

Pender County Schools – REQUEST FOR PROPOSALS

FOR: Full Custodial Services

PROPOSALS DUE: **October 14, 2020 by 2:00pm**

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Instructions to Proposers

REQUEST FOR PROPOSALS
FOR: Full Custodial Services

PROPOSALS DUE: **October 14, 2020 by 2:00pm**

1. Notice requesting proposals

- a. Notice is hereby given that proposals for a three and one half (3.5) year contract for Custodial Services will be received at Pender County Schools Maintenance Department, at the time and date indicated above. The initial contract period will begin January 1, 2021, and end June 30, 2024, with successive two (2) year renewals with School District's approval. It is the intent of the School District to exclusively award all custodial services, for all building and services described within this RFP, to one single proposer.
- b. Attached please find as Form F, the Pender County Board of Education's standard contract Terms and Conditions.

2. Proposal submission

- a. The sealed proposals shall be delivered to the School District's Office any time prior to **October 14, 2020 2:00pm**. No proposal received after said designated time will be considered. The Proposer assumes the risk of any delay in handling or delivery of mail. No proposal by facsimile will be considered.

3. Price sheet requirements

- a. The proposed cost of services **must** be presented to the School District utilizing the School Pricing Sheet (Exhibit 2) and **must** be contained in a sealed envelope which shall be endorsed on the outside thereof with the following information:
 - Proposal for Custodial Services
 - Name and address of Proposer
 - Envelope should be addressed to:
Pender County Schools (Attention Darren Lafon)
 - 2 Hard Copies, and one digital copy need to be submitted

4. Price validity

- a. All proposals submitted must be valid for a minimum period of 60 days after the date set for proposal opening.

5. School Districts rights related to accepting bids

- a. Pender County Schools reserves the right to reject any and all bids, to accept bids either in whole or in part, and to waive any irregularities or defects in any proposal should it be deemed to be in the best interest of Pender County Schools to do so. Pender County Schools reserves the right to negotiate price with selected vendor.

6. Mandatory Pre-proposal conference

- a. All prospective Proposers must attend the pre-proposal conference which will be held by Pender County Schools at the School District Office on October 5, 2020 at 9:00 a.m. If, as a result of the pre-proposal conference, it is necessary to modify these instructions or the specifications, an addendum shall be issued and

made available to the public and all parties to the pre-proposal conference. **Failure to attend the pre-proposal conference shall be grounds for the rejection of a proposal. Also, Contractors who arrive late to the proposal conference will be rejected. Therefore, you must be signed in and seated in the meeting room PRIOR to the start time.**

- b. Both days of building tours are a mandatory portion of the proposal conference and must be attended by all proposers. **Once again, failure to attend shall be grounds for the rejection of a proposal.**

7. Communication with the School District

- a. For further information or clarification of specifications for this portion of the RFP, please contact: **Darren Lafon at the Pender County Maintenance office (Darren_Lafon@pender.k12.nc.us)**. All questions must be submitted in writing no later than noon on **October 8, 2020**. Responses to questions will be emailed to all Proposers by October 12, 2020.

Once this RFP is issued, proposers are prohibited to communicate with any member of the faculty, staff, board, student or other individuals perceived to represent Pender County Schools regarding this RFP. Violation of this restriction may lead to disqualification.

- b. During the process of evaluation the committee may need additional information. This need will be communicated through **Pender County Schools** and each vendor shall be responsible to respond in written form or by appearance before the committee as requested.

8. Timeline

	Date
Release RFP	September 23, 2020
Mandatory Pre Proposal Meeting and Building Tours	October 5th and 6th, 2020 9:00am
Initial Proposer Questions Due	October 8, 2020 12:00pm
Answers to Proposers Initial Questions	October 12, 2020
Bid Proposals Due	October 14, 2020 2:00pm
Bid Opening	October 15, 2020 8:00am
Submittal Review Completion	October 19, 2020
School Committee Award	October 21, 2020
BOE Presentation	October 22, 2020
Contract Awarded	October 27, 2020
Awarded Contract start date	January 1, 2021

9. Evaluation criteria

- a. The **School District** will award the contract based on the following criteria:

<u>PROPOSAL CRITERIA FORMAT</u>	<u>POINTS</u>
---------------------------------	---------------

Qualifications	30
• Company Background and ability to perform	
• References	
• Financial Stability	
Human Resources Systems	15
• Recruiting/Hiring (<i>Employee Transitions</i>)	
• Training	
Proposed Staffing	15
• Proposed Management Personnel	
• Proposed Staffing Levels	
• Corporate Support	
• Proposed Wage Rates	
• Proposed Benefits	
Operations Plans	15
• Implementation Plan	
• Department Programs	
Quality Assurance	15
• Inspection Process	
• Satisfaction Surveys	
• Reporting	
Price	10
• Proposed Capital Equipment	
	Total Points
	100

Evaluation of proposals submitted in response to the solicitation will be conducted by officials of **Pender County Schools**. In the process of evaluation the total vendor's proposal will be considered. However, particular attention will be paid to those criteria which are referenced in the above section. Each response will be assigned a numeric score rating by each evaluator, and the award which will be made by **Pender County Schools** will be predicated upon the composite ratings of officials referenced above with total cost for the program considered.

- b. A contract will be awarded with the understanding that the CONTRACTOR will comply with all federal, state, and local laws, Board policies, and regulations.

10. Post award scope/price adjustments

- a. Annual price adjustments: July 1 of each year of the contract term, the CONTRACTOR will receive greater of one percent (1.0%) or the percentage change in the CPI-U over the previous twelve-month period, NOT to exceed a two percent (2%) price adjustment.
- b. Adjustments to Scope: Should Pender County increase/decrease the square footage requiring services, an adjusted price shall be negotiated between **Pender County Schools** and CONTRACTOR.
- c. Addition of Services: Should **Pender County Schools** request additional facility services, such as building or grounds maintenance, from CONTRACTOR,

contract price and monthly payments shall be negotiated by **Pender County** and CONTRACTOR for such services and added to this RFP for Facilities Services. Such changes will take effect on the date of the change in services.

Ability to Perform / Insurance Requirements

1. Demonstration of Contractor's Ability to Perform Services

- a. Provide SIX (6) references for which you are currently performing services of similar size and complexity as what is required within this RFP. At least FOUR (4) of these references must be for School Districts where Custodial services are provided. For each School District listed indicate the type of service provided, enrollment, number of buildings in the School District, contact name and phone number.

List each School District as one (1) reference. Do not list each school in a district as a separate reference.

- b. Provide a narrative and/or organization chart describing your company's regional and national support and how this support may provide benefits to Pender County Schools.
- c. Pender County Schools will not accept proposals from any contractor that previously provided services to Pender County Schools and those services were terminated for poor performance.

2. The following are minimum insurance requirements.

- Worker's Compensation and Employer's Liability Insurance covering obligations imposed by federal and state statutes with jurisdiction over CONTRACTOR'S employees, and otherwise having limits of \$1,000,000.
- Property Insurance covering CONTRACTOR'S equipment and other personal property now or hereafter located on Customer's Facility against "All Risk" of Loss within an amount at least equal to replacement value. "All Risk" shall mean at a minimum coverage for Special Causes of Loss perils.
- Commercial General Liability Insurance providing coverage for CONTRACTOR'S operations with minimum limits of liability shown below:

Limits:

Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Automobile Liability	\$1,000,000

- Umbrella Liability Insurance providing excess coverage over the underlying Commercial General Liability, Automobile Liability and Employer's liability

policies with a limit of at least \$10,000,000 per occurrence/aggregate.

- Employee Theft Coverage for the acts of CONTRACTOR'S employees with limits of at least \$500,000.

General Specifications

Overview: The General Specifications address the expectations of Pender County Schools.

1. Staff Considerations

- a. **Pender County Schools** requires that all employees assigned to this contract are required to pass a criminal background and, sex offender registry check (see Jessica Lunsford Act, N.C.G.S. 115C-332.1) and that this is the CONTRACTOR'S responsibility.
- b. The CONTRACTOR is expected to provide wages consistent with the price sheet included in RFP and comply with all applicable labor laws.
- c. Please describe your company's healthcare plans, including overview of coverage and the amount of the employee contribution of all relevant plans.
- d. The CONTRACTOR will provide an effective method to capture the time worked by the hourly staff. Please describe your company's time tracking methodology.
- e. All employees assigned to **Pender County Schools** must complete required training prior to beginning work. All employees must be engaged in an on-going safety training program. Please describe your company's safety training program.
- f. The CONTRACTOR will provide appropriate uniforms and personal protective equipment to all employees associated within the custodial departments. Please describe the uniforms that **Pender County Schools** should expect the hourly employees to wear.

2. Mobile Communication Devices (phones, tablets, etc...)

CONTRACTOR will provide Smartphones/Tablets to facilitate communication with school level administration as well as CONTRACTOR'S management team.

3. Computers and Office Equipment

- a. Contractor will provide office equipment necessary to support the requirements of this RFP (copier, fax, phones).

4. Quality Control

- a. Contractor will provide a comprehensive Quality Control System
 - Describe your company's program(s) for quality control
- b. Contractor will provide customer satisfaction surveys
 - Describe your company's program(s) for customer satisfaction surveys

5. Office and Storage Accommodation.

- a. **Pender County Schools** will provide adequate office, work and storage space to support the requirements of this RFP. Also, **Pender County Schools** will provide as needed - utilities, phone and internet services.
6. **Sub-contracting - CONTRACTOR** will not sub-contract any portion of this RFP.
7. **Hours of Operations, Events and Emergencies**
- a. 6:00 a.m. to 11:00 p.m. are considered normal operating hours.
 - b. Contractor is responsible for following all school calendars.
 - c. All school related events are considered normal operation.
 - d. Contractor will be responsible for covering summer schools and camps during the summer.
 - e. Contractor is expected to respond to emergencies within 1 hour; 24 hours per day, 7 days per week (NO exceptions).
 - f. Contractor will provide labor and materials to properly support school events.
 - Labor and materials used on events will not be considered billable.

CUSTODIAL OPERATIONS SPECIFICATIONS

Overview: The Custodial Operations Specifications address contractual issues that are uniquely associated with custodial functions.

1. Labor Specific to Custodial Operations

- a. Contractor will provide two (2) on-site managers sufficient enough to satisfy the attached RFP's specifications. Managers must have 5 years of experience consistent with the specifications of this RFP.
- b. Contractor will provide on-site administrative personnel sufficient enough to satisfy this RFP's specifications.
- c. All day porters shall have (8) eight hour shifts and/or (4) four hour shifts. No hours allotted for day porters are to be used for night cleaning.
- d. No less than two night personnel in a building at night.

2. Materials

- a. The CONTRACTOR is expected to provide all cleaning supplies and hand tools (cleaning chemicals, floor finishes, mops, buckets, brooms, brushes, rags, etc.)
- b. **Pender County Schools** will pay for all consumable products (paper towels, toilet tissue, trash bags and hand soap) as well as walk-off mats.

3. Custodial Equipment and Vehicles

a. The CONTRACTOR is expected to provide any **equipment** necessary to provide custodial services consistent with this RFP.

b. The CONTRACTOR is expected to provide any **vehicles** necessary to provide custodial services consistent with this RFP. Maintenance, fuel and insurance provided by vehicles owner.

4. Computerized/ Mobile Quality Assurance System

- a. Contractor will provide a **computerized** Quality Assurance System
 - Contractor will pay for license fees related to Quality Assurance System
- b. Quality Assurance System must be capable of generating effective efficiency reports.
 - Contractor shall provide sample reports.
- c. Quality Assurance System to support Quality Assurance Inspection data collection via Smartphones and/or Tablets.
- d. Contractor will give Pender County School access to the Quality Assurance System.

5. Management of Energy Consumption

- a. Lights should only be turned on in areas where cleaning is taking place and are to be turned off immediately after cleaning each room
- b. Cleaning personnel are not to change or override established heating and cooling temperatures in schools

6. Cleaning Frequencies by area / assignment

- a. Classrooms

Daily

- Empty wastebaskets and replace liners as needed
- Clean all desk tops (removal of graffiti and disinfect)
- Clean and sanitize counters and sinks
- Dust mop/Vacuum all composition floors
- Spot mop composition floors with a neutral cleaner
- Vacuum all carpet
- Spot clean carpet as needed
- Vacuum walk-off mats
- Secure any exterior doors and windows and turn off lights before leaving room

Weekly

- Dust all horizontal surfaces to including desks, chairs, cabinets and tables
Up to 6ft only
- Clean all baseboards
- Damp clean window ledges Up to 6 ft. only
- Remove fingerprints from doors, frames, light switches, kick plates, handles and railings
- Clean all door glass
- Vacuum chalk rails and/or damp wipe
- Mop composition floors

Monthly

- Dust blinds

Semi-Annually

- Clean entire surface of student's desks and chairs(legs, sides, bottoms)
- Clean carpet to remove all stains, spills and soiled spots

Annually

- Refinish all floors
- Clean all carpets
- Clean all interior windows

b. Offices

Daily (five days per week)

- Empty wastebaskets and replace liners (as needed)
- Dust furniture, including desks, chairs, tables, lamps, etc.
- Dust interior window ledges Up to 72"
- Dust telephones
- Spot clean all windows and glass partitions to hand height
- Spot clean desk tops
- Dust mop all composition floors (with chemically treated dust mop)
- Spot mop composition floors with all-purpose cleaners
- Vacuum carpet
- Spot clean carpet to remove all stains, spills and soiled spots
- Vacuum walk-off mats

- Remove fingerprints from doors, frames, light switches, kick plates, handles and railings

Weekly

- Dust all horizontal surfaces up to 72"
- Clean baseboards
- Damp clean window ledges

Monthly

- Dust blinds

Annually

- Refinish all floors Clean all interior windows
- Clean all interior windows up to 72"

c. Teacher Work Area and Copy Rooms

Daily (five days per week)

- Empty wastebaskets and replace liners (as needed)
- Dust furniture, including desks, chairs, tables, lamps, etc.
- Dust interior window ledges
- Dust telephones
- Spot clean all windows and glass partitions to hand height
- Damp clean counter tops
- Dust mop all composition floors
- Spot mop composition floors with all-purpose cleaners
- Vacuum carpet
- Spot clean carpet to remove all stains, spills, and soiled spots
- Vacuum walk-off mats
- Remove fingerprints from doors, frames, light switches, kick plates, handles and railings

Weekly

- Dust all horizontal surfaces up to 72"
- Damp clean baseboards
- Mop or Vacuum entire floors

Annually

- Clean carpet to remove all stains, spills and soiled spots
- Refinish all floors

d. Library

Daily (five days per week)

- Empty wastebaskets and replace liners (as needed)
- Dust furniture, including desks, chairs, tables, lamps, etc.
- Dust interior window ledges
- Spot clean all window glass and glass partitions to hand height
- Spot clean desk tops
- Dust mop all composition floors
- Spot mop composition floors with all-purpose cleaner
- Vacuum carpet
- Spot clean carpet to remove all stains, spills and soiled spots
- Vacuum walk-off mats
- Remove fingerprints from doors, frames, light switches, kick plates, handles, and railings

Weekly

- Replace all plastic liners in waste receptacles
- Dust all horizontal surfaces up to 72"
- Dust all book shelves (books to remain in place)
- Damp clean window ledges

Annually

- Refinish all floors
- Clean all carpets

e. Cafeteria Areas (Kitchens are cleaned by Food Service staff)

Daily (five days per week)

- Remove trash from cafeteria area
- Clean during lunch periods (empty trash, and clean up spills)
- Wipe off all tables
- Lift up all table and chairs
- Sweep/ Dust mop
- Auto Scrub entire floor
- Burnish composition floor (twice weekly)

Semi-Annually

- Refinish all composition floors
- Hone and polish all terrazzo floors
- High dust above 72" horizontal surfaces, including shelves, ceiling, moldings, pipes, ducts, heating outlets, etc.

f. Common Areas (Lobbies/Corridors/Stairs/Elevators)

Daily (five days per week)

- Spot clean interior glass partitions and doors up to 72"
- Clean and sanitize water fountains
- Dust interior window ledges
- Dust mop composition floors
- Auto scrub all composition/terrazzo floors (daily)
- Sweep all corners and edges (daily)
- Sweep behind all fire doors (daily)
- Vacuum carpet
- Spot clean carpet to remove all stains, spills and soiled spots
- Vacuum walk-off mats
- Clean under entrance mats daily, inside and out
- Sweep underneath stairs
- Burnish entire composition floor (Minimum of twice weekly)

Weekly

- Damp clean baseboards
- Damp clean window ledges
- Dust furniture and fixtures

Monthly

- High dust above hand height horizontal surfaces, including shelves, ceilings, pipes, moldings, ducts, heating outlets, etc. (reachable by 6 ft. ladder provided by contractor)
- Spot clean all hallway walls from scuff marks
- Polish all terrazzo floors

Semi-Annually

- Refinish all composition floors
- Hone and Polish all terrazzo Floors

- Clean carpet to remove all stains, spills, and soiled spots

g. Restrooms/Dressing Rooms

Daily

- Check restrooms every two hours during the school day
- Empty wastebaskets/dispensers and replace liners as needed
- Clean, sanitize, and polish all vitreous fixtures including toilet bowls, urinals and hand basins
- Clean and polish chrome fittings
- Clean and sanitize toilet seats
- Clean and polish glass and mirrors
- Wash and sanitize exterior of containers
- Remove spots, stains and splashes from wall area and counter tops
- Clean metal partitions
- Sweep floors
- Mop floors with germicidal disinfectant twice daily minimally (once after lunch, nightly cleaning)
- Fill expendable supplies in restroom dispensers as needed
- Wash and sanitize metal partitions
- Remove fingerprints from doors, frames, light switches, kick plates, push plates, handles, railing, etc.

Weekly

- Dust ALL horizontal surfaces up to 72"
- Clean/Disinfect walls thoroughly with cleaning and sanitizing solution

Monthly

- Pressure wash all partitions and walls
- Machine scrub all floors with germicidal disinfectant

h. Multi-purpose/Gymnasium

Daily (Five days per week)

- Empty wastebaskets
- Remove fingerprints from doors, frames, light switches, kick plates, push plates, handles, railings, etc.

- Dust mop floors and/or vacuum all carpeted areas
- Spot clean carpeted areas and remove any stains, spills or soiled spots
- Scrub composition floors daily

Weekly

- Burnish entire composition floor (Minimum of bi weekly)
- Replace all plastic can liners in waste receptacles
- Dust All horizontal surfaces up to 72"
- Sweep baseboards
- Clean bleachers, remove all trash, sweep, and clean floor underneath
- Clean bleachers, remove all trash , sweep after every school event

Semi-Annually

- Refinish all composition floors
- Clean all carpets

i. Grounds Maintenance immediately surrounding the building (within 15 feet)

Daily (Five days per week)

- Remove trash and debris around entire building daily by 10am
- Empty trash containers daily
- Blow all side walks off bi- weekly

j. Day porter duties

Daily (Five days per week)

- Monitor all restrooms every 2 hours and after each class break- spot mop floor, spot clean sinks, vanities, counter tops, mirrors, floors, and walls, pick up paper and flush commodes and urinals, and take out trash
- Pick up trash outside of building one (1) time per day
- Change light bulbs and tubes (reachable by 6ft. ladder provided by contractor)
- Clean and mop any accident that may occur during the day
- Respond to clean up request by Account Manager or Principal
- Clean electrical rooms and storage closets.
- Monitor cafeteria during lunch
- Clean cafeteria after lunch (auto scrub the floors)
- Respond to all schools needs
- Day porters are required to work on Teacher workday's

k. Special Events (Athletic events, Theater productions, Concerts, PTA Meetings, Board Meetings, etc.)

- Check and maintain clean restrooms, halls, lobbies, etc.
- Clean up after the event and prepare the space for school the next day.

7. COVID-19 Response—Daily cleaning, sanitation and disinfection for COVID-19 is considered to be a normal requirement of this contract. This includes but is not limited to additional disinfection of high touch points, restrooms and quarantine rooms as needed but no less than two (2) times per day. The Contractor is also expected to provide an emergency response plan and budget to clean classrooms and buildings when it is determined that they must be quarantined and closed due to COVID-19. The additional cost for this service should be limited to the labor and materials needed to complete each individual occurrence.

BUILDING LIST

Building Name	Square Ft.	Mobile Units/Sqft.	Student Enrollment	Day Porters hrs. Required	Night Hrs.
West Pender Middle	55,939	5 / 4470	182	8	12
Malpass Corner Elementary	76,751	0	431	12	16
Penderlea	85,000	0	501	12	20
Pender High	142,837	2 / 1728	592	16	34
Burgaw Elementary	87,974	0	504	8	22
Burgaw Middle	60,478	5 / 4470	284	8	16
Pender Resource Center/Board of Education	6,003	1 / 864	0	4	4

PCS Central Services/ Maintenance Dept./ Transportation Offices	6,245	0	0	0	4
Heide Trask High	165,875	0	692	16	34
Cape Fear Elementary / Middle	170,311	6 / 4128	971	20	46
Rocky Point Elementary	64,606	4 / 3456	433	12	20
South Topsail Elementary	72,325	6 / 5364	395	12	20
Topsail Elementary	58,802	8 / 5256	615	12	16
Topsail High	236,811	0	1528	24	48
Topsail Middle	111,009	10 / 8640	646	20	28
North Topsail Elementary	72,325	7 / 6048	487	12	18
Surf City Elem/Middle	185,000	0	1231	24	36
Totals	1,658,291	54 / 44,424	9492	220	384
Total soft w/ mobile units					

		COST BY POSITION	
		Cost	Monthly Cost
		Wage Rate	
Malpass Corner Elementary			
Penderlea Supervisor Elementary/Middle			
Pender High Supervisor High School			
Burgaw Elementary			
Burgaw Middle			
Pender Resource Center			
Board of Education			

REQUIRED SUBMITTALS

1. References
2. Company Profile
3. Company Finances
4. Corporate Support
5. Organization Chart/ Proposed Managers
6. Implementation / Startup Plan
7. Operations Plan for Custodial Services
8. Detailed Equipment List per school
9. Approved Cost Sheet
10. Specific Proposer Information Form
11. Proof of Insurance
12. Anti-collusion Affidavit of Compliance

13. Hold Harmless Agreement

Form A

Inflationary Price Adjustment Terms

For the period **January 1, 2021 through June 30, 2024**, on July 1 of each year of the contract term, the Contract Price shall be increased by the greater of one percent (1.0%) or the percentage change in the CPI-U over the previous twelve-month period, NOT to exceed a two percent (2%) price adjustment.

Form B

SPECIFIC PROPOSER INFORMATION

Name of firm

Address

Street

Street

City, State, Zip

Partnership or Corporation under state laws of

Name of authorized individual (type / print)

Authorized Signature

Title

Date

.....

.....

Contact person regarding this bid

.....

E-mail address

.....

Phone number

.....

Form C
PROOF OF INSURABILITY

(Attach copy of insurance certificate)

Form D

ANTI-COLLUSION AFFIDAVIT OF COMPLIANCE

Being first duly sworn deposes and says:

That he is _____
(Partner, Officer, Owner, Binding Representative, etc.)

(Provider)

The party making the foregoing proposal or bid, that such bid is genuine and not collusive, or sham; that said proposer has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person; to fix the bid price element or said bid, or of that of any other proposer, or to secure any advantages against any other proposer or any person interested in the proposed contract.

(Name of Proposer if Proposer is an Individual)
(Name of Partner if Proposer is a Partnership)
(Name of Officer if Proposer is a Corporation)

The above statements must be subscribed and sworn to before a notary public.

Subscribed and sworn to this _____ day of _____, 2020.

By: _____

Form E

HOLD HARMLESS AGREEMENT

The Provider hereby agrees to indemnify, keep and save harmless , Pender County Schools, agents, officials and employees against all injuries, judgments, costs and expenses which may in anywise accrue against Pender County Schools in consequence of the granting of this contract or which may in anywise result there from, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Provider or his employees, if any of, or its employees, and the Provider shall, at his own expense, appear, defend and pay all charges of attorneys and costs and other expenses arising there from or incurred against in any such action, and shall at his own expense discharge same.

The Provider expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by Provider, shall in no way limit the responsibility to indemnify, keep and same harmless and defend Pender County Schools as herein provided.

PROVIDER:

BY: _____

ATTEST:

CORPORATE
SEAL

Form F

PENDER COUNTY BOARD OF EDUCATION STANDARD CONTRACT TERMS AND CONDITIONS

Last Updated: March 14, 2018

1. **Acceptance.** Contractor's acknowledgment of the terms of this Contract constitutes an agreement to comply with all terms and conditions set forth or referenced (i) in the Vendor Contract for Goods and/or Services, (ii) in the Standard Contract Terms and Conditions herein, (iii) on any attachments thereto, (iv) in any applicable solicitation documentation related to this Contract (including without limitation any request for proposals or invitation for bids or Contractor's response thereto) that deal with the same subject matter as this Contract, and (v) in any other terms and conditions of a written agreement signed by Contractor and the Pender County Board of Education ("PCBOE") that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and PCBOE with respect to the purchase by PCBOE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to PCBOE shall control. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice or in any other communication from Contractor to PCBOE shall be deemed accepted by or binding on PCBOE. PCBOE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until PCBOE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by PCBOE are subject to correction.
2. **Quantities.** Shipments must equal exact amounts ordered unless otherwise agreed in writing by PCBOE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. **Prices.** If Contractor's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Contractor agrees to give PCBOE the benefit of such lower price on any such Goods or Services. In no event shall Contractor's price be higher than the price last quoted or last charged to PCBOE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents. Should the Contract Documents include any provision allowing an increase in the contract price due to external conditions, Contractor shall inform PCBOE of such change and PCBOE shall have the right to terminate the Contract if desired.
4. **Price Adjustments (term contracts only).** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the Contractor to other customers.
 - a. **Notification:** Must be given to PCBOE in writing concerning any proposed price adjustments. Such notification shall be accompanied by a copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
 - b. **Decreases:** PCBOE shall receive full proportionate benefit immediately at any time during the contract period.
 - c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the Contract. After this period, a request for increase may be submitted with PCBOE reserving the right to accept or reject the increase, or cancel the Contract. Such action by PCBOE shall occur not later than 15 days after the receipt by PCBOE of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
5. **Invoices.** It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to PCBOE's accounts payable department with a copy to the PCBOE Project Coordinator.
6. **Freight on Board.** All shipments of Goods are freight on board destination unless otherwise stated in the Contract Documents.
7. **Taxes.** Any applicable taxes shall be invoiced as a separate item.

8. **Payment Terms.** Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.
9. **Condition and Packaging.** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
10. **Delays in Shipment.** Time and date of delivery are of the essence, except when delay is due to causes beyond Contractor's reasonable control and without Contractor's fault or negligence.
11. **Risk of Loss.** Contractor shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by PCBOE or its nominee.
12. **Rejection.** All Goods and Services shall be received subject to PCBOE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Contractor's expense or may be accepted at an appropriate reduction in price. PCBOE may require Contractor to promptly replace or correct any rejected Goods or Services and, if Contractor fails to promptly replace or correct such Goods or Services, PCBOE may contract with a third party to replace such Goods and Services and charge Contractor the additional cost.
13. **Compliance with All Laws.** Contractor warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders.
14. **E-Verify Compliance.** Pursuant to N.C. Gen. Stat. § 143-133.3, Contractor represents and warrants that it is aware of and in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees, and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Contractor shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract.
15. **Iran Divestment.** Contractor certifies that it is not identified on a list created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. §147-86.58 as a person engaging in investment activities in Iran. Contractor further certifies that in the performance of this Agreement it shall not use any contractor or subcontractor that is identified on such a list.
16. **Warranties.** Contractor warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by PCBOE of the Goods and Services and shall run to PCBOE and any user of the Goods or Services. This express warranty is in addition to Contractor's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, PCBOE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.
17. **Indemnification.** Contractor shall indemnify and hold harmless PCBOE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorney's fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Contractor's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Contractor shall indemnify and save harmless PCBOE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of PCBOE in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless PCBOE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
18. **Insurance.** Unless such insurance requirements are waived or modified by PCBOE or Insurance and Risk Management, Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the

following insurance from one or more insurance companies acceptable to PCBOE and authorized to do business in the State of North Carolina: Automobile - Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability - Contractor shall maintain commercial general liability insurance that shall protect Contractor from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/mutual aggregate. Workers' Compensation and Employers' Liability Insurance - If applicable to Contractor, Contractor shall meet the statutory requirements of the State of North Carolina for workers' compensation coverage and employers' liability insurance. Contractor shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Contractor to PCBOE and shall contain the provision that PCBOE be given 30 days' written notice of any intent to amend or terminate by either Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

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

27. **Contract Modifications.** The Contract may be amended only by written amendment duly executed by both PCBOE and Contractor. However, minor modifications may be made by PCBOE Project Coordinator to take advantage of unforeseen opportunities that: (a) do not change the intent of the Contract or the scope of Contractor's performance; (b) do not increase Contractor's total compensation or method of payment; and (c) either improve the overall quality of the product or service to PCBOE without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the Contract must be recorded in writing and signed by both the Project Coordinator and Contractor, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.
28. **Relationship of Parties.** Contractor is an independent contractor and not an employee of PCBOE. The conduct and control of the work will lie solely with Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and PCBOE. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.
29. **Advertisement.** The Contract will not be used in connection with any advertising by Contractor without prior written approval by PCBOE.
30. **Nondiscrimination.** During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
31. **Conflict of Interest.** Contractor represents and warrants that no member of PCBOE or any of its employees or officers has a personal or financial interest or will benefit from the performance of the Contract or has any interest in any Contract, subcontract or other agreement related to the Contract. Contractor shall not permit any member of PCBOE or any of its employees or officers to obtain a personal or financial interest or benefit from the performance of the Contract or to have any interest in any Contract, subcontract or other agreement related to the Contract, during the term of the Contract. Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
32. **Gratuities to PCBOE.** The right of Contractor to proceed may be terminated by written notice if PCBOE determines that Contractor, its agent or another representative offered or gave a gratuity to an official or employee of PCBOE in violation of policies of PCBOE.
33. **Kickbacks to Contractor.** Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a PCBOE Contract or in connection with a subcontract relating to a PCBOE Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to PCBOE in writing the possible violation.
34. **Monitoring and Evaluation.** Contractor shall cooperate with PCBOE, or with any other person or agency as directed by PCBOE, in monitoring, inspecting, auditing or investigating activities related to the Contract. Contractor shall permit PCBOE to evaluate all activities conducted under the Contract. PCBOE has the right at its sole discretion to require that Contractor remove any employee of Contractor from PCBOE property and from performing services under the Contract following provision of notice to Contractor of the reasons for PCBOE's dissatisfaction with the services of Contractor's employee.
35. **Financial Responsibility.** Contractor represents that it is financially solvent and able to perform under the Contract. If requested by PCBOE, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by PCBOE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then PCBOE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
36. **Governmental Restrictions.** In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Contractor to notify, in writing, the purchasing office at once, indicating the specific regulation which required such alterations. PCBOE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

37. **Inspection at Contractor's Site.** PCBOE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for PCBOE determination that such equipment/item, plant or other facilities conform with the specifications/ requirements and are adequate and suitable for the proper and effective performance of the Contract.
38. **Confidentiality Information. Student Information.** If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to students' official records, Contractor agrees to keep any such information confidential and to not disclose or permit to be disclosed, directly or indirectly, to any person or entity any such student information. The Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. § 115C-401.1, Prohibition on the Disclosure of Information about Students, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the Contract. **Employee Personnel Information.** If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to employees of PCBOE's personnel records, Contractor agrees to keep any such information confidential and to not disclose or permit to be disclosed, directly or indirectly, to any person or entity any such personnel information. **Other Confidential Information.** (a) Contractor agrees that it will at all times hold in confidence for PCBOE all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by PCBOE to Contractor in connection herewith or procured, developed, produced, manufactured or fabricated by Contractor in connection with Contractor's performance hereunder (collectively, "Information"). Contractor shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Contractor shall not, without the prior written consent of PCBOE, reproduce any Information; nor disclose Information to any party; nor use any Information for any purpose other than performance for the benefit of Contractor hereunder. (b) Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to PCBOE in connection with the Goods or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by PCBOE, be deemed to be confidential or proprietary information and shall be acquired by PCBOE free from any restrictions as part of the consideration of the Contract.
39. **Schematic Designs.** As provided by N.C.G.S. § 115C-105.53(c), schematic designs of school buildings are not considered public records or subject to public inspection, and Contractor shall keep in confidence any such designs in its possession for purposes of this Contract.
40. **Intellectual Property.** Contractor agrees, at its own expense, to indemnify, defend and save PCBOE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that PCBOE's use, possession or sale of the Goods or Services infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
41. **No Pre-Judgment or Post-Judgment Interest.** In the event of any action by Contractor for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Contractor specifically waives any claim for interest.
42. **Background Checks.** At the request of PCBOE's Project Coordinator, Contractor (if an individual) or any individual employees of Contractor involved in the performance of the Contract shall submit to PCBOE criminal background check and drug testing procedures.
43. **Jessica Lunsford Act.** As required by N.C.G.S. § 115C-332.1, all Contractors, subcontractors, consultants, sub-consultants, and vendors shall conduct prior to the start of service and annually thereafter a review of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry for all employees who will provide services under this contract that involve direct interaction with PCBOE students. For Contractor's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. Any employee of the contractor, subcontractor, consultant, sub-consultant, or vendor found to be registered on any of the lists identified herein shall not perform any work under this contract and shall not be permitted to enter property owned by Pender County Schools or Pender County on behalf of Pender County Schools. Failure to comply may result in legal action and termination of the contract for default.

44. **Safety Data Sheets.** Pursuant to the Hazard Communication Standard (29 C.F.R. §1910.1200, et seq.) and incorporated by reference, except as modified by 13 N.C.A.C. 07F .0101, Contractor shall provide all safety data sheets in accordance with federal and state regulations.
45. **Mediation.** If a dispute arises out of or relates to the Contract, or the breach of the Contract, the parties agree first to try in good faith to settle the dispute through negotiation. If the dispute cannot be settled through negotiation, Contractor agrees to offer to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules, or administered by another mediator jointly selected by the parties, before resorting to litigation.
46. **Attorney's Fees.** In the event of legal proceedings related to the Contract, PCBOE shall be entitled to recover its costs and reasonable attorney's fees to the maximum extent allowed by law, should PCBOE be the prevailing party.
47. **No Third Party Benefits.** The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.
48. **Force Majeure.** If PCBOE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by PCBOE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of PCBOE.
49. **Ownership of Documents.** All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by PCBOE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Contractor pursuant to the Contract shall, at the request of PCBOE, be turned over to PCBOE. Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to PCBOE shall not, unless otherwise specifically agreed upon in writing by PCBOE, be deemed to be confidential or proprietary information and shall be acquired by PCBOE free from any restrictions as part of the consideration of the Contract.
50. **Strict Compliance.** PCBOE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
51. **General Provisions.** PCBOE's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Contractor hereunder, PCBOE shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without PCBOE's prior, express written consent.
52. **Contract Situs.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Pender County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.
53. **Federal Tax Number or Social Security Number.** Upon request by PCBOE or its representatives, Contractor shall provide its federal tax identification number or, if Contractor is an individual, his or her Social Security Number.