, or to a FCPS User, as the result of a Data Security Breach or data loss and to implement procedures to prevent the recurrence of a similar Data Security Breach or data loss.
 - 4) The Contractor shall provide notice to FCPS within twenty-four (24) hours of notice or service on the Contractor, whichever occurs first, of any lawsuits resulting from, or government investigations of, the Contractor's handling of Confidential Information, failure to follow security requirements, and/or failure to safeguard confidential information of any third party.
- h. Except as specifically set forth by FCPS in writing, or as required by federal, state, and county laws and regulations, the Contractor shall upon the termination or expiration of the Contract, upon cessation or dissolution of the Contractor's business operations, or upon request by FCPS:
- 1) Erase, destroy, permanently delete, and render unreadable all Confidential Information in its paper files, computers, computing environment, systems, equipment, servers, and physical data centers; or, upon FCPS' request to ensure the integrity of FCPS operations, transfer/migrate such Confidential Information to FCPS or its designated third party;
 - 2) Certify in writing that the actions set forth in this subsection have been completed on or before agreed-upon deadlines;
 - 3) Ensure that any transfer/migration uses facilities and methods that are compatible with the relevant systems of FCPS or its designated third party; and
 - 4) To the extent technologically possible, ensure that FCPS will have access to the Confidential Information during any transfer/migration.
- i. Nothing in this article shall supersede in any manner the Contractor's obligations or the obligations of its employees, agents, affiliates, or subcontractors pursuant to all federal, state, and county laws and regulations applicable to the Contract including but not limited to the requirements listed above, or the provisions of the Contract concerning the Contractor's obligations to FCPS.
- j. Violation of this article constitutes a breach of contract for which FCPS may terminate the Contract pursuant to Article 13, and/or pursue any other appropriate remedy. Notwithstanding anything in the Contract to the contrary, the provisions of this article shall survive the expiration or earlier

termination of the Contract.

37. PUBLIC INFORMATION ACT NOTICE

- a. Bidders should identify those portions of their solicitation, which they deem to be confidential, or to contain proprietary commercial information or trade secrets. Bidders should provide justification why such material, upon request, should not be disclosed by FCPS under the Public Information Act, Title 4, General Provisions Article, Annotated Code of Maryland.
- b. Unless portions of a solicitation are identified as confidential, all records are considered public. A person or governmental unit that wishes to inspect a public record, or receive copies of a public record, shall submit a written or electronic request and direct it to the Office of Legal Services per FCPS Regulation 200-42.

38. FORCE MAJEURE

Force Majeure is defined as an occurrence beyond the control of the affected party and not avoidable by reason of diligence. It includes the acts of nature, war, riots, strikes, fire, floods, epidemics, terrorism, or other similar occurrences. If either party is delayed by Force Majeure, said party shall provide written notification to the other within 48 hours. Delays shall cease as soon as practicable and written notification of same provided. The time of contract completion may be extended by contract modification, for a period of time equal to that delay caused under this condition. FCPS may also consider requests for price increase for raw materials that are directly attributable to the cause of delay. FCPS reserves the right to cancel the contract and/or purchase materials, equipment or services from the best available source during the time of Force Majeure, and the supplier shall have no recourse against FCPS. Further, except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract, if and to the extent that such party's performance of this contract is prevented by reason of Force Majeure as defined herein.

39. ETHICS POLICY

- a. The Board of Education of Frederick County has an Ethics Policy, which covers conflict of interest, financial disclosure and lobbying. All bidders are expected to comply with any and all Ethics Policies that may apply to them individually or as a business entity.
- b. All bidders should carefully review Board Policy 109, Ethics, which prohibits FCPS employees from benefiting from business with the school system.

40. NON-COLLUSION

- a. Bidder represents and certifies that prices for these services have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition or any matter related to such prices with any competitor or other bidder. Prices quoted in this bid have not been knowingly disclosed directly or indirectly to any competitor or other supplier prior to the opening of this bid.
- b. Bidder represents and certifies that it has not employed or retained any other company or person (other than a full-time bona fide employee working exclusively for the bidder) with the primary intent to solicit or secure the contract.

41. CONFLICT OF INTEREST

All suppliers interested in conducting business with Frederick County Public Schools (FCPS) must complete and return the Suppliers Conflict of Interest Disclosure Form included in the solicitation packet, in order to be eligible to be awarded a contract with FCPS.

42. SERVICE LEVEL AGREEMENT (SLA)

a. Definitions

1. A “Problem” is defined as any situation or issue reported via a help desk ticket that is related to the system operation that is not an enhancement request.
2. “Problem resolution time” is defined as the period of time from when the help desk ticket is opened to when it is resolved.
3. Monthly Charges: for purposes of SLA credit calculation, Monthly Charges are defined as the charges set forth under Fees, invoiced during the month of the breach for the monthly fixed services, or, in the event of annual billing, 1/12 of the annual invoice amount.

b. SLA Requirements

The Contractor shall:

1. Be responsible for complying with all performance measurements, and shall also ensure compliance by all subcontractors.
2. Meet the Problem response time and resolution requirements as defined in item 42 h.
3. Provide a monthly report to monitor and detail response times and resolution times.
4. Log Problems into the Contractor-supplied help desk software and assign an initial severity (Emergency, High, Medium or Low as defined in item 42 h).
5. Respond to and update all Problems, including recording when a Problem is resolved and its resolution. Appropriate personnel shall be notified when a Problem is resolved.
6. FCPS shall make the final determination regarding Problem severity.
7. Contractor shall review any Problem with FCPS to establish the remediation plan and relevant target dates.

c. SLA Effective Date (SLA Activation Date)

SLAs set forth herein shall be in effect beginning with the commencement of monthly services as of the effective date of the contract, unless a defined transition, or implementation, date is provided.

Beginning on the SLA Activation Date, for any performance measurement not met during the monthly reporting period, the SLA credit for that individual measurement shall be applied to the Monthly Charges.

d. Service Level Reporting

1. Contractor performance will be monitored by FCPS.

2. The Contractor shall provide detailed monthly reports evidencing the attained level for each SLA.
3. The Contractor shall provide a monthly summary report for SLA performance.
4. Monthly reports shall be delivered via e-mail to the Project Contact by the 15th of the following month.
5. If any of the performance measurements are not met during the monthly reporting period, the Contractor will be notified of the standard that is not in compliance.

e. SLA Service Credits

Time is an essential element of the Contract. For work that is not completed within the time(s) specified in the service level metrics in the Contract, the Contractor shall be liable for service credits in the amount(s) provided for in the Contract.

Service credits will be cumulative for each missed service requirement. FCPS, at its option for amount due as service credits, may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item. In the event of a catastrophic failure, all affected SLAs shall be credited to FCPS.

In no event shall the aggregate of all SLA credits paid to FCPS in any calendar month exceed 25% of any Monthly Charges.

Example: If Monthly Charges were \$100,000 and one SLA were missed, with an applicable 4% credit, the credit to the invoice would be \$4,000, and FCPS would pay a net Monthly Charge of \$96,000. If the charges for the contract were paid as an annual payment, FCPS will invoice the Contractor for the applicable amount.

The parties agree that any assessment of service credits shall be construed and treated by the parties not as imposing a penalty upon the Contractor, but as compensation to FCPS for the Contractor's failure to satisfy its service level obligations.

f. Root Cause Analysis

If the same SLA measurement yields an SLA credit more than once, the Contractor shall conduct a root cause analysis. Such root cause analysis shall be provided within 30 days of the second breach, and every breach thereafter.

In addition, for each 'Emergency' or 'High' priority Problem, the affected parties will perform a root cause analysis and institute a process of problem management to prevent recurrence of the issue.

g. Service Level Measurements Table (System performance)

The Contractor shall comply with the service level measurements in the following table:

No.	Service Requirement	Measurement	Service Level Agreement	SLA Credit
1	Problem Response Time - Emergency	Average Response Time for Emergency Priority Problems.	98% <15 minutes	1%
2	Problem Response Time – High	Average Response Time for High Priority Problems.	98% <30 minutes	1%
3	Problem Response Time - Normal	Average Response Time for Normal or Low Priority Problems	98% <4 hours	1%
4	Problem Resolution Time - Emergency	Resolution Time for each Emergency Priority Problem	98% <2 hours	1%
5	Problem Resolution Time - High	Resolution Time for each High Priority Problem	98% <4 hours	1%
6	Problem Resolution Time - Normal	Resolution Time for Normal Priority Problems	98% <24 hours	1%
7	Problem Resolution Time - Low	Resolution Time for Low Priority Problems	98% <72 hours	1%
8	Scheduled Downtime/ Maintenance	Scheduled maintenance and downtime shall only occur during non-business hours*. The Contractor shall provide 14 calendar days' notice prior to any scheduled downtime.	<6 hours each month	1%
9	Service Availability	All application functionality and accessibility shall be maintained at 99.5% uptime performance levels. Contractor shall minimize or eliminate unscheduled network downtime to .5% or less.	<99.5%	1%
10	Notification of Security Incident	Notification of a Security Incident within 24 hours of occurrence	<24 hours	1%
11	Security Incident Reporting	Security incident reporting requirement in 72 hours	<72 hours	1%

FCPS shall have the unilateral right to reallocate percentages among the various SLAs annually on the anniversary of the Contract, provided that such reallocation will not exceed the cap identified in item 42 e.

h. Problem Response Definitions and Times

The Contractor shall meet the Problem response time and resolution requirements.

The Contractor shall provide a monthly report to monitor and detail response times and resolution times.

Service Priority	Response Time	Resolution Time	Response Availability	Work Outage	Users Affected
Emergency	Less than 15 minutes	Within 2 hours of first report.	Mon-Fri, 6AM-5PM EST	The entirety, or essential portions, of the System are inaccessible Systems or users are unable to work, or to perform some portion of their job.	Users or internal System functionalities are impaired
High	Less than 30 minutes	Within 4 hours after first report.	Mon-Fri, 6AM-5PM EST	Major portions of the System are inaccessible Systems or users are unable to work, or to perform some portion of their job.	Affects the majority of users to include public facing users
Normal	Within 2 hours	Within 1 day (24 hours) after first report. If the outage is not resolved a resolution plan must be in place.	Mon-Fri, 6AM-5PM EST	Specific non-critical features are not operating as specified Systems or users are unable to perform a small portion of their job, but are able to complete most tasks.	Affects a number of users
Low	Within 4 hours	Within 3 days (72 hours) after first report. If the outage is not resolved a resolution plan must be in place.	Mon-Fri, 6AM-5PM EST	Lower priority features that can be done manually are not operating as specified Often a request for service with ample lead time.	Affects a number of users

43. SERVICE ORGANIZATION CONTROL (SOC) AUDIT REPORT

This section applies to the vendor, and any relevant subcontractor, who provides services for FCPS identified critical functions, handles Sensitive Data, and/or hosts any related, implemented system, for FCPS, under the Contract. For purposes of this section, "relevant subcontractor" includes any subcontractor that assists the vendor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the vendor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system

The vendor shall provide annually, at no cost to FCPS, evidence of compliant, and ongoing, internal control of sensitive data and processes through a standard methodology, such as, but without limitation, the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the vendor's internal controls.

If deficiencies in the vendor's internal control processes and procedures are described in the most recent version of the report, the vendor shall automatically submit the report to the Contract Manager, within a timely manner, and shall describe the corrective actions to be put into place by the vendor to remedy the deficiencies.

If the vendor fails, during the contract term to obtain an annual SOC 2 Report by the contract end date, FCPS shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and Processes utilized or provided by the vendor and under the Contract. The vendor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. FCPS will invoice the vendor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the vendor.

This section shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the content of this section, or the substance thereof, in all subcontracts.

44. FEDERAL CONTRACT AWARDS

In the event that federal funds are utilized for purchases under this contract, Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, will be applicable.

This document can be found at the end of Section I, General Terms and Conditions, as Attachment "A".

**ATTACHMENT A - APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL
ENTITY CONTRACTS UNDER FEDERAL AWARDS**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the

open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

FREDERICK COUNTY PUBLIC SCHOOLS (FCPS)
SPECIFIC TERMS AND CONDITIONS
SECTION II

1. SCOPE

- a. The scope of work is to excavate and backfill/repair site located at any property within the FCPS system as needs arise. The contractor will seed and sod as necessary to return the areas to their previous condition. Work and products shall, at all times, conform to the enclosed specifications, local, county, State (including MDE) and Federal (including EPA) codes and regulations.
- b. The contractor shall provide all labor, materials, equipment, supervision, and incidentals necessary to complete the project, as directed by the FCPS representative.
- c. If FCPS identifies one (1) driveway for entering and exiting the work site, all vehicles will be restricted to use of the designated driveway. If required, FCPS will pay the contractor, at the unit prices quoted, to return this driveway to its original condition upon completion of all other phases of the work. Damage done to other areas will be repaired by the contractor at their expense.
- d. FCPS staff will provide direction, but not on-site supervision, of the work being performed. FCPS will coordinate with the contractor the extent of the excavation, equipment, and materials required. The contractor is responsible to provide adequate supervision at all times and should include this cost in prices quoted.
- e. All equipment left unattended at the work site shall be rendered inoperable beyond simply removing the key; the contractor must also detach battery/spark plugs/cable, etc. to ensure that vandals cannot turn it on.
- f. The contractor will be responsible to contact “Miss Utility” for location of utilities prior to commencement of work.
- g. The contractor shall provide sufficient fencing to enclose the excavation area at all times. FCPS will pay the unit price for fencing to enclose work areas, as directed by the FCPS representative.
- h. The contractor shall, at all times, safely guard their own work, adjacent property, and FCPS property from damage, injury, or loss in connection with this contract. No vehicle, material, or equipment shall be stored on, or used in any fashion, that would result in damage to existing roads, walkways, or grounds.
- i. All instructions regarding this project are to come from the project manager or contract administrator, not from school-based staff.
- j. The contractor will not be required to perform any soil testing. If a large area is disturbed and sediment control is required, the contractor will be responsible and FCPS agrees to pay unit prices, per the contract.

2. CONTRACT PERIOD

- a. The contract shall be effective from date of award through November 30, 2025, with two, two-year renewal options available. Renewal of this contract will be invoked at the discretion of FCPS. Upon submission of the bid, the contractor consents to the possibility of contract renewal as a condition of award.

- b. No guarantee of any work is expressed or implied. Orders will be placed only as needs arise throughout the contract period.

3. PRICING

- a. All prices shall remain firm through the initial contract period.
- b. FCPS expects all vendors to provide year over year cost reductions recommendations.
- c. Price decreases are acceptable at any time, need not be verifiable, and are required should the contractor/producer/processor/manufacture experience a decrease in costs associated with the execution of the contract.
- d. Price adjustments from the contractor/producer/processor/manufacture for any/all items may be considered at renewal. The request is subject to approval by the Contracting Officer. The request must be submitted in writing at least 60 days prior to the renewal term and shall be accompanied by supporting documentation.
- e. Should the awarded vendor, at any time during the life of the contract, sell materials of similar quality to another customer, or advertise special discounts or sales, at a price below those quoted within the contract, the lowest discounted prices shall be offered to FCPS.

4. BIDS FOR ALL OR PART

A bidder may restrict their bid to be considered in the aggregate by so stating, but must submit a unit price on each item bid. Failure to provide unit prices may result in the bid being considered non-responsive.

5. PROPOSAL

- a. Prices are to be stated in terms of a cost per unit of labor and/or materials, as requested on the enclosed forms of proposal. The intent is for units to be combined to produce an order for products and services, which will result in a complete and finished project.
- b. Hourly rates are requested on the form for the contractor to utilize various types and sizes of equipment. Rates shall include qualified labor to operate the equipment, fuel, and maintenance, and transportation to and from the site, etc. Alternative types and sizes of equipment to be employed may be proposed, however, the equipment must meet, or exceed, the reach, brake-out force, and standard capacity of the equipment specified. The bidder may be required to provide, in writing, proof that the proposed equipment does in fact meet or exceed these equipment specifications. Alternative equipment will be considered if similar in function, capacity, and reach to the equipment specified. A determination of acceptability of specific alternate equipment will be rendered during the bid evaluation process.
- c. Pricing for units of work/materials, which are not specifically listed, will be accomplished on a time and materials basis, as quoted for "Other Materials" on the proposal form.
- d. Pricing for all materials is to include delivery to the site.
- e. Failure to bid every line item may render the bid incomplete/non-responsive.
- f. Each bidder is required to provide a list of subcontractors and their trades that may be used in the execution of this contract.

6. AUTHORIZED DEALERS

Only manufacturers, or their authorized dealers, may bid on equipment requested herein. At the discretion of the Board of Education of Frederick County a certificate, executed by the manufacturer, may be requested stating that the bidder is an authorized agent of the manufacturer and is duly authorized to service and maintain the equipment.

7. BONDS

Bid bonds are not required. On a case-by-case basis, at the discretion of the contract administrator and contract manager, FCPS may require a performance bond in the total amount of the project to be performed. If required, FCPS would reimburse the contractor up to 2% of the total amount to offset the contractor's cost to obtain the bond. An irrevocable letter of credit, also reimbursable, may be submitted in lieu of a performance bond.

8. PREPARATION OF PROPOSAL

- a. Due to possible changes and/or additions to the solicitation package, FCPS requests that bidders delay submission of their bid package until after the date of the pre-bid meeting or the date that questions are due to allow time for the possible issuance of an addendum. All changes will be processed through appropriate addenda.
- b. The Technical and Cost proposals will be submitted separately on-line via OpenGov Procurement (<https://procurement.opengov.com/portal/fcps>).
- c. Proposal:
 - i. The Proposal will include the following forms completed:
 - Signature Page
 - Statutory Affidavit and Non-Collusion Certification
 - Certification of Compliance
 - Current W-9
 - Vendor Conflict of Interest Disclosure Form
 - Proprietary Information Form
 - Questionnaire
 - Supporting documents
- d. Cost Proposal:
 - i. The Cost Proposal will include the following form(s) completed:
 - Form of Proposal
 - ii. No separate costs for travel, mileage, overhead or miscellaneous are acceptable. All costs are to be included in the hourly rates on the Cost Proposal.

9. EVALUATION CRITERIA AND AWARD

- a. Bids rank will be determined by a combination of methods, including weighted formula and previous project costing.

- b. The contract will be awarded to a Primary vendor and a Secondary vendor (if applicable) provided the award is in the best interest of Frederick County Public Schools. Vendors shall be awarded based on the evaluation of the data submitted with the bid. Respondents are advised to include any and all information needed to make a proper evaluation.

10. VENDOR PERFORMANCE EVALUATION

- a. The Contract Manager and Administrator shall confer periodically to discuss the status of the contract. Issues of noncompliance may arise throughout the contract term and shall be brought to the attention of the Contract Manager as they occur.
- b. The Contract Manager or Administrator may request multiple metrics, from the vendor, to evaluate contract performance. Metrics may include, but are not limited to:
 - i. Delivery
 - ii. Response time
 - iii. Backorders
 - iv. Quality of deliverables
 - v. Invoicing
 - vi. Sales data (Contract data, non-contract data)
 - vii. Financial
- c. Where technical, construction or performance specifications have been identified in the bidding document, the contract administrator shall utilize these specifications as the basis of determining contract compliance.
- d. If noncompliance occurs, it shall be documented in a timely manner, including actions taken and final resolution. Copies of the correspondence will be maintained in the Purchasing Department bid documents.
- e. Issues of noncompliance will be handled on a case by case basis. This may include, but is not limited to, written correspondence, face-to-face meetings, and/or an agreed upon performance management plan. FCPS retains the right to terminate the contract, in whole or in part, if the noncompliance issue is not resolved to the satisfaction of FCPS.

11. ORDERING PROCEDURE

- a. Individual purchase orders will be issued for each project. There is no minimum order for services. Equipment requested by FCPS will have a four (4) hour minimum charge. The minimum will not apply to equipment accessories installed, or removed, from equipment (Example: Skid loader is billed for the hours needed, a street broom accessory used for ½ will not incur a minimum charge as the total skid loader use exceeds the minimum. Similarly, no minimum for use of a buster or compactor when the track hoe use exceeds the minimum.)
- b. The contractor will be notified by that an “Order for Services” is requested. The contractor shall respond to the request within 48 hours, making an appointment to visit the work site with the contract administrator, or his authorized designee. The purpose of this meeting will be to establish the scope of work, and a schedule for beginning and completing the project. Pricing for units of labor, materials, or equipment which are not specifically listed herein will be subject to price review/discussion for price determination. The unit total of all lines, including any unspecified items, as reviewed for unit pricing determination, will be added together to establish an estimated total project cost.
- c. For a given project the appropriate units of labor and/or materials from this bid, and the estimated quantity of each, will be identified by the contractor in cooperation and consultation with the contract administrator. Pricing for units of labor, materials, or equipment, which are not specifically listed

herein, will be subject to price negotiation. The unit total of all lines, including negotiated items, will be added together to establish an estimated total project cost.

- d. The contractor shall call the contract administrator at least 24 hours in advance of starting work.
- e. The contractor is required, by state law and board policy, to report to the main office of the school building and register as a visitor to that building each day. Work shall be scheduled and coordinated so as not to interfere with school activities.
- f. Extensions may be granted if the delay in completing the project was not the fault of the contractor.

12. INSPECTION/PAYMENT PROCEDURE

- a. Payment will be authorized for 100% of the purchase order total after inspection and approval of the work by the contract administrator or designee. Depending upon the total project cost, these payment terms may be modified, in writing, on the purchase order to allow for partial payments.
- b. The contractor and the contract administrator will jointly inspect the completed work. The contract administrator will note any problems or unfinished tasks.
- c. The contractor and the contract administrator will review original estimates of materials and/or labor, as appear on the purchase order, prior to authorizing final payment. Changes shall be made either directly on a copy of the purchase order, or in other format, in the presence of, and in consultation with, the contractor, who shall receive a copy of the changes in writing.
- d. The contractor shall submit the approved receiving report, with a copy of the invoice, which should match the adjusted PO total, to the Facilities Manager, 191 S. East Street, Frederick, MD 21701 for final approval. Original invoices will be sent to the Finance department.

13. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

FCPS requires insurance certificates evidencing the compliance of insurance requirements at least ten calendar days after receipt of the Notice of Award. The vendor will not commence work until a notice to proceed letter, or purchase order, is issued, nor will the vendor allow any subcontractor to commence work on their subcontract until the insurance required of the subcontractor has been obtained and approved.

a. Worker's Compensation

The vendor will procure and maintain, during the life of the contract, Worker's Compensation Insurance, as required by applicable State laws. In the case of sublet work, the vendor will require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the vendor's Worker's Compensation Insurance.

b. Employers' Liability Insurance

The vendor will procure and maintain, during the life of the contract, Employers' Liability Insurance in the following amounts:

E.L. Each Accident	\$100,000.00
E.L. Disease - Each Employee	\$100,000.00
E.L. Disease - Policy Limit	\$500,000.00 each employee

The vendor will require any subcontractor to procure and maintain Employer's Liability Insurance during the life of the contract. It will be the responsibility of the vendor to ensure that all subcontractors comply with this provision, and the vendor will indemnify, and hold harmless, the

Board of Education of Frederick County for the failure of the vendor, or any subcontractor, to comply with these provisions.

c. Commercial General Liability Insurance

The vendor will procure and maintain, during the life of the contract, Commercial General Liability Insurance including premises and operations, completed operations and products, on a per occurrence basis, with at least the following limits:

General Aggregate	\$2,000,000 per project
Products-Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000 each occurrence
Each Occurrence	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000 any one person

The "X, C, U" Coverage for explosion, collapse, and underground property damage shall not be excluded from the policy.

Completed operations liability coverage shall be in force for one year after completion of work.

d. Scope of Insurance and Special Hazards

The insurance required in C. and E. will provide adequate protection for the vendor and subcontractors, respectively, against damage claims which may arise from operations under the contract, whether such operations be by the insured or by anyone directly or indirectly employed by them and, also against any of the special hazards which may be encountered in the performance of this contract as enumerated in C. above. Insurance coverage required under C. above shall specifically include property damage caused by conditions otherwise subject to exclusions "X, C, U" (Explosion, Collapse or Underground Damage) as defined by the National Bureau of Casualty Underwriters. Exceptions: contracts that do not require excavation or underground work are not required to have the above "X, C, U" coverage.

e. Comprehensive Automobile Liability

The vendor shall maintain Comprehensive Automobile Liability Insurance including all automotive equipment owned, non-owned and hired, operated, rented, or leased. Minimum limits of Automobile Liability Insurance shall be:

Bodily Injury	\$1,000,000 per person/\$1,000,000 accident
Property Damage	\$1,000,000 each occurrence, or
Combined Single Limit Bodily Injury and Property Damage Liability	\$1,000,000

f. Subcontractor's Insurance

The vendor will either:

- i. Require each of their subcontractors to procure and maintain, during the life of the subcontracts, Liability Insurance of the type and in the same amounts as specified above; or
- ii. Insure the activities of the subcontractors in their own policies. It will be the responsibility of the vendor to insure that all subcontractors comply with this provision, and the vendor will indemnify and hold harmless the Board of Education of Frederick County for the failure of the vendor, or any subcontractor, to comply with these provisions.

g. Builder's Insurance

FCPS shall provide and maintain Builder's Risk Protection.

h. Proof of Carriage of Insurance

The vendor will furnish FCPS with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates also shall contain substantially the following statement: "The insurance covered by this certificate will not be cancelled or materially altered, except after thirty days written notice has been received by FCPS."

i. Additional Insured

The Owner, Board of Education of Frederick County, the Frederick County Government, and other entities stipulated by the Owner, shall be named as additional insured on all vendor's policies, other than Worker's Compensation Insurance policy. The vendor's insurance will be primary and non-contributory to any insurance carried by the Board of Education of Frederick County or other entity. Waiver of subrogation applies to above policies in favor of the certificate holder. Insurance providers must have an AM Best Company rating of at least A-/VIII.

14. SURVEYS AND PERMITS

- a. The Board shall furnish all surveys unless otherwise specified.
- b. Permits and licenses necessary for the execution of the work will be secured and paid for by the vendor.

15. LOCAL LICENSING OF TRADE PERSONS

All trade persons performing work under this contract as a general contractor or a subcontractor must be licensed in accordance with the requirements of the local subdivision and State. Any cost incurred as a result of this licensing requirement shall be borne by the vendor.

16. INSPECTION OF SITE

- a. All visitors must report to and register in the main office. Each bidder should visit the site and become informed fully as to the condition under which the work is to be done. Failure to do so will not relieve a successful bidder of their obligation to supply all material and labor necessary to carry out the provisions of the contract documents at the price(s) bid.
- b. The bidder will perform field measurements, if applicable, and FCPS assumes no responsibility for errors in measurements. The bidder will be responsible for any costs associated as a result of an error in their measurements.
- c. Site visits will not be made after regular working hours, on Sundays, school holidays, or legal holidays, unless previously agreed to by the Contract Administrator.

17. SHOP DRAWINGS

The vendor will verify all field measurements and will submit shop drawings and schedules, as required, for the work of various trades. FCPS shall review these documents only for conformance with the design concept of the project and compliance with the information given in the contract documents. The vendor will make any corrections required by FCPS, file with them two corrected copies and furnish such other copies as may be needed. FCPS' review of such documents shall not relieve the vendor of the responsibility for deviations from drawings or specifications, unless they have called FCPS' attention to such deviations, in writing, at the time of submission, and secured their written approval.

18. USE OF FCPS SERVICES AND FACILITIES

- a. It is understood that, except as otherwise stated in the contract documents, the vendor will provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction and all other services and facilities of every nature necessary to execute, complete and deliver the work within the specified time.
- b. Any work necessary to be performed after regular working hours, on Sundays or legal holidays, will be performed with the approval of and without additional expense to FCPS, unless previously agreed to.

19. PROVISION OF PORTABLE SANITATION AND REMOVAL OF DEBRIS

- a. Vendors are responsible for removal of trash and debris and will confine their apparatus, materials, supplies, and equipment in such orderly fashion at the work site so that it will not unduly interfere with the progress of the work of any other vendor.
- b. It will be the vendor's responsibility to provide portable sanitation facilities on the work site and secure Health Department or local subdivision approval, when required.
- c. They will not interfere with FCPS personnel or students in the performance of this contract. FCPS reserves first right of salvage on all materials removed from FCPS facilities and no salvage values should be assumed in bidding on the project unless so stated in the specifications. Vendors will pay all disposal fees and can recuperate them only by including them in their bid pricing.
- d. At the completion of the work, and before final payment is made, vendors will remove all rubbish and debris and will leave the work site clean, including site restoration. Vendors will remove all tools, scaffolding and surplus materials from and about the building. In case of dispute, FCPS may remove the rubbish and/or repair property and charge such costs to the vendor.

20. PROTECTION OF WORK AND PROPERTY

- a. The vendor will be solely responsible for initiating, maintaining and supervising all safety precautions and programs in the performance of this contract and will be responsible for observing the safety regulations of MOSHA, OSHA, and local life safety agencies.
- b. The vendor will erect and maintain, as required by conditions and progress of the work, all necessary safeguards for safety and protection, including fences, railing, barricades, lighting, posting of danger signs and other warnings against hazards.
- c. The vendor will comply with applicable laws, ordinances, regulations and orders of governing authorities having jurisdiction for the safety of persons and property to protect them from damage, injury or loss. Any damage, loss or injury resulting from the failure of the vendor to safe guard their work and FCPS property will be borne by the vendor.
- d. In the case of inclement weather, or an emergency that threatens the loss or damage of property or life safety, the vendor will be allowed to act in a diligent manner without instructions from FCPS. The vendor will notify the Contract Administrator of their actions as soon as possible. Any claim for compensation by the vendor due to such extra work will be submitted promptly to FCPS for approval.

21. WORK SITE SUPERVISION

- a. The awarded vendor will provide full time onsite supervision, by a construction superintendent or foreman, who will have full authority to act on behalf of the vendor. The onsite superintendent or foreman will not be changed except with the written consent of the Contract Administrator. The superintendent will represent the vendor in their absence and all directions/instructions given to

them will be as binding as if given to the vendor. FCPS shall not be responsible for the acts or omissions of the superintendent or foreman.

- b. The vendor will immediately report to the Contract Administrator any error, inconsistency or omission which they discover. The vendor will not be liable to FCPS for damages resulting from any errors or deficiencies in the contract documents or other instructions given by FCPS.

22. INSPECTIONS AND CORRECTION OF WORK

- a. All work, all materials, whether incorporated into the work or not, all processes of manufacture, and all methods of construction will be, at all times and places, subject to the inspection of FCPS, whose representatives shall be the final judge of the quality and suitability. Should these fail to meet this approval they will be forthwith reconstructed, made good, replaced and/or covered, as the case may be, by the vendor at their own expense. Rejected material will be removed immediately from the site. If, in the opinion of FCPS, it is undesirable to replace any defective or damaged materials, or to reconstruct or correct any portion of the work, the compensation to be paid to the vendor shall be reduced by such amount as in the judgment of FCPS shall be equitable.
- b. If the specifications, laws, ordinances, or any public authority require any work to be specially tested or approved, the vendor will give FCPS timely notice of its readiness for observations. If the inspection is by another authority, the vendor will notify FCPS of the date fixed for such inspection and shall use the required Certificate of Inspection.
- c. FCPS may order re-examination of questioned work and, if so ordered, the vendor must uncover the work at their expense. If such work is found not to be in accordance with the contract documents, the vendor will pay all costs to correct the work, to the satisfaction of FCPS. If another vendor employed by FCPS caused the defect in the work, FCPS shall pay such cost and recover the charges from the other vendor.

23. DAMAGES/RESPONSIBILITIES FOR ITEMS TENDERED

- a. The vendors will be held responsible for and shall be required to make good, at their own expense, any or all damages done or caused by them or their workers in the execution of the contract.
- b. The vendors will be responsible for the items covered by this contract until they are delivered and/or installed/assembled at the designated place of delivery.

24. CHANGES IN WORK

- a. No changes in the work covered by the approved contract documents will be made without having prior written approval of FCPS. The contract sum may be adjusted according to the approved changes. Consent of the Surety may be required.
- b. Charges or credits for the work covered by the approved change will be determined by one or more of the following methods:
 - i. Unit bid prices
 - ii. Lump sum
 - iii. Time and materials

In the event the vendor is directed to proceed with extra work, on a time and material basis, an itemized proposal shall be submitted including material and rental invoices and/or any other backup as requested by FCPS.

- c. A fixed fee may be negotiated, and must be agreed upon and added to the costs listed above. The

fee will be compensation to cover the cost of supervision, overhead, surety, profit, and any other general expenses.

- d. If unit prices are stated in the contract documents, or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed change order or construction change directive, that application of such unit prices to quantities of work proposed will cause substantial inequity to the Owner or Contractor, applicable unit prices shall be equitably adjusted.

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER
MAINTENANCE

SECTION 02200
EARTHWORK

PART 1 - GENERAL

1.1 WORK INCLUDED:

- A. Furnish materials and products required for the Work.
- B. Provide all supervision, perform excavation, filling, and grading.
- C. Perform classified excavation, embankment, backfilling, and compaction.

1.2 RELATED WORK SPECIFIED ELSEWHERE: N/A

1.3 DESIGN CRITERIA:

- A. Furnish and install bracing, shoring and support or excavation as required for the protection of side walls from caving. Sheet, shore, and brace with timber, steel prefabricated devices or a combination thereof.
- B. Classification of Excavation:
 - 1. Frederick County Public Schools will pay unit prices provided by the selected contractor in the contract documents only for extra work related to rock excavation, excavation of unsuitable material, and backfill of undercut areas.

1.4 SUBMITTALS:

- A. Certified copies of supplier's certifications that common and structural fill, porous fill, and aggregates comply with codes and reference standards cited for each.

1.5 JOB CONDITIONS:

- A. Prior to excavation, verify all utility locations by contacting MISS UTILITY. Proceed only as directed.

Current contact number is (800) 257-7777. Furnish ADC Map Numbers for limits of construction for their use.

- B. Furnish and install fences, barricades, traffic control devices, and hazard identification devices as required to protect persons and property on the job site.
- C. Observe all temporary controls over hours of work, site access or egress, sequencing and scheduling of work, and environmental conditions imposed by the Jurisdictional Authorities.

PART 2

2.1 GENERAL:

- A. Furnish all supervision, materials and products, required in the performance of the work, that conform to the applicable requirements and reference standards set forth below.

2.2 MATERIALS:

- A. GENERAL:
Furnish suitable on-site and/or off-site soils or materials as specified. Materials shall not contain any frost, ice, more than 1% organic matter by weight, construction or industrial debris, sewage, or odoriferous and hazardous wastes.

2.3 SUPPORT OF EXCAVATION:

- A. Sheet Piling: Steel, continuously interlocking type conforming to ASTM A328.
- B. Steel Plate and Sheet: Conforming to ASTM A570, 36-ski yield strength.
- C. Timber: Structural, street-grade in accordance with ASTM D2555, with minimum allowable flexural strength of 1,100 psi. Any species bearing a grade stamp approved or authorized by the American Lumber Standards Committee.
- D. Trench Shields and Boxes: Fabricated from steel shapes, sheet, and plate and designed specifically as support of excavation in compliance with pertinent MOSHA requirements.

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SECTION 02200

EARTHWORK (Continued)

- E. Clarification – Vertical support of excavations will be compensated on the cost plus for excavations other than trench box. Contractor **remains** responsible for piping trench support excavations. This “vertical support of excavation” is modified through the bid specifications.

PART 3 - EXECUTION

3.1 GENERAL:

- A. Coordinate the work with prior and subsequent work, including but not limited to RELATED WORK SPECIFIED ELSEWHERE.
- B. Contact MISS UTILITY and identify existing site utilities prior to excavation. Notify individual utilities two (2) working days prior to commencement of work, and proceed as they direct.
- C. Locate and mark all verified utility locations. Hand excavate when work approaches marked locations, to prevent accidental damage.
- D. Where horizontal or vertical utility locations are not as shown or indicated, or uncharted utilities are discovered, immediately notify the FCPS Inspector. Stop construction operations within immediate area of uncharted utilities. Provide details of actual utility locations. Proceed only as directed.
- E. provide all supervision performing unclassified grading, excavation, and backfill as generally indicated to promote approved drainage and to prevent ponding, excessive sedimentation, and soil erosion after final surface stabilization. Perform classified excavation as specified for each type of earthwork to be performed.

3.2 PREPARATION:

- A. Furnish and install sheeting, shoring, and bracing required for the protection of personnel, excavations, existing surface and subsurface structures that may be adversely affected by the work.
 - 1. Use approved steel, timber, or a combination of both for site installed support of excavation.
 - 2. The use of properly designed, prefabricated, steel trench shields and box-type support systems is permitted, with prior approval.

3.3 EXCAVATION:

- A. Perform excavation to grades, lines, slopes, and elevations shown or indicated. Where deficient subgrade is encountered, immediately notify the FCPS Inspector and proceed as directed.
- B. Stockpile excavated material suitable for on-site borrow fill in an approved location, and stabilize temporarily to prevent erosion and runoff.
- C. Dispose of unsuitable, excavated material off-site at an approved location.
- D. Clean out loose materials and leave bottom of excavation for foundation level and ready to receive.

3.4 EMBANKMENT AND FILL:

- A. Fill which is placed in sloping areas shall be benched or notched into original ground a minimum of three (3) feet horizontally and eight (8) inches deep.
- B. Place fill only on dry, prepared, inspected, and approved subgrades.
- C. Unless otherwise shown or specified, place fill in loose, maximum eight-inch lifts for material compacted with heavy equipment and four-inch maximum loose lifts for hand operated tampers or other light compaction equipment. Compact as to achieve final elevations shown or indicated.
- D. Moisture Control:
 - 1. Material, which is too wet to obtain proper compaction, shall be dried by aeration facilitated by discing and harrowing until the proper moisture content is achieved.

2. Material, which is too dry to obtain proper compaction, shall be moistened by
SECTION 02200
EARTH WORKS (Continued)

sprinkling water uniformly over the soil and mixing until the proper moisture content is achieved.

- E. Compaction of Fill: Place only approved fill as shown or specified, compacted to the minimum percentages of the maximum dry density indicated as determined by the Modified Proctor test (AASHTO-T180) and Standard Proctor test (AASHTO-T-99) and as follows:
1. Suitable fill materials shall be placed and compacted to not less than 95 percent of the maximum dry density.
 2. Place porous fill, granular bedding, and fine fill at location shown or indicated. Compact or tamp to meet requirements of work under other Sections, as shown, as specified, or as directed.
 3. Place filter fabric as shown and so as not to create slip-planes at berms and slopes.
 4. At the end of each work day, slope fill pad, seal with a smooth drum roller, and provide positive drainage.

3.5 **BACKFILL:**

- A. Backfill excavations promptly as work proceeds. Do not cover uninspected or disapproved work of other Sections.
- B. Place fill only on dry, prepared, inspected, and approved subgrades.
- C. Unless otherwise shown or specified, place backfill as specified under EMBANKMENT AND FILL.
- D. Moisture Control: Maintain moisture content of fill material as specified in Section 02200, Subsection 3.5.D.
- E. Compaction of Fill: Place only approved fill as shown or specified, compacted to the minimum percentages of the maximum dry density indicated and as follows:
- F. Place porous fill, granular bedding, and fine fill at locations shown or indicated. Compact or tamp to meet requirements of work under other Sections, as shown, as specified, or as directed.
- G. Place filter fabric as shown and to meet requirements of work under other Sections.
- H. When backfilling adjacent to structures, place fill to impose equal loads on both sides of structure and to prevent damage from wedging action of fill.

3.6 **FIELD QUALITY ASSURANCE:**

- A. Maintain all paved access roads in clean, mud and dust free condition during earthwork and subsequent construction operations. Clean trucks and equipment, removing mud and debris, prior to entering roads and parking areas, or public rights of way.
- B. Maintain site in broom-clean condition, free of trash and debris during the work.
- C. Remedy deficient or disapproved work as directed, at no increase to the Contract Sum.

END OF SECTION

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER
MAINTENANCE

SECTION 02270
SOIL EROSION AND SEDIMENT CONTROL

PART I - GENERAL

1.1 WORK INCLUDED:

- A. Establish and maintain temporary soil erosion and sediment control measures, prior to commencement of work.
- B. Definitions:
 - 1. Temporary soil stabilization: Application of, and anchoring of mulch, or planting of stabilizing vegetation to protect and stabilize otherwise unprotected soil.
 - 2. Erosion and sediment control: Installation of temporary barriers to soil erosion, and sedimentation of protected wetlands, watersheds, and tributaries of interstate waterways.

1.2 RELATED WORK SPECIFIED ELSEWHERE:

Including, but not limited to the following:

- A. Section 02200: Earthwork.
- B. Section 02485: Seeding and Sodding. – Note: Sod is not a contract requirement.

Sod

will be paid utilizing the cost **plus** bid line item when the contract administrator requests the use of sod, this sod modification is consistent throughout the bid specifications.

1.3 REFERENCE STANDARDS:

- A. MD SESC: 1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control
- B. MDOT STDS: Maryland State Highway Administration, Department of Transportation, Standard Specifications for Construction and Materials, October 1993

1.4 QUALITY ASSURANCE:

- A. Have work performed under the direct supervision of a contractor qualified by the Maryland Department of the Environment (MDE).

PART 2 - PRODUCTS

2.1 GENERAL:

- A. Materials and products required in the performance of the work shall conform to the applicable requirements and reference standards set forth below. Use materials or products of each type, from a single manufacturer or supplier, insofar as possible.

2.2 MATERIALS:

- A. Silt Fence: Conforming to Category I, Page 12.01, MD SESC
- B. Stabilized Construction Entrance: Conforming to Category I, Page 14.0, MD SESC
- C. Earth Dike: Conforming to Category I, Page 10.01, MD SESC
- D. Straw Bale Dike:
 - 1. Baled Straw or Hay: Fresh, less than 1 year old and bound with weather resistant baling twine. Normal Size of 14-by-18-by-36 inches.
 - 2. Placement Stakes: Concrete reinforcing bar, 36 inch in length, #4.
- E. Rip Rap Sediment Trap (ST-VI):
 - 1. Conforming to Category I
 - 2. Filter Fabric
- F. Rip Rap and Aggregate: Conforming to Section 901, MDOT STDS
- G. Temporary Seeding: Conforming to Category III, Page 50.01, MD SESC
- H. Permanent Seeding: Section 02485

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- I. Mulching: Conforming to Category III, Page 52.01, MD SESC

SECTION 02270

SOIL EROSION AND SEDIMENT CONTROL (Continued)

PART 3 - EXECUTION

3.1 COORDINATION:

- A. Provide all supervision and perform all work in accordance with the MD SESC.
- B. Construct soil erosion and sediment control devices and structures at locations shown, as required or directed, and at appropriate times indicated in the Sequence of Construction. Maintain in properly graded condition, clear of excessive sediment, and in good repair until removal or final acceptance.

3.2 INSTALLATION:

In accordance with SESC MAN, and as follows:

A. Silt Barrier Fences:

- 1. Construct silt fences at locations shown or indicated. Maintain in good repair the for the full period of work. Re-erect fences destroyed or damaged in interim, within 24 hours.
- 2. Excavate six-inch by six-inch wide trench long “up stream” side of fence. Set posts plumb not more than ten feet on center. Drive to 16 inches penetration. Install silt-fence fabric taut on wire or staples. Place filter cloth on fence fabric with bottom edge at bottom of trench. Fasten filter cloth to fabric with wire ties at top and mid-height of fence at 24-inch centers along fence. Backfill trench and compact.

B. Stabilized Construction Entrances:

- 1. After excavation, place an anchor geotextile specified prior to placing coarse aggregate for stabilization.
- 2. Minimum width 20', minimum length 50'.

C. Straw Bale Dikes:

- 1. After excavation, place baled straw or hay specified with bailing-ties exposed all four sides, as shown. Wedge bales tightly together to control leakage after installation is complete.
- 2. Stake each bale in place with two concrete reinforcing-bar stakes specified. Drive stakes flush with tops of bales, with first stake angled toward last bale installed. Furnish stakes of a length to provide a minimum 12-inch embedment in earth.

D. Soil Stabilization:

1. General:

- a. Provide controls required to prevent runoff of soil, sediment and debris onto adjacent and downstream properties, prior to and during work under this Contract.
- b. Following initial soil disturbance or redistribution, perform permanent or temporary stabilization of all dikes, swales, ditches, and all slopes greater than three horizontal to one vertical (3:1) within seven (7) calendar days. Complete stabilization of all other disturbed or graded areas on the project site within fourteen (14) calendar days.
- c. Temporarily stabilize the following, within fourteen (14) calendar days after completion of initial earthwork operations:
 - 1. Topsoil stockpiles
 - 2. Earth stockpiles
 - 3. Control Diversions
- d. Temporarily stabilize soil by seeding and mulching, immediately upon completion of grading operations, when no final seeding date is applicable.

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SECTION 02270
SOIL EROSION AND SEDIMENT CONTROL (Continued)

2. Seeding: Seed areas to be temporarily stabilized, using annual-ryegrass seed specified. Soil amendments are not required for temporary stabilization of a single growing season.
 - E. Permanent Stabilization: Immediately stabilize completed unpaved areas and backfilled utility trenches as specified in Section 02485.
- 3.3 CLEANING AND PROTECTION:
- A. General:
 1. Maintain soil erosion and sediment controls until project completion date, until final acceptance by the Owner, at no increase to Contract Sum.
 2. Inspect and remove silt and debris accumulation from the stabilized construction entrances, silt fences, stone outlet structures, and sediment trap at regular intervals, as specified.
 - B. Stabilized Construction Entrance: Remove and replace gravel aprons or provide additional gravel top dressing, as directed.
 - C. Silt Fences:
 1. Inspect immediately after each rain and daily during prolonged rainfall.
 2. Remove and replace damaged filter cloth and fence.
 - D. Rock Barriers, Seeding, and Mulch:
 1. Inspect immediately after each rain and daily during prolonged rainfall.
 2. Repair/replace any washout before resuming construction operations.
 3. Replace filter fabric when it becomes damaged and rebuild protection as necessary to maintain erosion and sediment control.
- 3.4 REMOVAL AND FINAL CLEANING:
- A. Do not remove sediment controls before unpaved areas are stabilized with a full stand of permanent vegetation.
 - B. Clean improvements and facilities damaged by bituminous mulch binder over-spray or hydraulic seeding over-spray, as directed.
 - C. Remove temporary stabilization devices and materials at final acceptance or as directed. Dispose of at approved, off-site locations.

END OF SECTION

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER
MAINTENANCE

SECTION 02485
SEEDING AND SODDING

PART I - GENERAL

1.1 WORK INCLUDED:

- A. Qualify planting or laying surfaces and remedy as required, specified or directed.
- B. Furnish and place sod or plant seed, with all equipment, accessories, amendments, and protection specified, shown or indicated.
- C. Maintain seeded or sodded areas from date of approval through the end of the warranty maintenance period.
- D. Definitions:
 - 1. COMAR: Annotated Code of Maryland

1.2 RELATED WORK SPECIFIED ELSEWHERE

Including, but not limited to, the following:

- A. Section 02220: Earthwork.
- B. Section 02270: Erosion and Sediment Control.

1.3 REFERENCES:

- A. AASHTO M140: Emulsified Asphalt.
- B. AASHTO M208: Cationic Emulsified Asphalt.
- C. ASPA-01: Guideline Specifications for Sodding.
- D. STM C51: Terms Relating to Lime and Limestone
- E. ASTM C602: Agricultural Liming Materials
- F. ASTM D1557: Moisture Density Relationship of Soils and Soil-Aggregate Mixtures Using a Ten-Pound Rammer and 19-Inch Drop.
- G. ASTM D2488: Description of Soils (Visual-Manual Procedure)
- H. COMAR: Seed Law, Article 48, Sections 149-156.
- I. Maryland: Standard Method of Procedure for Seed Quality Control (Certified, referring to Seed).
- J. MSA: Guidelines, Specifications (Maryland Seeding Association)
- K. UM-AM#77: Turf Grass Cultivar Recommendations for Maryland (Agronomy Mumeo #77, University of Maryland).
- L. USDA/SCS: U.S. Department of Agriculture, Soil Conservation Service: Federal Seed Act.

1.4 SUBMITTALS

In accordance with section 01300, 01700, and as follows:

- A. Certification:
 - 1. Limestone: Type, percentages of calcium and magnesium carbonates or oxides, and sieve analysis.
 - 2. Fertilizer: Type, actual percentages, and ratios of available nitrogen-phosphorus-potassium, and whether slow or quick release.
 - 3. Seed: Mix percent by weight of cultivar(s), minimum percent purity and germination, maximum percent noxious inclusions, test date, and affidavit that seed is not from a quarantined location.
 - 4. Sod: Mix percent by unit density of cultivar(s), maximum percent noxious inclusions, analysis or test date, and affidavit that sod is not from a quarantined location.

SECTION 02485

SEEDING AND SODDING (Continued)

5. Topsoil: Report by a USDA/SCS recommended soil testing laboratory, with results of testing for type in accordance with products specified.
 - B. Samples: Certified container label or physical sample of contents for testing quantities as directed.
 - C. Schedules: Proposed commencement and completion dates, materials to be placed or applied, and methods or procedures to be used.
 - D. Test Reports: Certified copies of results of all testing performed by an approved, independent testing agency.
 - E. Safety Data: Material Safety Data Sheets (MSDS) for each amendment, herbicide or other chemical product to be used in the Work.
- 1.5 QUALITY ASSURANCE:
- A. Seed: Furnish seed and seed mixes certified as to composition, germination, and noxious inclusions when tested in accordance with Maryland Procedure for Seed Quality Control.
 - B. Topsoil: Furnish soil, certified as to noxious inclusions, organic content, and composition in accordance with Maryland Standard Hydrometer Test. Cost and testing of top soil will be completed by FCPS third party testing contract.
 - C. Landscaping Contractor: FCPS will directly employ or pay a cost plus when the contract administrator requests a licensed landscaping contractor. A landscaping firm licensed by the State of Maryland, regularly engaged in seeding, sodding and landscaping operations for not less than five years prior to commencement of work.
 - D. Acceptance Testing: Have all seed, agronomic materials, and supplies inspected and/or sampled at the jobsite, by the Architect or Owner's Representative, prior to incorporation in the Work. Promptly remove all rejected products from the job site, and replace at no increase to the Contract Sum.
- 1.6 TESTING AND INSPECTION:
By FCPS, When Applicable
- 1.7 DELIVERY, STORAGE AND HANDLING:
- A. Packaging: Furnish products at the job site in manufacturer or suppliers original, unopened packaging with water resistant labels identifying contents affixed.
 - B. Labeling: Deliver seed and amendments to the jobsite with weather-resistant tags, labels and certifications permanently affixed to packaging or containers.
 - C. Seed and Amendments: Store seed and amendments only in an approved, cool, dry, well-ventilated location, on raised sleepers or skids, and protected by water-proof materials until incorporated in the Work.
 - D. Bulk Materials: Store so as to prevent contamination or leaching and maintain segregation by type or gradation.
- 1.8 JOB CONDITIONS:
In accordance with Section 01010, 01500, 01039 and as follows:
- A. Planting periods: Seed or place sod during the following periods and in accordance with dates specified for each:
 - (1) Period #1: March 1st - May 15th
 - (2) Period #2: May 16th - July 30th
 - (3) Period #3: September 1st - November 15th
 - (4) Period #4: November 16th - February 28th
 - B. Unless otherwise directed, lay sod only during Period #3 and Period #4 and when the ground is not frozen nor predicted to freeze for 30-days.
 - C. Unless otherwise directed, seed playing fields three times; once during Period #3,

SECTION 02485

SEEDING AND SODDING (Continued)

once during Period #1, and once again during Period #3, and so as to produce a minimum

of two growth seasons prior to time facilities are to be used.

- D. Perform mulching and hydro-seeding only when wind conditions permit uniform application of mixtures over entire planting area.
- E. Assure that an adequate supply of water is available during the period immediately following seeding or sodding, so as to maintain planting bed at moisture levels specified for each.

1.9 WARRANTIES:

- A. On completion of work and specified maintenance period, furnish written, properly executed, several or joint warranty for not less than one year from date of final acceptance. Warranty may exclude damage to seeded areas caused by improper Owner maintenance, vandalism, work of other contracts, animals, or "act of God" which take place after final inspection and approval.
- B. During the work, and for one year after date of final approval, remedy seeded or sodded areas as specified. Replace damaged or deficient seeded areas and sod as for original work, at no increase to the Contract Sum.

PART 2 - PRODUCTS

2.1 GENERAL:

- A. Furnish materials and products, required in the performance of the work, that conform to the applicable requirements and reference standards set forth below. Products by specific manufacturers are specified as a standard of quality and performance, to be further evaluated by the Contractor.
- B. Submit alternates and equals for approval, after evaluation for compliance with Contract requirements.

2.2 ACCEPTABLE MANUFACTURER(S):

Evaluate materials or products of the following, for compliance with project Contract, code, reference-standard, and performance requirements:

- A. ConWed Corp. (Conwee), Minneapolis, MN
- B. Elanco Products Co. (Elanco), Indianapolis, IN
- C. Grass Growers, Plainfield, NJ
- D. Gulf States Paper Corp. (Gulf States), Tuscaloosa, AL
- E. Monsanto Agricultural Products Co. (Monsanto), Wilmington, DE
- F. P.B.I. Gordon Corp. (Gordon), Kansas City, KS
- G. W.A. Cleary Co. (Clearly), Somerset, NJ.

2.3 MATERIALS:

- A. Topsoil: Topsoil shall be the existing surface soil stripped to the depth determined by the FCPS Inspector. Topsoil shall be free of foreign and objectionable matter and objects larger than two (2) inches (1 inch in playing fields) in any dimension. Topsoil for use within the last six (6) inches of soccer playing field shall be screened of objects larger than one (1) inch. Topsoil shall be stockpiled on site and amended by the addition of pH adjusters and soil conditioners at a rate based on soil analysis recommendations.
 - 1. Wherever possible, obtain topsoil from jobsite stockpiles established during site clearing operations, and approved by the FCPS Inspector.
 - 2. If topsoil is not available from stockpiles, furnish from off-site source(s) approved by the FCPS Inspector at no increase to the Contract Sum.
- B. Limestone: Agricultural or dolomitic, defined according to ASTM C151 and conforming to ASTM C602, with 95-percent passing a No. 8 sieve and 40-percent passing a No. 60 sieve.
- C. Fertilizer: Approved commercial product, minimum 5-10-5 analysis (soluble nitrogen-

SECTION 02485

SEEDING AND SODDING (Continued)

P205 phosphorus-K20 potassium), release-rate appropriate to application specified. Furnish slow-release products in polymer-coated granular form.

- D. Seed: Dated, Maryland or Virginia Interagency Certified Seed, from last available crop. Test date not more than nine months prior to sowing date. Cultivar and variety in accordance with UM-AM #77. Noxious weed seed, tillers, and other crop not to exceed percent by weight specified therein. Mixture, purity, germination, and noxious inclusions in minimum percent by weight, as follows:

1. Grass Seed Mixtures:

SEED MIX NO.2

Playing Surfaces

Seeding Rate: 5-6 pounds/KSF

<u>Seed Cultivar and Variety</u>	<u>Percent of Mix</u>
Perennial Ryegrass	0.05
Kentucky Bluegrass, South Dakota	0.05
Turf Type Tall Fescues	0.45
Mustang Jaguar	0.45

SEED MIX NO. 3

Temporary Stabilization

Seed Rate: 3.5 pounds/KSF

<u>Seed Cultivar and Variety</u>	<u>Percent of Mix</u>	<u>Seed Purity</u>	<u>Germination</u>	<u>Noxious Content</u>
	<u>See Section 02270</u>			

2. Prohibited noxious inclusions: Johnson grass, Canada thistle, plantain, knotweed, bindweed, timothy, red clover, dock, cheat, chess, black medic, chickweed, vetch, lespedeza, crabgrass, quack grass, and poison ivy.
- E. Mulch: Furnish products containing no additives which may inhibit germination, establishment, or growth of seed with which used. Additional requirements as follows:
1. Wood cellulose: Fibers approximately 3/8-inch long by approximately 1/32 inch diameter, and having a pH of 4.0 to 8.5 with a minimum water holding capacity of 90 percent. Furnish dyed with a non-toxic colorant suitable to distinguish areas receiving product during the Work.
 2. Straw: Threshed, uncaked, grain straw without mold, ergot, mildew, or decay. Free from both plant-parts and seed of prohibited noxious inclusions specified above.
 3. Mulch blanket: Knitted construction of biodegradable yarn with uniform openings supplied with biodegradable twine and staples. Furnish blanket by Gulf States or approved equal.
- F. Mulch Netting: Biodegradable, supplied with twine and stake or staples. Furnish ECONOMY EROSION CONTROL NETTING by Conwed or approved equal.
- G. Mulch Binders:
1. Asphalt: Emulsified, for use with straw mulch, conforming to AASHTO M140 or M208.
 2. Synthetic: For use with straw or wood cellulose fiber mulch. Furnish Terra Tack I or Terra Tack AR, by Grass Growers or approved equal.

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SECTION 02485
SEEDING AND SODDING (Continued)

- H. Herbicides: Furnish and apply the following, or approved equal, to seeded areas in order to control noxious weeds specified above. Do not use ROUNDUP on fescue seed or cultivars which are botanically classified as "bunch-grass":
 - 1. Broadleaf weeds: TRIMEC by Gordon or approved equal.
 - 2. Pre-emergent crabgrass: BALAN by Elanco or approved equal.
 - 3. Post Emergent crabgrass: A.M.A., D.S.M.R., M.A.M.A. or C.M.A. By Cleary or approved equal.
 - 4. Noxious bunch grass: ROUND-UP by Monsanto or approved equal.
- I. Water: Potable, not less than 5.5-pH, with soluble chlorides as salines not more than 1,800-ppm.

PART 3 - EXECUTION

3.1 GENERAL:

- A. Inspect existing application or planting surfaces and verify that elevations, tolerances, physical condition, and rough grading are as required to receive the products and work of this Section. Promptly report all unsatisfactory conditions, in writing, and proceed as directed.
- B. Coordinate the work with prior and subsequent work, including but not limited to RELATED WORK SPECIFIED ELSEWHERE, and in accordance with Section 01039.
- C. Commencement of work shall be construed as acceptance of all existing conditions.
- D. Commence work only after excavation, backfill and compaction work is complete and construction traffic is excluded from areas to be seeded or sodded.
- E. Remove temporary stabilization installed prior to commencing work.
- F. Place topsoil and compact. Do not place frozen, saturated or desiccated topsoil.
- G. Apply limestone to areas to be seeded. Apply a minimum of 4 pounds per 1000 square feet.
- H. Apply fertilizer at per-acre-rate of 15 pounds per 1000 square feet.
- I. Obtain water in accordance with Section 01500.
- J. Perform seeding only after subgrade, topsoil, and soil conditioning work is complete. Apply seed during periods specified, unless otherwise directed. Adjust seed mixtures as required for off-period application.

3.2 SEED, SKINNED AREA FOR BALLFIELDS, OR SOD BED PREPARATION:

- A. Subgrade: Apply limestone as specified, and disk or scarify surface to a depth of two inches. Finish to produce rough lines and grades shown. Remove rocks, agronomic and construction debris, and non-friable clumps greater than 1-inch in any dimension as work proceeds.
- B. Topsoil: If subgrade becomes compacted, re-scarify or disk again prior to placing topsoil.
 - 1. Place and till topsoil in areas to be seeded to a depth of not less than 4-inches, with allowance for light compaction and natural settlement. Conform to final grading elevations shown or indicated.
 - 2. On slopes, work topsoil into subgrade or previous lift to a depth of two-inches, prior to compaction, to eliminate slip-planes between lifts.
 - 3. Apply limestone, as specified, to final topsoil lift and work into surface to a two inch depth by tilling, disking, or scarifying.
 - 4. All playing fields and school yard areas can be capped with up to 14 inches of topsoil. This material, if required, is to use up surplus topsoil. This material shall be adequately compacted such that excessive post-construction settlements will not develop and cause drainage problems or irregular playing surfaces. The

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SEEDING AND SODDING (Continued)

contractor will be responsible for returning to the site and repairing those areas

deemed unsatisfactory by the Board of Education due to excessive settlement within the warranty period.

- C Fine Grading: Upon completion of fine grading, request inspection for approval in accordance with FIELD QUALITY ASSURANCE, below. Place and crown additional topsoil to produce adequate drainage above finished grades shown or indicated, within the following tolerances:
 - 1. Playing surfaces: Uniform to within plus 1-inch, non-cumulative, across 10 feet.
 - 2. Lawn/grounds area: Uniform to within plus 1-inch, non-cumulative, across 10 feet.
- D. Skinned area (arrangements may be made with DPR to complete the skinned area after finished grade is established).

Skinned area is to be covered with soil mix of 1/3 imported course sand, 1/3 topsoil and 1/3 clay that is well mixed, free and clear of all mud, seed, debris, branch or root matter, rock and stone.

Soil mix to be placed on field by discing in "turtle back" with high point at pitcher's mound that is 6" to 8" higher than finished grades, feathering to 1" on the outer edges of the infield. Placement is to be followed by hand raking.

3.3 SEEDING:

- A. Dry Seeding: Apply seed no later than 48-hours after seed-bed preparation, unless otherwise directed. In addition:
 - 1. Apply fertilizer as specified, within 24-hours of seed application. Use mechanical spreaders, and lightly drag or rake fertilizer into top 1/4-inch of prepared topsoil.
 - 2. Apply seed at the rate specified for each seed mixture, with a minimum of 1.5 pounds per 1000 square-feet. Use approved mechanical type seeder, applying approximately half the rate specified in one direction, and balance of seed in a direction normal to the first application.
 - 3. Work seed in to a maximum depth of 1/4-inch, leaving a raked surface on slopes of more than 3:1, with ridges running parallel to contour of slope. For slopes less than 3:1, lightly compact surface immediately after seeding. Use an approved hand-roller, only after soil moisture content is suitable to prevent "picking" of soil and seed.
- B. Hydro-Seeding: Perform work in one continuous operation, no later than 48-hours after seed bed preparation, unless otherwise directed.
 - 1. Mix mulch where specified, seed, fertilizer, and water using equipment with an agitation system capable of maintaining materials in uniform suspension for full application period.
 - 2. Hydro-seeding mixture: Proportions are based on 100-gallons of mixture and nominal, 3 pound/KSF seeding rate. Adjust mixture proportionally for other seeding rates, based on the following:

SECTION 02485
SEEDING AND SODDING (Continued)

<u>MATERIAL</u>	<u>MAXIMUM</u>	<u>NOMINAL</u>
Seed Mixture	Seed Rate	3 lbs.
Limestone	Soil Test	105 lbs.
Fertilizer	Soil Test	45 lbs.
Wood Mulch	50 lbs.	10 lbs.
Binder Additive	7.5 lbs	5 lbs.
Water	834 lbs.	100 gal.

3. Where mulch is applied separately from hydro-seeding mixture, adjust seed and fertilizer combined to produce a maximum of 50-pounds per 200gallon of water.
4. Use hydro-seeding mixtures within eight hours after mixing.
5. Apply mixture to produce a coverage determined by seeding rate specified. Use high-pressure spray equipment, with nozzle directed upwards to produce uniform coverage and to prevent puddling, erosion, and run-off.

C. Mulching: Where dry mulch is placed separately, apply within two hours after seeding is complete as follows:

1. Slopes of 3:1:
 - a. Apply wood cellulose fiber at a uniform dry rate of 35-pounds per 1000 square-feet. If applied hydraulically, mix at a rate of 50-pounds of mulch per 100 gallons of water.
 - b. Apply straw mulch at a rate of 90-pounds per 1000 square-feet to a uniform, loose depth of not less than one (1) nor more than two (2) inches. Where asphalt binder is to be used, apply with power blower that sprays binder into mulch as it leaves the nozzle.
 - c. Apply mulch blanket and staple in accordance with the manufacturer's instructions.
 - d. Apply synthetic binder in accordance with the manufacturer's instructions.
 - e. Apply asphalt binder at a uniform rate of four (4) to six (6) pounds per 1000 square-feet. Protect contiguous surfaces from overspray during application.
2. Slopes of 3:1 to 2:1: Apply straw mulch and binder or netting, as specified above.
3. Slopes steeper than 2:1: Apply and staple mulch blanket in accordance with the manufacturer's instructions.

3.4 SODDING FOR BASEBALL FIELD - IF REQUIRED

- A. Sod shall be cultivated bluegrass-fescue mixture grown in an established turf nursery for at least two (2) years before lifting. Sod shall be free of insects, grubs, and apparent disease, and shall show proof of a current Nursery Inspection Certificate.
 1. Sod shall have been mowed prior to stripping and shall have been maintained for a minimum of three (3) months at or near the height of final clipping at the nursery. A maximum height: two and one-half inches (2-1.2").
 2. Sod shall be machine striped at a uniform soil thickness of approximately one inch (1:), plus-or-minus one quarter inch (1/4"). Through thinner cuts tend to accelerate knitting and are, therefore, preferred, the minimum acceptable soil

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thickness shall be three-quarter inch (3/4"). Measurement for thickness shall include the growth and thatch.

3. Individual pieces of sod shall be cut to the supplier's standard width and length. (Maximum allowable deviation from standard width and length is five (5) percent.) There shall be no broken pads, torn or uneven ends.
- B. In no event shall more than forty-eight (48) hours elapse between the cutting and planting of the sod.
- C. Before placing sod upon any surface, all shaping and dressing of such surfaces shall have been completed to grades on the plan. The completed areas to be sodded shall present a smooth, uniform, well tilled surface, and any raking required to accomplish this shall be done immediately prior to the placing of the sod.
- D. Sodding shall be performed during the proper season for such work. No frozen sod shall be used and no sod shall be placed upon frozen soil.
- E. Maintenance - Sod shall be kept moist until it has become established, and its continued growth assured, or until accepted.
- F. Guarantee - Sodded areas which do not show a prompt catch shall be resodded at no expense to the Owner.

3.5 MAINTENANCE AND REPLACEMENT:

- A. Playing fields shall be planted as soon as possible and maintained during at least two (2) growing seasons. For sports activity use by April 15th.
- B. During seeding and sodding and for a growing period of one (1) year for work performed in the Spring, maintain seeded and sodded areas by performing the following operations necessary for the care and protection, promotion of growth, control of insects and weeds, and prevention of agronomic diseases throughout the maintenance period.
- C. During the first week after seeding or sodding, water daily to keep soil continuously moist to depth of not less than 4-inches. Water during heat of day to help prevent wilting or as directed.
- D. During subsequent weeks, water seeded and sodded areas so as to maintain moisture required for promotion of deep root growth. After first mowing water weekly or as directed.
- E. Do not mow until seed or sod is fully established or securely rooted. When grass has grown to a height of four (4) inches, mow to a height of three (3) inches. Thereafter, maintain at a height of three (3) inches. Remove not more than one third (1/3) of new growth during each mowing.
- F. Apply herbicides as required or directed to prevent infestation by noxious weeds, and in accordance with the manufacturer's recommendations. Do not apply when temperature is above 80 degrees F, or during periods of drought.
- G. Periodically roll seeded and sodded areas during the full maintenance period, to maintain a uniform surface.
- H. Replace or remedy and maintain areas of deficient growth, areas infested with noxious weeds, and dead areas as directed in the same manner as specified for original seeding or sodding.

3.6 FIELD QUALITY ASSURANCE:

- A. On commencement of fine grading application surfaces, exclude all traffic from area and protect by use of temporary barriers or barricades. Remove temporary protection only after establishment of turf, or as directed.
- B. On completion of fine grading, have graded surfaces inspected for approval by the Owner's representative prior to application of seed or sod. If surfaces are damaged by weather or work of others prior to application, re-grade and request re-inspection as required.
- C. Request inspection for final acceptance of seeded areas, in writing, not less than ten (10) days prior to end of maintenance period or at beneficial occupancy, whichever occurs first.
- D. Replace or otherwise remedy rejected seeded or sodded areas, as directed, at no increase to the Contract Sum.

END OF SECTION

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BID 24M2 UNIT PRICE CONTRACT FOR EXCAVATION AND
EARTHWORKS/STORMWATER MAINTENANCE

MAINTENANCE AREAS

Area 1: Catoclin HS, Thurmont MS, Emmitsburg ES, Lewistown ES, New Midway ES, Sabillasville ES, Thurmont ES, Wolfsville ES, Woodsboro ES and Thurmont PS.

Area 2: Brunswick HS, Middletown HS, Brunswick MS, Middletown MS, Brunswick ES, Middletown ES, Myersville ES and Middletown PS.

Area 3: FCPS Central Office Building, Frederick HS, Crestwood MS, West Frederick MS, Hillcrest ES, Parkway ES, Rock Creek School, Waverley ES, (Butterfly Ridge ES after construction).

Area 4: Hayward Annex and FCPS Warehouse, Career & Technology Center, Governor Thomas Johnson HS, Heather Ridge School, Monocacy MS, Monocacy ES, North Frederick ES, Whittier ES, and Yellow Springs ES.

Area 5: FCPS Staff Development Center, Linganore HS, Walkersville HS, Governor Thomas Johnson MS, Walkersville MS, Glade ES, Liberty ES, Walkersville ES.

Area 6: Tuscarora HS, Ballenger Creek MS, Ballenger Creek ES, Carroll Manor ES, Lincoln ES, Orchard Grove ES, Tuscarora ES, Valley ES and Earth & Space Science Center.

Area 7: Urbana HS, Urbana MS, Windsor Knolls MS, Centerville ES, Green Valley ES, Kemptown ES, Urbana ES and (Sugarloaf ES after construction)

Area 8: Oakdale HS, New Market MS, Oakdale MS, Deer Crossing ES, New Market ES, Oakdale ES, Spring Ridge ES and Twin Ridge ES.



**CONTRACTOR'S QUESTIONNAIRE
BID 24M2, UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH
WORKS/STORMWATER MAINTENANCE**

COMPANY PROFILE:

Company Name: _____ DBA: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Website Address: _____

Name and Telephone Number of Owner/President/CEO:

Other Contacts (Name, Title & Telephone Number):

Has your company ever operated under another name? If yes, list the previous name(s).

Is or has your company ever been debarred from any federal/state/city/county governments or any school districts? If yes, please list.

GENERAL INFORMATION:

1. How long has your company been in business?
2. Are you a member of any national or local associations?
3. What percentage of work performed by your company has been commercial?
4. Please list any specialized equipment that your company owns that would not need to be rented during a project.

FINANCIAL STATEMENT:

1. A signed letter from your lending institution stating the length of time your company has been doing business with them and if you have maintained your deposit and loan accounts in an acceptable manner.
2. Provide the total contract value of work performed by your company in the last three years:

\$ _____	_____	\$ _____	_____	\$ _____	_____
Value	Date	Value	Date	Value	Date

LICENSING AND INSURANCE:

1. Submit proof of registration as a Maryland business by including your license number or including a copy of the license.
2. Submit proof of insurance.

REFERENCES:

Provide the names, titles and contact information for five references to whom your agency has provided the same service as described herein during the last two years. References are preferred for non-profit agencies or school systems, preferably K-12, and within the State of Maryland. All references as noted above will be checked and will be held in the strictest of confidence. FCPS reserves the right to verify all information and to check any other sources available even if not provided as a reference by the Proposer.

#1 Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Name of Contact: _____ Title: _____
Email Address: _____ Phone: _____
Approximate Dollar Value of Work Performed: _____

#2 Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Name of Contact: _____ Title: _____
Email Address: _____ Phone: _____
Approximate Dollar Value of Work Performed: _____

#3 Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Name of Contact: _____ Title: _____
Email Address: _____ Phone: _____
Approximate Dollar Value of Work Performed: _____

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER MAINTENANCE
FORM OF PROPOSAL

In compliance with your invitation for bids, I/we propose to provide all labor, materials, equipment, and any incidentals necessary and required for UNIT PRICE CONTRACT FOR EXCAVATION WORK - in strict accordance with the specifications, for the following amounts:

Note: Unit Prices - Should the contractor propose "or equal" equipment, the type of equipment offered is required to be listed on the form of proposal.

A. UNIT PRICES:

Items 1-8 are rated for use of the listed type and size equipment. Prices are to include a qualified operator, fuel transportation to and from the work site, maintenance and other associated costs.

Services/Materials Specified	Service/Materials Proposed (<input type="checkbox"/> Check if as specified)	Bid Qty	Unit	Unit Price	Total
1. Excavator, track mounted, Caterpillar 235 or equal	<hr/>	30	hour	\$ <hr/>	\$ <hr/>
2. Hoepack (compactor/roller) track mounted, Caterpillar 235 or equal	<hr/>	25	hour	\$ <hr/>	\$ <hr/>
3. Backhoe, rubber tire, John Deere 410 or equal	<hr/>	25	hour	\$ <hr/>	\$ <hr/>
4. Skid Loader with attachments: loader bucket, york rake, street broom, rockhound, Case #1854C with attachments listed	<hr/>	10	hour	\$ <hr/>	\$ <hr/>
5. Vibratory roller, 10 ton, smooth drum	<hr/>	10	hour	\$ <hr/>	\$ <hr/>
6. 815 Caterpillar compactor	<hr/>	24	hour	\$ <hr/>	\$ <hr/>
7. Dump truck, tandem	<hr/>	40	hour	\$ <hr/>	\$ <hr/>
7A. Trucking Cost for equipment mobilization (1 hr. max per move)	<hr/>	10	hour	\$ <hr/>	\$ <hr/>
8. Loader, Track Mounted, Caterpillar #953 or equal	<hr/>	30	hour	\$ <hr/>	\$ <hr/>

 (Vendor Name)

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER MAINTENANCE
FORM OF PROPOSAL

Services/Materials Specified	Service/Materials Proposed (___ Check if as specified)	Bid Qty	Unit	Unit Price	Total
9. Rock, rip rap:					
9.1 Class I rip rap - delivered to site in place	_____	20	ton	\$ _____	\$ _____
9.2 Class II rip rap - delivered to site in place	_____	80	ton	\$ _____	\$ _____
10. Maryland #7 clean stone - delivered to site in place	_____	20	ton	\$ _____	\$ _____
11. Stone #2 - delivered to site	_____	60	ton	\$ _____	\$ _____
12. Stone, CR6 - delivered to site	_____	40	ton	\$ _____	\$ _____
13. 2500 lb. Concrete @ 28 days - delivered to site	_____	32	yard	\$ _____	\$ _____
14. Filter fabric - TYPAR Nonwoven Geotextiles 3601 or 3801, EX Geotextiles EX 180 or EX 225	_____	30	sq. yd.	\$ _____	\$ _____
15. Lease of temporary panels, chain link fence 12 ft. long x 6 ft. high	_____	18	month	\$ _____	\$ _____
16. Grass seed, 5 to 8 lbs. Per 1000 sq. ft., Tall Fescue (Maryland Certified Seed)	_____	200	sq. yd.	\$ _____	\$ _____
17. Straw Mulch at 2 tons per anchor crimp to top soil	_____	200	sq. yd.	\$ _____	\$ _____
18. Screened top soil	_____	36	cu. yd.	\$ _____	\$ _____
19. Additional labor	N/A	120	man hours	\$ _____	\$ _____
20. Disposal of debris, excavated rock or excess soil	N/A				
20.1 Tip Fee		3	ea	\$ _____	\$ _____

 (Vendor Name)

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER MAINTENANCE
FORM OF PROPOSAL

Services/Materials Specified	Service/Materials Proposed (___ Check if as specified)	Bid Qty	Unit	Unit Price	Total
20.2 Rate per ton		20	ton	\$	\$
20.3 Contractor disposable per yard ____		48	cu. yd.	\$	\$
21. Import Structural fill 105 lb. per cu. ft.		less than 500	cu. yd.	\$	\$
		over 500	cu. yd.	\$	\$
22. Silt Fence per ft. - installed		less than 150	ft.	\$	\$
		over 150	ft.	\$	\$
22.1 Super Silt Fence per ft. - installed		less than 150	ft.	\$	\$
		over 150	ft.	\$	\$
22.2 Inca Matting		less than 150	sq. ft.	\$	\$
		over 150	sq. ft.	\$	\$
22.3 Curlex		less than 150	sq. ft.	\$	\$
		over 150	sq. ft.	\$	\$
Class 54 Ductile Iron Pipe is the only acceptable class for use in Frederick County. The unit price offered is for this class of pipe only.					
23. 4" Ductile Iron Pipe - installed		less than 100	ft.	\$	\$
23.1. 4" Ductile Iron Pipe - installed		over 100	ft.	\$	\$
23.2 4" Ductile Iron Bend installed & restrained		2	each	\$	\$
23.3 4" Ductile Iron Valve installed & restrained		1	each	\$	\$

(Vendor Name)

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER MAINTENANCE
FORM OF PROPOSAL

Services/Materials Specified	Service/Materials Proposed (___ Check if as specified)	Bid Qty	Unit	Unit Price	Total
24. 6" Ductile Iron Pipe - installed	_____	less than 150	ft.	\$ _____	\$ _____
24.1 6" Ductile Iron Pipe - installed		over 150	ft.	\$ _____	\$ _____
24.2 6" Ductile Iron Bend installed & restrained		2	each	\$ _____	\$ _____
24.3 6" Ductile Iron Valve installed & restrained		1	each	\$ _____	\$ _____
24.4 6" Ductile Iron Fire Hydrant installed w/tee & restrained		1	each	\$ _____	\$ _____
24.5 6" wet tapping sleeve installed		1	each	\$ _____	\$ _____
25. 8" Ductile Iron Pipe - installed	_____	less than 150	ft.	\$ _____	\$ _____
25.1 8" Ductile Iron Pipe - installed		over 150	ft.	\$ _____	\$ _____
25.2 8" Ductile Iron Bend installed & restrained		2	each	\$ _____	\$ _____
25.3 8" Ductile Iron Valve - installed & restrained		1	each	\$ _____	\$ _____
25.3 8"x6"x8" wet tapping sleeve installed		1	each	\$ _____	\$ _____
26. 10" Ductile Iron Pipe - installed	_____	less than 150	ft.	\$ _____	\$ _____
26.1 10" Ductile Iron Pipe - installed		over 150	ft.	\$ _____	\$ _____
26.2 10" Ductile Iron Bend installed & restrained		2	each	\$ _____	\$ _____
26.3 10" Ductile Iron Valve - installed & restrained		1	each	\$ _____	\$ _____
26.4 10"x6"x10" wet tapping sleeve installed		1	each	\$ _____	\$ _____
27. 12" Ductile Iron Pipe - installed	_____	less than 150	ft.	\$ _____	\$ _____
27.1 12" Ductile Iron Pipe - installed		over 150	ft.	\$ _____	\$ _____

(Vendor Name)

BID 24M2
UNIT PRICE CONTRACT FOR EXCAVATION AND EARTH WORKS/STORMWATER MAINTENANCE
FORM OF PROPOSAL

Services/Materials Specified	Service/Materials Proposed (___ Check if as specified)	Bid Qty	Unit	Unit Price	Total
27.2 12" Ductile Iron Bend installed & restrained		2	each	\$	\$
27.3 12" Ductile Iron Valve - installed & restrained		1	each	\$	\$
27.4 12"x6"x12" wet tapping sleeve installed		1	each	\$	\$
28. 12" Galvalum Pipe - installed		60	ft.	\$	\$
29. 18" Galvalum Pipe - installed		60	ft.	\$	\$
30. 24" Galvalum Pipe - installed		60	ft.	\$	\$
31. SDR-26 Plastic Pipe 4" installed		100	ft.	\$	\$
32. SDR-26 Plastic Pipe 6" installed		150	ft.	\$	\$
33. SDR-26 Plastic Pipe 8" installed		200	ft.	\$	\$
35. SDR-35 Plastic Pipe 4" installed		200	ft.	\$	\$
36. SDR-35 Plastic Pipe 6" installed		200	ft.	\$	\$
37. SDR-35 Plastic Pipe 8" installed		200	ft.	\$	\$
38. ADDITIONAL MATERIALS: Cost plus ___% (Actual cost plus _____percent mark-up)					
GRAND TOTAL:					\$

 (Vendor Name)

SIGNATURE ACKNOWLEDGING PROPOSAL

Note: When submitting your bid/proposal, please use this page as a cover sheet for your proposal.

In compliance with your invitation for bidders, the undersigned proposes to furnish and deliver all labor and materials in accordance with the accompanying specifications and "Instructions and General Conditions" for the price as listed on the enclosed Proposal Sheet(s).

I/We certify that this bid/proposal is made without previous understanding, agreement, or connection with any person, firm, or corporation submitting a bid/proposal for the same goods/services and is, in all respects fair and without collusion or fraud; that none of this company's officers, directors, partners or its employees have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government; and that no member of the Board of Education of Frederick County, Administrative or Supervisory Personnel or other employees of the Frederick County Public Schools, has any interest in the bidding company except as follows:

COMPANY: _____

dba: _____

REGISTERED MARYLAND CONTRACTOR NUMBER: _____

FEDERAL IDENTIFICATION: _____ DATE: _____

The undersigned has familiarized themselves with the conditions affecting the work, the specifications, and is legally authorized to make this proposal on behalf of the Contractor listed above.

NAME (please print): _____

SIGNATURE OF ABOVE: _____

TITLE: _____

ADDRESS: _____

TELEPHONE # _____ FAX # _____

E-MAIL ADDRESS (for correspondence): _____

E-MAIL ADDRESS (for receiving Purchase Orders): _____

(DO NOT COMPLETE THIS AREA IF YOUR COMPANY IS UNABLE TO RECEIVE PURCHASE ORDERS ELECTRONICALLY)

.....

ACKNOWLEDGMENT OF ADDENDA (if applicable)

The above-signed company/firm acknowledges the receipt of the following addenda for the above-referenced solicitation.

Date Received by Proposer/Bidder:

Addendum #1	_____	Addendum #2	_____
Addendum #3	_____	Addendum #4	_____
Addendum #5	_____	Addendum #6	_____
Addendum #7	_____	Addendum #8	_____

FREDERICK COUNTY PUBLIC SCHOOLS

STATUTORY AFFIDAVIT AND NON-COLLUSION CERTIFICATION

Special Instructions: An authorized representative of the bidder needs to complete the following affidavit and insert an answer to paragraphs 1 and 3.

BIDDERS: The submission of the following Affidavit at the time of the bid opening is:

☒ requested to be completed but not required to be notarized.

☐ required to be completed and notarized.

I, _____, being duly sworn, depose and state:

1. I am the _____ (officer) and duly authorized representative of the firm of
the organization named _____ whose address is
(Name of Corporation)

_____ and that I

possess the authority to make this affidavit and certification on behalf of myself and the firm for which I am acting.

2. Except as described in paragraph 3 below, neither I, nor to the best of my knowledge, the above firm, nor any of its officers, directors, or partners, or any of its employees who are directly involved in obtaining or performing contracts with any public bodies has:
- a. been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or of the federal government;
 - b. been convicted under the laws of the state, another state, or the United States of: a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
 - c. been convicted of criminal violation of an antitrust statute of the State of Maryland, another state, or the United States;
 - d. been convicted of a violation of the Racketeer influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract;
 - e. been convicted of any felony offenses connected with obtaining, holding, or maintaining a minority business enterprise certification, as prohibited by Section 14-308 of the State Finance & Procurement Article;
 - f. been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described in Paragraph (a) through (e) above; or
 - g. been found civilly liable under an antitrust statute of this State, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.
3. The only conviction, plea, or admission by any officer, director, partner, or employee of this firm to involvement in any of the conduct described in Paragraph 2 above is as follows:

If none, write "None" below. If involvement, list the date, count, or charge, official or administrative body,

the individuals involved, their position with the firm, and the sentence or disposition of the charge.

(you may attach an explanation if necessary)

4. I affirm that this firm will not knowingly enter into a contract with a public body under which a person or business debarred or suspended under Maryland State Finance and Procurement Title 16, subtitle 3, Annotated Code of Maryland, as amended, will provide, directly or indirectly, supplies, services, architectural services, construction-related services, leases of real property, or construction.
5. I affirm that this proposal or bid to the Board of Education of Frederick County is genuine and not collusive or a sham; that said bidder has not colluded, conspired, connived and agreed, directly or indirectly, with any bidder or person to put in a sham bid or to refrain from bidding and is not in any manner, directly or indirectly, sought by agreement of collusion or communication or conference, with any person to fix the bid prices of the affidavit or any other bidder, or to fix any overhead, profit or cost element of said bid price, or that if any bidder, or to secure an advantage against the Board of Education of Frederick County or any other person interested in the proposed contract; and that all statements in the proposal or bid are true. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the Board of Education of Frederick County may terminate any contract awarded and take any other appropriate action.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalties of perjury that the contents of this affidavit are true and correct, that I am executing this Affidavit in compliance with Section 16-311 of the State Finance and Procurement Article, Annotated Code of Maryland, and in compliance with requirements of the Board of Education of Frederick County, and that I am executing and submitting this Proposal on behalf of and as authorized by the bidder named below.

(Legal Name of Company)

(dba)

(Address)

(City)

(State)

(Zip)

(Telephone)

(Fax)

(Print Name)

(Title)

(Date)

(Signature)

(Title)

(Date)

We are/I am licensed to do business in the State of Maryland as a:

() Corporation

() Partnership

() Individual

() Other

If required to be notarized:

(Witness)

(Title)

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____

FREDERICK COUNTY PUBLIC SCHOOLS

CERTIFICATION OF COMPLIANCE

1. All Contractors, subcontractors or vendors must abide by FCPS Board policies and regulations while working on FCPS property.
2. Maryland Law requires that any person who enters into a contract with a county board of education may not knowingly employ an individual to work at a school (or FCPS facility) if the individual is a registered sex offender. Please reference §11-113 of the Criminal Procedure Article of Maryland Code for penalty.
3. Be advised that individuals who are registered sex offenders are not eligible to work on any FCPS project. The Contractor must initially check the Maryland Department of Public Safety & Correctional Services' MARYLAND SEX OFFENDER REGISTRY and search for the name of any employee to be assigned to work on this project. This applies to subcontractors and material/equipment suppliers as well.
4. In the event that a registered sex offender is discovered to be working on a FCPS project, whether through employment by the prime Contractor, subcontractor or vendor, the site superintendent will immediately remove the individual from the premises and permanently terminate his work assignment. FCPS may terminate this contract as a result if the Contractor is unable to demonstrate he has exercised care and diligence in the past in checking the Maryland registry.
5. Effective July 1, 2015, amendments to §6-113 of the Education Article of the Maryland Code further require that a contractor or subcontractor or vendor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to, a crime involving:
 - a. A sexual offense in the third or fourth degree under §3-307 or §3-308 of the Criminal Law Article of the Maryland Code.
 - b. Child sexual abuse under §3-602 of the Criminal Law Article of the Maryland Code or any other State; or
 - c. A crime of violence as defined in §14-101 of the Criminal Law Article of the Maryland Code or any other State
6. With the passing of Maryland Law MD. Code, Educ. 6-113.2, employers of all contracted staff must obtain background information relating to child sexual abuse or sexual misconduct. This means that all contracted staff having direct contact with students must meet all of the FCPS and Maryland State Department of Education (MSDE) requirements before doing business with FCPS. See: [Maryland State Department of Education Website](#); [House Bill 486 Child Sexual Abuse and Sexual Misconduct Prevention](#); [MSDE Guidelines For MD. Code, Educ. 6113.2](#); and [Employment History Review Form for Child Abuse and Sexual Misconduct](#) for additional information.

In addition, there has been no change to the current FCPS requirement, that all contracted staff who have contact with students are required to be fingerprinted in order to obtain a criminal background check. Fingerprints and background check are still an enforced FCPS requirement.

7. Under recent amendments to §5-561 of the Family Law Article of the Maryland Code, each contractor, subcontractor, or vendor shall certify by signing this affidavit that any individuals in its work-force including sub-contractors, have undergone a criminal background check, including fingerprinting, if the individuals will work in a FCPS school facility in circumstances where they have direct, unsupervised, and uncontrolled access to children.

By my signature below, I affirm under penalties of perjury that the contents of this Certification of Compliance are true to the best of my knowledge, information and belief.

Signature _____ Date _____

Print name and title of
signatory _____

Print name of
company _____

Vendor Conflict of Interest Disclosure Form

All vendors interested in conducting business with Frederick County Public Schools (FCPS) must complete and return the Vendor Conflict of Interest Disclosure Form, in order to be eligible to be awarded a contract with FCPS.

Please note that all vendors must comply with FCPS's conflict of interest certification, as stated below.

If a vendor has a relationship with a FCPS employee or an immediate family member (spouse, child (stepchild or adopted), parent, or sibling) of a FCPS employee, the vendor shall disclose the information required below.

Certification: I hereby certify, that to the best of my knowledge, there is no conflict of interest involving the vendor named below:

1. No FCPS employee or the employee's immediate family member has an ownership interest in the vendor's company, or is deriving personal financial gain from this contract.
2. No retired or separated FCPS employee who has been retired or separated from the organization for less than one year has an ownership interest in the vendor's company.
3. No FCPS employee is contemporaneously employed or prospectively to be employed with the vendor.
4. The vendor did not provide any information or criteria in the drafting of the solicitation prior to it being advertised for competitive pricing.
5. Vendor hereby declares it has not, and will not provide gifts or hospitality of any dollar value, or any other gratuities to FCPS employee to maintain a contract.
6. Vendor hereby declares that in the process of preparing a quote/bid/proposal for FCPS, there have been no acts of bribery, extortion, trading, laundering of corrupt practices, and/or nepotism have transpired between FCPS employee and the vendor.
7. Please note any other exceptions below.

Vendor Name & Email	Vendor Address & Phone Number
Conflict of Interest Disclosure	
Name of FCPS employee or immediate family member with whom there may be a potential conflict of interest. <i>If no conflict of interest, write "N/A" and initial.</i>	Disclose the relationship to the employee or the immediate family member, their interest in the vendor's company, and any additional information.

I certify that the information provided is true and correct by my signature below:

Signature of Vendor Authorized Representative/Date

Printed Name of Vendor Authorized Representative

PROPRIETARY INFORMATION IDENTIFICATION

Name of Firm/Offeror: _____

All information submitted by an offeror is subject to public disclosure under the Public Information Act, Title 4, General Provisions Article, Annotated Code of Maryland. Unless portions of a solicitation are identified as confidential, all records are considered public. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures or paragraphs that constitute trade secrets or proprietary information. In addition, a summary of proprietary information shall be submitted on this form. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable.

Section Title:	Page #s:	Reason for Withholding from Disclosure
_____	_____	_____
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I certify the accuracy of this information.

Signed: _____

Title: _____

Date: _____