

**BOARD OF EDUCATION**

*Kristin McCabe, President
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Kimberly Dove • Sara Gillespie
Michelle Morancie, Ph.D. • Lillie Pozatek
Franchesca Warren
Mike Looney, Ed.D., Superintendent*

DATE: June 23, 2026

TO: All Offerors

FROM: Angela R. Young
Executive Director of Contracting

RE: **Request for Qualifications No. 402-27, Hazardous Materials Consultant Services**

Fulton County Schools (FCS) invites you to submit qualifications for furnishing any or all professional consulting services, design, labor, and materials to provide Hazardous Materials Consultant Services for various Fulton County School (FCS) projects.

Submittals will be received digitally until **2:30 p.m. EST on July 23, 2026** through Euna Procurement (Bonfire) at <https://fultonschools.bonfirehub.com> or via the Euna Procurement (Bonfire) link on the FCS Contracting website at <https://www.fultonschools.org/contracting>.

A pre-submittal video conference via Microsoft Teams is scheduled for **June 30, 2026 10:00 a.m. EST**. We encourage all offerors to join. The meeting link will be issued within 48 hours of meeting via Public Notice in Euna Procurement (Bonfire).

Questions regarding the submittal process shall be submitted via Euna Procurement (Bonfire). Only questions received prior to **4:00 p.m. EST on July 9, 2026** will be considered.

Submittals are legal and binding upon the Offeror when submitted.

Selection criteria are outlined in the Request for Qualifications documents. FCS reserves the right to accept or reject any or all submittals and to waive any formalities and to make an award deemed in their best interest. Award notification will be posted after award at <https://fultonschools.bonfirehub.com> or by visiting the FCS Contracting website at <https://www.fultonschools.org/contracting>. All successful vendors will be required to provide the requested information.

We look forward to your submittal and appreciate your interest in doing business with Fulton County Schools.

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

1. INTRODUCTION

- a. To be entitled for consideration, sealed submittals shall be presented in accordance with the instructions of this solicitation and within the time constraints stated.
- b. FCS reserves the right to accept or reject any or all submittals and to waive minor irregularities and technicalities. The judgement of FCS on such matters shall be final.
- c. The terms Bidder, Vendor, Contractor and/or Offeror are synonymous in this document and refer to the person, entity or firm that submits the proposal in response to this RFQUAL.

2. REQUEST FOR QUALIFICATION PROCESS:

This solicitation is a Request for Qualification (RFQUAL). In using this method for solicitation, we are asking the marketplace for its best effort in seeking qualified vendors for the requirements of this solicitation. The submittal(s) submitted by the Offeror will be evaluated by an evaluation committee. Offeror(s) should make their best effort to satisfy the requirements at their best price because a contract may be awarded based on the initial evaluation. Often however, it will be necessary to hold discussions and/or demonstrations with the Offeror(s) about their submittal(s). This will be done after the initial evaluation. The results of the evaluation will be reviewed, and a “competitive range” will be selected for discussions. Essentially, if an Offeror’s proposal is not evaluated as having a chance for contract award because of the content of the submittal, the submittal will be dropped from the competitive range to save time and money for both the Contractor and FCS.

Offerors in the “competitive range” will be notified of the weaknesses in their submittal(s) and given an opportunity, in discussions, to assure they understand the weaknesses. At the end of discussions with all Offerors, best and final offers (BAFO) will be accepted from the Offeror(s) in the competitive range.

The BAFOs will be evaluated, and the results reported to a source selection official who will select the submittal that is deemed to be qualified. This selection will then be presented to the Fulton County Board of Education for approval. If approved by the Board and other matters (insurance, bonds, etc.) are agreed upon, the firm will become eligible for project assignments.

3. GOVERNMENTAL ENTITY

- a. The governmental entity, the owner, for whom the work will be executed is: Fulton County School District, Georgia (hereinafter “FCS”).
- b. The Owner’s Representative will be FCS Capital Improvement Program.

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

4. PREPARATION OF SUBMITTALS

- a. All proposals shall be submitted via Euna Procurement (Bonfire). The person submitting the proposal can make changes prior to the deadline.
- b. Specifications used are intended to be open and non-restrictive. Potential Offeror(s) are invited to inform the FCS Contracting Department in writing whenever specifications or procedures appear not to be fair and open. Such information should be supplied as early in the procurement process as possible. Information received after **4:00pm EST July 9, 2026**, will not be acted upon unless the FCS Contracting Department rules that it is in the best interest of FCS to consider.
- c. By submitting a submittal, the firm warrants that any services provided to FCS will meet or exceed the specifications set forth in this solicitation.
- d. The FCS Contracting Department will be the sole judge in making the determination as to the quality and the appropriateness of the goods and services proposed as well as the responsiveness and responsibility of the Contractor.
- e. If any supplies, materials, and equipment are provided to FCS under this solicitation, then such items shall be new and in first-class condition unless the solicitation specifically allows offers of used, reconditioned, or remanufactured items. If newly manufactured products are specified, such products shall be of recent origin and not previously used. No equipment of any type is acceptable if serial numbers or any other manufacturer's identification labels or marks have been removed, obliterated, or changed in any way. A Contractor delivering any such equipment to FCS will be deemed to have breached the contract, and appropriate action will be taken by the FCS Contracting Department.
- f. Time of delivery is a part of the solicitation and an element of the contract that is to be awarded. If the Contractor cannot meet the required delivery date, a submittal should not be submitted. Contractors may provide alternative schedules and/or delivery dates in their submittals. Time shall be stated in "calendar" days. Failure to deliver in accordance with the contract awarded could result in the Contractor being declared in default.
- g. An authorized officer of the company shall submit submittals.
- h. The Contractor covenants with FCS to furnish its professional skill and judgment with due care in accordance with the care and skill normally exercised with experienced and competent, licensed employees performing the same or similar services at the same time and place and in accordance with any specific requirements of the solicitation (the "Standard of Care"). The Contractor acknowledges and agrees that the Standard of Care is a material term of this solicitation.

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

5. TAXES

FCS is exempt from all state sales tax and Federal Excise Tax. These taxes shall not be included in proposals. However, in the event taxes are required by state or federal law for the services or products outlined in this proposal, such taxes shall be the sole responsibility of the Contractor unless otherwise stated in writing and agreed to by FCS.

6. CHARGES AND EXTRAS

Proposals shall define all pricing and all pricing must remain firm for each year that the contract is in effect. When stating equipment pricing at minimum the stated price shall be F.O.B. destination to include all charges for delivery, unloading, placing in our buildings as directed by the authorities in the buildings, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds and any other cost. Any additional work, such as installation shall be clearly stated in the proposal.

7. ADDENDA

Offeror(s) are notified that they must thoroughly examine proposal documents which include, Submittal Conditions, Specifications, Request for Sealed Submittal and Offeror's Checklist, together with Addenda thereto issued prior to the receipt of proposal.

Any addenda issued during the time of solicitation shall be included in the proposal, and each will be incorporated in the subsequent contract. If any person or firm contemplates submitting a proposal and is in doubt as to the meaning of any part of the solicitation documents, they may submit a request to the Contracting Department via Euna Procurement (Bonfire) for interpretation.

Interpretations of submittal documents will be made by Addenda only. Copies of all addenda will be posted via Euna Procurement (Bonfire) for all who have obtained a set of submittal documents from the Contracting Department to use in the preparation of submittals. FCS will not be responsible for any other interpretations or explanations.

No oral interpretations will be made to Offeror(s) as to meaning of submittal documents. Requests for such interpretations shall be made via Euna Procurement (Bonfire). Failure on the part of the Contractor to do so shall not relieve them of the obligation to execute such work in accordance with a later interpretation by FCS. All interpretations made to the Offeror(s) shall be made in the form of an addenda to the submittal documents and will be posted via Euna Procurement (Bonfire). Offeror(s) are strongly urged to make arrangements to visit and inspect the site(s) prior to submitting if the configuration, structure, condition, etc. of the site will influence the proposal for contract performance

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

8. WITHDRAWAL OF SUBMITTALS

After the RFQUAL closing, FCS Contracting Department, at its sole discretion, will permit withdrawal only when the best interest of FCS is served. If withdrawal is allowed, FCS reserves the right to determine that the Contractor is chronically not responsible

9. ADDITIONAL TERMS NOT BINDING

FCS shall not be bound by any terms and conditions included in any Offeror's proposed contract(s), including but not limited to, terms and conditions related to any provided service or good, limitations of the Offeror's liability or any other third party's liability, limitation of warranties, packaging, invoices, service catalog, brochure, technical data sheet, electronic disclosures, electronic agreements, or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained in this solicitation, FCS' purchase order related to this solicitation or contract.

FCS encourages the submission of value-added recommendations by Offeror but discourages the submission of terms which negate or conflict with the terms and conditions of this solicitation (See Section eight (8) below). If Offeror has additional terms and conditions, including but not limited to supplemental contracts or purchase orders, that Offeror is proposing, then Offeror must provide a list of the documents and a copy of each document in the listed order, with the Offeror's initial RFQUAL response. ***Additional documents proposed by Offeror may not incorporate other documents by reference - all documents Offeror proposes FCS consider must be listed and attached to Offeror's Submittal.*** No additional terms, conditions or documents will be considered after the submittal due date unless specifically requested by FCS.

10. EXCEPTIONS AND PROPOSED CONTRACT MODIFICATIONS

The terms and conditions contained in this solicitation comprise the contract terms and conditions proposed by FCS. FCS does not intend to make changes to those terms and conditions, unless necessary to clarify the scope of work and/or technical requirements.

Offeror may lose up to **10** points for substantive modifications proposed by Offeror which materially differ from the RFQ terms and are likely to, in the opinion of FCS, require substantial legal negotiations to resolve. In addition, failure to accept the RFQ terms and conditions may result in significant unacceptable delays in FCS' ability to award a contract and may also result in an Offeror's submittal being deemed to be nonresponsive.

Nonetheless, if an Offeror must take exception to the contract terms, the exceptions to the scope of work and/or technical requirements must be clearly identified along with the reason for the exception and submitted with Offeror's proposal on the Offeror's Exception Form. Similarly, if Offeror must propose modifications to the solicitation's contractual terms, then Offeror must use the Offeror's Modification Form to specifically identify the contract provision Offeror seeks to modify, the reason for the proposed modification and Offeror must provide the specific contract language Offeror proposes to substitute in place of the provision.

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

Offerors who submit a proposed or sample contract must still specifically identify each proposed modification using the Offeror's Modification Form.

Proposed exceptions and proposed modifications must not conflict with or attempt to preempt the mandatory requirements set forth in the Special Stipulations Section of this solicitation.

No exceptions or proposed modifications will be considered after the submittal due date unless such modification is specifically requested by FCS. Offerors are cautioned to limit exceptions and proposed contract as they may be determined to be so material as to cause rejection of the Submittal as non-responsive. All exceptions and proposed modifications shall be evaluated in accordance with the appropriate evaluation criteria established by FCS and may result in the Offeror receiving a less favorable evaluation than without the stated exceptions and proposed contract modifications. Exceptions and modifications which grant the Offeror an impermissible competitive advantage as determined by FCS in its sole discretion will be rejected.

If there is any question whether a particular exception or modification would be permissible the Offeror is strongly encouraged to inquire via Euna Procurement (Bonfire) prior to the deadline for submitting questions

No exception or proposed contract modification shall be binding on FCS unless specifically accepted by FCS in writing and acknowledged by FCS as a change to the terms of the solicitation.

11. COMPLIANCE WITH LAWS

All goods and/or services furnished shall comply with all applicable Federal, State and Local laws, codes, rules, ordinances and regulations, including but not limited to all FCS policies, procedures, operating guidelines and/or regulations. Offeror must and shall comply with all applicable federal, state, and local laws, rules, and regulations, as the same may be amended or supplemented from time to time, including but not limited to those pertaining in any way to the privacy, confidentiality, security, management, and disclosure of FCS data, including student data, personnel information and other confidential information.

This section is not subject to exception or modification under the “Exceptions and Proposed Contract Modifications” as outlined in Section I, Paragraph 10, above.

All property or services furnished in an Agreement resulting from this solicitation shall comply with all applicable Federal, State and Local laws, codes and regulations.

If the objection is specifically accepted by FCS it will be reflected in writing. If not so reflected, the terms and conditions shall remain as written in the solicitation.

12. PROTESTS

Protests dealing with the specification, or the solicitation shall be filed not later than three (3) working days prior to submittal opening date. Other protests shall be filed not later than three (3) working

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION I – PREPARATION AND SUBMISSION OF SUBMITTALS

days after submittal opening date, or if the protest is based on subsequent action of FCS, not later than three (3) working days after the aggrieved person knows or should have knowledge, of the facts given rise to the protest. Protests are considered filed when received by the Executive Director of Contracting. Protests which are not filed in a timely manner, as set forth above will not be considered. Contractor agrees to pay for FCS's reasonable attorney's fee and expenses of litigation for any protest arising out of this solicitation in which FCS is a prevailing party. Only Contractors who participated in the solicitation are eligible to protest.

13. PURCHASING POLICY AND OPERATING GUIDELINES

The FCS Purchasing Policy and Operating Guidelines DJE and Regulations are incorporated into this solicitation (and, therefore, any contract awarded as the result of this solicitation) by reference. By participation in this solicitation an Offeror, potential Offeror or Contractor agrees to be bound by the FCS Purchasing Policy and Operating Guidelines DJE and Regulations on any issue or action related to this solicitation or subsequent contract resulting from this solicitation.

Those wishing to do business with Fulton County Schools are required to complete our supplier questionnaire and register on Ariba, which is the business network used by FCS for receiving electronic responses to our solicitations, sending purchase orders, and receiving invoices. If your company is not currently registered to do business with FCS on the Ariba Business Network, please send an email to wecare@fultonschools.org for information on how to start the process.

SUBMITTAL CONDITIONS

SECTION II – CONTRACT AWARD

1. FORM OF AGREEMENT

Hazardous Materials Consultant Services will be procured through a Task Order Agreement (see Appendix IV for the form of agreement).

2. EXECUTED AGREEMENT

Task Order Agreements will be executed with the responsible Offerors whose submittals are determined to be the most advantageous and of best value to Fulton County Schools. Sealed qualification submittals will be evaluated on a combination of factors (see the RFQUAL portion of this solicitation for weighted evaluation factors).

3. CONFLICTS IN TERMS AND CONDITIONS

In the event of a conflict between terms and conditions in any document that will be part of the Agreement, the more stringent term or condition shall govern.

4. OFFEROR'S APPLICATION FORM

In order to register your company with FCS' vendor database, each Offeror will need to go to the FCS Capital Program Contracts website on the World Wide Web at www.fcscpcontracts.org and complete the vendor application.

5. TERMINATION FOR CONVENIENCE

FCS reserves the right to terminate for convenience, at any time for any reason with no penalty, any Agreement awarded through this solicitation by providing the Contractor with thirty (30) days written notice. In the event of termination for FCS' convenience, the Contractor shall only be compensated for services properly performed prior to termination. The Contractor waives its right to pursue FCS for damages other than those specifically set forth above in this Section.

6. TERMINATION FOR DEFAULT

In the event any property or service to be furnished by the contractor under a contract or purchase order should for any reason not conform to the specifications contained herein or to the sample submitted by the contractor with this Request for Qualification, the FCS may reject the property or service and may terminate the Agreement for default.

Prior to a termination for default, a Contractor will be given the opportunity to respond to a "cure notice" and/or a "show cause notice". In either case the Contractor will be expected to either correct the offending situation or provide an acceptable plan and time frame for correction within five (5) days of receipt or refusal of either notice. Failure to do so will be cause for termination.

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION II – CONTRACT AWARD

In such event with specific instructions by the Executive Director of Contracting, the Contractor shall immediately remove the property without expense to FCS and replace all rejected property with such property or services conforming to the specifications or samples.

Notwithstanding the foregoing, FCS reserves the right to terminate the contract immediately upon written notice to Contractor, without first providing an opportunity to cure, in the event of a default by Contractor constituting an immediate threat to health, safety, student data privacy, plan data privacy (including plan participant data privacy), property, and/or involving illegal activity.

SUBMITTAL CONDITIONS

SECTION III – OTHER

1. NON-DISCRIMINATION

The Offeror, by the submission of a proposal or the acceptance of an order or contract, agrees that in providing the goods and services covered under the proposal or contract not to discriminate in any way against any person or persons or refuse employment of any person or persons on account of race, color, religion, age, disability, national origin, sex, or any other legally protected status.

2. FCS NON-DISCRIMINATION

FCS does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, or any other legally protected status in any of its employment practices, education programs, services or activities.

3. MINORITY AND FEMALE BUSINESS ENTERPRISES

It is the intent of FCS to assure that Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Female Business Enterprises (FBE) have an equal opportunity to participate in FCS Contracting solicitations.

4. DRUG-FREE WORKPLACE

By submission of a submittal, the Offeror certifies that it will not engage in the unlawful manufacture, sale, distribution, dispensation, possession or use of a controlled substance or drug during the performance of the Agreement and that a drug-free workplace will be provided for the Offeror's employees during the performance of the Agreement. The Offeror also certifies that he will secure from any sub-consultant who works on the project for Offeror, written certification of the same drug free workplace requirements. False certification or violation by failing to carry out requirements of O.C.G.A. § 50-24-3 may result in suspension or termination of this Agreement or disqualification of such Offeror to participate in any future FCS projects.

5. CERTIFICATION OF NONCOLLUSION

By submitting a submittal the Offeror certifies: "that this submittal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a submittal for the same materials, supplies, equipment or services, and is in all respects fair and without collusion or fraud and that collusive pricing is understood to be a violation of State and Federal law and can result in fines, prison sentences and civil damage awards."

6. AUTHORIZED OFFICIAL

It is agreed that all conditions of the submittal shall be abided by and that the person signing this submittal is authorized to sign the submittal for the Offeror. In any event in which this solicitation is terminated or cancelled, in whole or in part, or all proposals are rejected, there shall be no

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION III – OTHER

liability on the part of FCS for any costs incurred by Offerors or potential Offerors in relation to the solicitation.

7. SOLICITATION TERMINATION

In any event in which this solicitation is terminated or cancelled, in whole or in part, or all submittals are rejected, there shall be no liability on the part of FCS or the Board of Education for any costs incurred by Offerors or potential Offerors in relation to the solicitation.

8. RIGHTS AND REMEDIES

The rights and remedies of FCS provided above shall not be exclusive and are in addition to any other rights and remedies provided by law.

9. SPECIAL STIPULATIONS- MANDATORY

The following special stipulations are binding upon Offeror and FCS and may not be modified or amended. These special stipulations are not subject to the “Exceptions and Proposed Contract Modifications” outlined in Section I, Paragraph 7, and these special stipulations shall supersede and govern in the event of any conflicting term or provision. ***Failure to accept these special stipulations may result in your submittal being declared non-responsive.***

(a) GOVERNING LAW. This solicitation and any Agreement arising out of the solicitation shall be interpreted under, governed by and construed in accordance with the laws of the State of Georgia applicable to contracts made and performed in such state. Jurisdiction and venue of any action relating to the interpretation and enforcement of this Agreement shall be proper only in the Superior or State Courts of Fulton County, Georgia or in the U.S. District Court, Northern District of Georgia, Atlanta Division. Offeror consents to the exclusive jurisdiction of the state and/or federal courts of the State of Georgia, in Fulton County and to the personal jurisdiction of such courts and waives any objections Offeror may now or hereafter have based on venue or forum non-conveniens.

(b) PROHIBITIVE AGREEMENTS. To the extent required by applicable law, any provision contained in any Offeror document that violates the prohibition against a pledge of credit by FCS or requires FCS to expend funds for purposes other than educational purposes, or constitutes a waiver of FCS' sovereign immunity, or constitutes an illegal gratuity, or requires FCS' indemnification of Offeror is null and void.

(c) CONFIDENTIALITY, PRIVACY, AND SECURITY. The Offeror's employees, agents and subcontractors may have access to or become aware of FCS's confidential information including without limitation FCS's strategic plans, employee data, student data, and other such information of FCS (collectively referred to as “FCS Data”). Offeror shall presume that all information received pursuant to the contract or in the course of fulfilling Offeror's responsibilities under the contract is confidential information unless otherwise expressly

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION III – OTHER

designated by FCS. Should Offeror receive FCS Data as part of its services, Offeror must preserve and protect the confidentiality of FCS Data and prevent unauthorized disclosure and use of FCS Data, as required by this Agreement and state and federal law. Offeror will only use FCS Data for the purposes of the services contemplated in this proposal. FCS Data shall not constitute that information that is already public, has been completely and thoroughly anonymized or deidentified, or anonymous usage data regarding a student's use of Offeror's products or services. These terms and conditions apply to any Offeror that receives, uses, maintains, accesses, or stores FCS Data.

i) **Industry Standards.** Offeror shall meet all applicable industry standards concerning data privacy, data protection, confidentiality, and data security. Offeror agrees to maintain security protocols that meet industry best practices in the transfer or transmission of any FCS Data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Offeror shall maintain all data obtained or generated pursuant to this Agreement in a secure computer environment and not copy, reproduce, or transmit FCS Data obtained pursuant to this Agreement, except as necessary to fulfill the purpose of this Agreement. The foregoing does not limit the ability of Company to allow any necessary service providers to view or access FCS Data as set forth in this Agreement.

ii) **Legal Compliance.** Offeror represents and warrants that it will comply and assist FCS in compliance, in all material respects, with federal and state laws and regulations regarding privacy of information and confidentiality of student educational records, including, without limitation, the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C § 1232g, the Protection of Pupil Rights Amendment ("PPRA"), 20 U.S.C. § 1232h, the Children's Online Privacy Protection Act ("COPPA"), 15 U.S.C. § 6501, and the Georgia Student Data Privacy, Accessibility, and Transparency Act (O.C.G.A. §§ 20-2-660 et seq.) ("SDA").

iii) **Offeror as School Official.** To the extent Offeror has a legitimate educational interest in student educational records and information and must access, maintain, or use such records and information in order to provide services to or on behalf of FCS and its employees, agents, teachers, and students, FCS designates Offeror a "school official" within the meaning of FERPA. Offeror will be under the direct control of FCS with respect to the use and maintenance of personally identifiable information and education records, as those terms are defined by FERPA, and Offeror may use personally identifiable information and education records only for the purpose of performing its obligations under this Agreement and as authorized by the state and federal laws referred to in ii) Legal Compliance cited above.

iv) **Offeror as Operator.** Offeror shall comply with the SDA to the extent Offeror is an "operator" as defined by the SDA. Specifically, Offeror shall not: (1) use student data to engage in behaviorally targeted advertising based on any student data and state-assigned student identifiers or other persistent unique identifiers that Offeror has acquired because of a student's use of Offeror's website, service, or application; (2) use information created or gathered by Offeror's website, service, or application to amass a profile about a student except in furtherance of K-12 school purposes; (3) sell a student's data except as authorized by O.C.G.A. § 20-2-666;

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION III – OTHER

or, (4) disclose student personally identifiable data without explicit written or electronic consent from the student over the age of 13 or a student's parent or guardian, given in response to clear and conspicuous notice of the activity, unless disclosure is made for a purpose authorized under O.C.G.A. § 20-2-666.

v) **Security or Data Breach.** Offeror shall give prompt written notice to FCS within ten (10) days of any security breach that may or does impact FCS Data or of any unauthorized use or disclosure of FCS Data. Offeror shall assist FCS in remedying each unauthorized use or disclosure at Offeror's expense. Such notice shall include, at a minimum, the following information: 1) A list of the types of FCS Data that were or are reasonably believed to have been the subject of a breach; 2) the date or estimated date of the breach, if known; 3) whether law enforcement has been engaged; 4) a description of the breach incident; and 5) provide validation on the current state or containment of the data breach.

vi) **Data Ownership.** All FCS Data as well as other documents, data, and information provided to the Offeror by FCS is and will remain the property of FCS to the extent that it was the property of FCS at the time it was provided to the Offeror.

vii) **Disclosure of FCS Data and Confidential Information.** Offeror shall not disclose FCS Data unless the disclosure is necessary for Offeror to provide the products and/or services under this Agreement and the disclosure is made to Offeror's contractor, subcontractor, processor, or subprocessor that Offeror holds to the same or substantially similar requirements for data privacy, use, and security as contained in this Agreement.

viii) **Data Destruction or Return.** All FCS Data shall be returned to FCS by the Offeror, without charge, within ten (10) business days of the completion of the services under this proposal in a usable format unless FCS requests otherwise or it is prohibited by law, regulation, or professional standards. Offeror shall destroy, dispose of, and/or delete all FCS Data, including, but not limited to, student education records and personally identifiable information transmitted to Offeror under this Agreement within forty-five (45) days after the termination of this Agreement or after it ceases to provide services to FCS. Offeror shall destroy FCS Data in accordance with acceptable industry standards for secure and comprehensive destruction of sensitive data. If requested by FCS, an officer of the Offeror will certify in writing that all FCS Data and all copies thereof have been delivered to FCS or destroyed.

ix) **Review of Third-Party Audits and Reports.** Upon request by FCS, Offeror shall provide a copy of its most recent Statement on Standards for Attestation Engagements ("SSAE") No. 18 audit, SOC2 audit report, or equivalent audit of any data center security controls in which FCS Data is stored.

x) **Encryption.** All FCS Data stored by Offeror shall be protected with a data-at-rest encryption product utilizing a validated FIPS 140-2 Cryptographic Module with AES 256 standard or higher, or whatever the industry standards for encryption are at that time, if better. All FCS Data transmitted by Offeror and/or its contractors, subcontractors, processors, and sub processors

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION III – OTHER

will be protected with a TLS 1.2 or higher transmission encryption that complies, as appropriate, with NIST Special Publications 800-77, Guide to IPsec VPNs; or 800-113, Guide to SSL VPNs, or others that are Federal Information Processing Standards (FIPS) 140-2 validated.

xi) **Security Technology.** When the service is accessed using a supported web browser, Secure Socket Layer (“SSL”), or equivalent technology shall be employed to protect FCS Data from unauthorized access. The service security measures shall include server authentication and data encryption. Offeror shall host FCS Data in an environment using a firewall that is periodically updated according to industry standards.

xii) **Patch Requirements.** Offeror must have a documented patch management and distribution process that ensures security patches are applied to all systems (to include servers, laptops, workstations) that process and/or store FCS Data.

xiii) **Audit Trail.** All systems that process or store FCS Data must maintain an electronic audit trail that documents system security events. Offeror must ensure that users receive regular security awareness training.

xiv) **Disaster Recovery Process.** Offeror must maintain a disaster recovery process.

xv) **Contractor Compliance.** Offeror shall periodically conduct or review compliance monitoring and assessments of Offeror’s contractors, subcontractors, processors, and/or subprocessors to determine their compliance with the privacy, use, and security requirements of this Agreement. Offeror shall implement, test, and continually monitor the administrative, physical, and technical controls necessary to protect FCS Data. FCS may require Offeror to complete periodic security assessments to ensure compliance with FCS data security requirements.

xvi) **Audit.** FCS may audit the records and systems of Offeror to ensure compliance with the data security and privacy terms. FCS will notify Offeror in writing at least ten business days prior to any such audit. If an audit reveals that Offeror is using FCS Data beyond the scope of the Agreement, then, in addition to any other remedies available to FCS, Offeror shall reimburse FCS for the cost of such audit.

xvii) **Unilateral Modifications.** FCS cannot agree to any terms and conditions that are either unknown at the time of signing the contract; or can be unilaterally modified by Offeror. To the extent that any of the Offeror documents permit unilateral modifications, such provisions are null and void. If Offeror has separate terms and conditions in the form of a privacy policy, master services agreement, SAAS agreement, or otherwise, those terms and conditions must be included in the Offeror’s proposal. In the case of any inconsistency between the terms and conditions of the RFQUAL documents or Offeror’s documents, the RFQUAL documents control.

(d) **OPEN RECORDS ACT.** Offeror acknowledges and agrees that FCS is obligated to timely comply with requests for information pursuant to state and federal law and regulation. Offeror

CAPITAL PROGRAM CONTRACTS

SUBMITTAL CONDITIONS

SECTION III – OTHER

agrees to comply with all provision of the Georgia Open Records Act ("ORA") (O.C.G.A. § 50-18-70 *et. seq.*), and to make records pertaining to performance of services, provision of goods or other functions under this contract available for public inspection upon request, unless otherwise exempt under other provisions of the ORA. Offeror shall provide FCS with immediate notice should Offeror receive an Open Records Request. If Offeror asserts that any information in its response or in any information provided to the FCS with respect to the services or products under this contract are a protectable trade secret, as that term is defined in O.C.G.A. § 10-1-761, then the Offeror **must** follow the requirements of the ORA set forth at O.C.G.A. § 50-18-72(a)(34) and submit an affidavit declaring and specifically describing their trade secrets, including those of their subcontractor.

- (e) **HOLD HARMLESS AGREEMENT.** The Offeror shall hold harmless and indemnify FCS, its past, future and current Board of Education, and its past, future, and current employees, agents, volunteers or assignees ("FCS Indemnitees") from any and all claims, suits, actions, damages, liability and expenses including attorney fees in connection with (a) claims, demands, or lawsuits that, with respect to any products or services provided by Offeror or Offeror's subcontractor, allege product liability, strict product liability, or any variation thereof; (b) any alleged infringement of any copyright, trademark, patent, trade dress, or other intellectual property right with respect to any products, services, or intellectual property or any parts thereof provided by Offeror or any subcontractor; (c) the failure of the Offeror or Offeror's subcontractor to comply with Privacy Laws; (d) the loss, misappropriation or other unauthorized disclosure of data by Offeror or Offeror's subcontractor; (e) any security breach involving data in Offeror's or Offeror's subcontractor's possession, custody or control, or for which Offeror or Offeror's subcontractor accesses or is otherwise responsible; (f) loss of life, bodily or personal injury or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of, or occurring in connection with the performance of this contract which is the result of the Offeror's action(s) or inaction(s), or which are the result of any subcontractor's action(s) or inaction(s) who is hired or retained by the Offeror; (g) any other claim, demand, or lawsuit arising out of or in any way related to goods or services under this submittal (collectively the "Obligations") and (h) any claim demand or lawsuit alleging breach of fiduciary duty or breach of contract arising out of the services provided under an Agreement. The Offeror's Obligations shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion of omission from any policy of insurance. In the event the Obligations directly arise from the gross negligence or willful misconduct of any FCS Indemnitees, then Offeror's Obligations shall be reduced by the proportional fault of the FCS Indemnitees.

ADDITIONAL CONDITIONS

1. AGREEMENT TYPE

The type of Agreement shall be fee based for services identified on the fee schedule.

2. AGREEMENT FORM

The form of Agreement is attached to this Request for Qualification.

3. AGREEMENT TIME FRAME

The initial term of this Agreement will commence upon receipt of the fully executed Agreement and will expire on June 30, 2027. Notwithstanding this, the owner has the option to renew the agreement for up to four (4) additional one-year terms. provided the consultant is not in default, the agreement will automatically renew unless the owner provides written notice of non-renewal to the architect at least thirty (30) days prior to the expiration of the current term or any renewal term.

The exercise of any option to use the list during any option years shall be at the sole and absolute discretion of FCS. In addition, FCS may decline to exercise any option (and therefore, any subsequent option periods, if any), by issuing a new solicitation for additional qualified firms, thereby terminating the then-current approved list and any agreements issued thereunder.

4. CATEGORY OF AWARD

It is the intent of FCS to qualify multiple companies for inclusion on the approved list. Projects will be assigned on an as-needed basis.

5. REQUIREMENTS CONTRACT CLAUSE

This is a requirements contract for Hazardous Materials consultant Services. Approval and placement on the list do not guarantee that an Offeror will be selected by FCS to provide services.

6. CONSUMER PRICE INDEX CLAUSE

The CPI for "All Urban Wage Earners and Clerical Workers, second column reading, percent change, monthly, year, group" all items (1982-84-100) may be used for the month the contract is renewed, i.e., renewal month of August 1, 2026, will use the CPI index showing the percent change from August, 2026 to August, 2027. Each successive option may be treated in the same manner. With the delay of appropriate data available upon extension of the contract, the increase/decrease in payment may not be made for the second year of the contract until the Consumer Price Index is published and received by the Executive Director of Contracting for the month required to complete the price.

7. OWNER'S REPRESENTATIVE

The Owner Representative for the FCS is the Executive Director of Capital Programs William Boyajan, or his/her designee, who will be responsible for the day-to-day administration of the

CAPITAL PROGRAM CONTRACTS

ADDITIONAL CONDITIONS

Agreement. FCS reserves the right to change its representative by providing notice to Offeror of such change.

8. RECEIPT OF ADDENDUM CLAUSE

Addenda issued to solicitations will be available via Euna Procurement (Bonfire) at <https://fultonschools.bonfirehub.com> or via the Euna Procurement (Bonfire) link on the FCS Contracting website at <https://www.fultonschools.org/contracting>. FCS' Contracting Department shall not bear responsibility for receipt of addenda by mail. If Contractors do not acknowledge receipt of all addenda the bid or proposal may be determined to be non-responsive by the FCS Contracting Department Executive Director.

9. SUBMITTALS

Offerors are responsible for submitting bids/offers/submittals so as to reach the FCS Capital Program Contracts office by the time and date specified in the solicitation regardless of the method of delivery (i.e. commercial carrier or U.S. Postal Service). If using a commercial delivery service, the Offeror is responsible for informing the commercial delivery service of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

Fulton County Schools shall not be responsible for the premature opening of a submittal not properly addressed and identified, and/or delivered to the incorrect destination.

10. COMMUNICATIONS WITH FCS STAFF

From the issue date of this solicitation until completion of the entire solicitation process and announcement of award notification, all Contractor communication related to this solicitation must be directed to the Contracting Department including, but not limited to, communications with members of the Board of Education, school system employees and/or contracted agents. Violation of this provision may result in rejection of your company's response.

11. PIGGYBACK CLAUSE

This solicitation allows for other State and Local Government to buy off the awarded contract at the same prices quoted during the effective term, pending agreement between Offeror and the third-party entity.

12. INSPECTION

The Offeror awarded the contract shall be subject to continuous inspection by FCS to ensure compliance with all specifications and regulations of the Fulton County Board of Education. If any inspection reveals that Offeror is not in compliance with any specification or regulation of the Fulton County Board of Education or this agreement, then Offeror must correct such deficiency as soon as practicable, but in no instance longer than thirty (30) days after receiving notice of the deficiency from FCS.

CAPITAL PROGRAM CONTRACTS

REQUEST FOR QUALIFICATION

A. THE SUBMITTAL

1. Offeror's Responsibility:

It shall be the responsibility of the selected firm(s) to meet all specifications and guidelines set forth herein. No submittal will be considered that does not provide a serious and reasonable response to the solicitation. Each submittal will be evaluated in its entirety.

2. Evaluation Factors: Submittals will be evaluated on the following factors:

Business Stability:	20%
Technical Capability:	60%
Problem Solving Skills & Creativity:	10%
Exceptions & Modifications:	10%

3. Submission of Submittal:

Submittals shall be submitted in six (6) sections: (I) executive summary, (II) general information, (III), technical capability (IV) quality control plan (V) business stability and (VI) a table of proposed compensation rates. One (1) original and six (6) copies of the submittal shall be provided in a loose-leaf, three-ring binder, and a flash drive. **The offeror's submittal shall be limited to twenty-five (25) pages**, with page type not being smaller than 10 points. Double sided pages will be counted as two (2) pages. Financial statements, resumes and the compensation tables will not count towards the maximum limit.

4. Oral Interview:

FCS may require qualified Offerors to participate in a detailed oral interview to fully discuss their submittal and to answer questions posed by FCS Representatives. A final selection may be based upon the evaluation of both the written and oral responses of each Offeror.

B. PREPARING THE SUBMITTAL

Begin each section on a separate page. Number the pages in each section consecutively. If any confidential and/or proprietary information is included, then each page containing such information must be stamped "proprietary." It is not acceptable to label the entire submittal as confidential and proprietary.

Submittals shall contain the following minimum information and be organized in the format indicated below:

CAPITAL PROGRAM CONTRACTS

REQUEST FOR QUALIFICATION

Provide cover sheet as follows:

Cover Sheet

Titled: Fulton County Board of Education
Request for Qualification Number 402-27
Hazardous Materials Consultant Services
Submitted by: [Name of company]

C. SUBMITTAL SECTIONS

SECTION I – EXECUTIVE SUMMARY:

An executive summary of not more than two (2) pages stating the firm's areas of expertise, interest and proposed commitment to the FCS building program. Within the first paragraph of the executive summary, engineering firms should clearly state the type(s) of building CONTRACTOR services for which they are submitting qualifications.

General Information Page

- a. Name of firm:
- b. Names of Principals of the firm:
- c. Type of Organization (Individual, Partnership, Corporation, Joint Venture, etc.):
- d. Names and titles of individuals authorized to bind this firm in contracted agreements.

Detail Information Sheet(s)

- a) Office Address (main office)
- b) Mailing Address (main office)
- c) Office Address for office which will be responsible for this project
- d) Name of main contact regarding this submittal
- e) Telephone Number
- f) Email Address

CAPITAL PROGRAM CONTRACTS

REQUEST FOR QUALIFICATION

SECTION II- BUSINESS STABILITY

1. **History and Organizational Structure of the Firm** - Provide a brief history of the company. Graphically present the organizational structure of the firm. Describe the management organization. If the firm is a partnership, indicate the name of all partners; if incorporated indicate where and when.
2. **Financial Status** - Describe the financial status of the firm; include the financial statements (income statements and balance sheets) for the past two accounting years.
3. **References** - Provide the name, title, phone number and email address from a minimum of five (5) references from previous clients for which your firm has performed comparable services. References should be for services completed within the last five (5) years and for services similar in nature to which FCS is seeking.
4. **Previous Default** - Indicate if you have ever been defaulted on an Agreement or been denied participation due to non-responsibility to perform. If so, provide the facts and circumstances. If your firm is now involved in any litigation or in the past ten (10) years have been involved in litigation with clients, please explain.
5. **Insurance** – State the maximum coverage for Professional Liability Insurance (Errors and Omissions).

SECTION III- TECHNICAL CAPABILITIES

1. Capabilities:

- a. FCS is looking to pre-qualify service providers in the following areas of expertise:
Hazardous Materials Consultant Services.
- b. Provide the following information: number of full-time employees providing these services, certifications held by full time employees in this area, and professional association memberships for firm and employees. If Offeror intends to subcontract any services identified or related to this RFQ, provide a list of those services.
- c. Demonstrate appropriate expertise and leadership in providing services within Fulton County, Georgia. Provide a minimum of three (3) projects.
- d. Provide resumes outlining the qualification of each key staff member who will be assigned to FCS projects. The resumes shall include the individual's educational background, professional category (including certifications, licenses, etc.) and relevant work experience, including similar project participation. Resumes should note whether relevant experience was with the Offeror's firm, or whether the experience was acquired with another firm.
- e. Demonstrate the Offeror's ability to administer the FCS assignments locally and to assign the necessary support staff.

CAPITAL PROGRAM CONTRACTS

REQUEST FOR QUALIFICATION

- f. Show ability to guarantee cost effectiveness in the solutions provided as evidenced by the results of successful projects and assignments with other clients.
- g. Describe your firm's experience in establishing and maintaining relationships with regulatory entities, and with assisting in obtaining local and state permits for school construction or similar programs. Include details regarding the securing of building permits, and any other permits related to school construction or similar projects in Fulton County.

2. Methodologies:

In this section, the Offeror shall describe in detail the methodology and procedures that are to be used to accomplish the requirements of this RFQ. This should include specific information such as planning, project coordination, field procedure, costing, valuation techniques and/or report writing. Provide an outline of the project team that will be employed. The capability of the firm to deliver the services in an efficient and timely manner shall be clearly described in this section. Describe how your team would interact with FCS staff.

SECTION IV - PROBLEM SOLVING SKILLS & CREATIVITY

- a. Provide a minimum of three (3) examples of how your firm provided creative and innovative solutions to assist with hazardous material issues involving complex or challenging projects, preferably in the K-12 environment.
- b. Describe in detail why FCS should enter into an Agreement with your firm. What strengths would cause an Owner to select your firm over others?

SECTION VI – PROPOSED COMPENSATION RATES

Provide compensation rates based on the compensation in Appendix IV, Exhibit B.

SECTION VII - EVALUATION FACTORS

NO.	FACTOR	POINTS
SECTION A	BUSINESS STABILITY	10
SECTION B	TECHNICAL CAPABILITIES	60
SECTION C	PROBLEM SOLVING SKILLS & CREATIVITY	20
	EXCEPTIONS AND MODIFICATIONS	10
TOTAL		100

CAPITAL PROGRAM CONTRACTS

REQUEST FOR SEALED SUBMITTAL

DATE: _____

TIME: _____

RFQUAL NO.: _____

NAME OF COMPANY: _____

The Fulton County Board of Education
6201 Powers Ferry Road NW
Atlanta, Georgia 30339

Gentlemen:

Having carefully examined the submittal Conditions and Specifications entitled “HAZARDOUS MATERIALS CONSULTANT SERVICES” for the performance of subject work all dated _____, and the Addendum(s) _____, as well as the site and premises, and conditions affecting the work, the undersigned proposes to furnish all services, labor and materials called for by them for the entire work, in accordance with said documents.

CAPITAL PROGRAM CONTRACTS

COMMITMENT TO PERFORM AS PROPOSED

Respectfully Submitted,

Name of Company

Address of Company

E-Mail Address

***(All Correspondence will be sent to
this email address)***

Business Telephone Number

Fax Number

Printed Name and Title

Signature

Date

The full names and addresses of persons and firms interested in the foregoing submittals as principals are as follows:

The legal name of the proposer is:

CAPITAL PROGRAM CONTRACTS

OFFEROR'S CHECKLIST

PROJECT: _____

RFQUAL NO.: _____

- ☐ We have acknowledged receipt of addendum(s) received.
- ☐ Seven (7) submittals, one (1) original, four (6) copies and a flash drive, of all information requested have been provided.
- ☐ The submittal has been signed by an authorized principal or authorized official of the firm.
- ☐ No conditions, restrictions or qualifications have been placed by the company on this submittal that would have the submittal declared non-responsive.
- ☐ We are prepared to provide the insurance required in this solicitation.

COMPANY NAME

TYPE OR PRINT NAME OF PERSON COMPLETING CHECKLIST

SIGNATURE OF PERSON COMPLETING CHECKLIST

DATE

(COMPANY FEDERAL ID NUMBER)

(COMPANY E-MAIL ADDRESS)

**READ AND COMPLETE THIS CHECKLIST BEFORE SUBMITTING THE
SUBMITTAL**

RETURN WITH SUBMITTAL

It is the policy of the Fulton County School System not to discriminate on the basis of race, color, sex, religion, national origin, age, or disability in any employment practice, educational program or any other program, activity or service. If you wish to make a complaint or request accommodation or modification due to discrimination in any program, activity or service, contact Compliance Officer Gonzalo La Cava, 6201 Powers Ferry Road NW, Sandy Springs, Georgia 30339, or phone (470)254-4585

CAPITAL PROGRAM CONTRACTS

FULTON COUNTY SCHOOLS
IMMIGRATION AND SECURITY FORM

APPENDIX I

IMMIGRATION AND SECURITY FORMS

CAPITAL PROGRAM CONTRACTS

FULTON COUNTY SCHOOLS

IMMIGRATION AND SECURITY FORM

If you are providing service, performing work or delivering goods to the Fulton County Board of Education including, but not limited to schools, warehouses and central offices, the applicable Georgia Security and Immigration Compliance documents found here must be completed, signed, notarized and submitted with your bid/proposal. Failure to provide this document with your bid/proposal will result in the disqualification of the bid/proposal.

- 1) Fulton County Schools shall comply with the Georgia Security and Immigration Compliance Act, as amended, O.C.G.A. § 13-10-90 et. seq.
- 2) In order to insure compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act, as amended by the Illegal Immigration Reform Act of 2011, O.C.G.A. § 13-10-90 et. seq. (collectively the “Act”), the **Contractor MUST INITIAL** the statement applicable to Contractor below:

(a) _____ **(Initial here):** Contractor warrants that, Contractor has registered at <https://e-verify.uscis.gov/enroll/> to verify information of all new employees in order to comply with the Act; is authorized to use and uses the federal authorization program; will continue to use the authorization program throughout the contract period; Contractor further warrants and agrees Contractor shall execute and return any and all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et. seq. [**Contractors who initial (a) must attach and return a signed, notarized Contractor Affidavit and Agreement;**

or

(b) _____ **(Initial here):** Contractor warrants that he/she does not employ any other persons, and he/she does not intend to hire any employees or to perform the Contract. [**Contractors who initial (b) must attach and return a signed, notarized Affidavit of Exception;**

or

(c) _____ **(Initial here)** Contractor is an individual who is licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing when such contract is for services to be rendered by such individual and thus does not have to provide an affidavit.

- 3) _____ **(Initial here)** Contractor will not employ or contract with any subcontractor in connection with a covered contract unless the subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides Contractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et. seq.

CAPITAL PROGRAM CONTRACTS

FULTON COUNTY SCHOOLS

IMMIGRATION AND SECURITY FORM (Page 2)

- 4) _____ (***Initial here***) Contractor agrees that, if Contractor employs or contracts with any sub-contractor in connection with the covered contract under the Act and DOL Rules 300-10-1-.01, et seq that Contractor will secure from each sub-contractor at the time of the contract the sub-contractor's name and address, the employee-number applicable to the sub-contractor, the date the authorization to use the federal work authorization program was granted to sub-contractor; the subcontractor's attestation of the subcontractor's compliance with the Act and Georgia Department of Labor Rule 300-10-1-.01, et seq.; and the subcontractor's agreement not to contract with sub-subcontractors unless the sub-subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides subcontractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et. seq.
- 5) _____ (***Initial here***) Contractor agrees to provide the Fulton County School District with all affidavits of compliance as required by O.C.G.A. § 13-10-90 *et seq.* and Georgia Department of Labor Rules 300-10-1-.01, et seq within five (5) business days of receipt.

Signature

Date

Firm Name: _____

Street/Mailing Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Email Address: _____

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Notary Public

My Commission Expires: _____

CAPITAL PROGRAM CONTRACTS

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned Contractor verifies its compliance with O.C.G.A. 13-10-91, and attests **under oath** that:

(1) the individual, firm, or corporation (“Contractor”) which is contracting with the Fulton County Board of Education has registered with, is authorized to use, uses, and will continue throughout the contract term to use and participate in, a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91, as amended. As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the “EEV/Basic Pilot Program” operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(2) Contractor’s correct user identification number and date of authorization is set forth herein below.

(3) Contractor agrees that the Contractor will not employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the Fulton County Board of Education, unless at the time of the contract said subcontractor:

- (a) is registered with and participates in the federal work authorization program.
- (b) provides Contractor with a duly executed, notarized affidavit with the same affirmations, agreements, and information as contained herein and in such form as required under applicable law; and
- (c) agrees to provide Contractor with notice of receipt and a copy of every sub-subcontractor Affidavit or other applicable verification procured by subcontractor at the time of contract with the sub-subcontractor(s) within five (5) business days after receiving the said Affidavit or verification.

Contractor agrees to maintain records of such compliance and to provide notice of receipt and a copy of each such subcontractor Affidavit or other permissible verification to the Fulton County Board of Education within five (5) business days after receiving the said Affidavit or verification.

CAPITAL PROGRAM CONTRACTS

CONTRACTOR AFFIDAVIT AND AGREEMENT (Page 2)

(4) Contractor further agrees to and shall provide Fulton County Board of Education with copies of all other affidavits or other applicable verification received by Contractor (i.e.: sub-subcontractor affidavits and all other lower tiered affidavits) within five (5) business days of receipt.

EEV/Basic Pilot Program User Identification Number

Date of Authorization

If an applicable Federal work authorization program as described above is used, other than the EEV/Basic Pilot Program, please identify the program.

Company Name / Contractor Name

Date

BY: Signature of Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Notary Public

My Commission Expires:_____

CAPITAL PROGRAM CONTRACTS

SUBCONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, and attests **under oath** that:

(1) the undersigned individual, firm or corporation ("Subcontractor") is engaged in the physical performance of services under a contract with _____ (*name of contractor*), which has a contract with the Fulton County Board of Education.

(2) Subcontractor has registered with, is authorized to use, uses, and will continue throughout the contract term to use and participate in, a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(3) Subcontractor's correct user identification number and date of authorization is set forth herein below.

(4) Subcontractor agrees that the Subcontractor will not employ or contract with any sub-subcontractor(s) in connection with the physical performance of services pursuant to this subcontract or the contract with the Fulton County Board of Education, unless said sub-subcontractor:

(a) is registered with and participates in the federal work authorization program.

(b) provides Subcontractor with a duly executed, notarized affidavit with the same affirmations, agreements, and information as contained herein and in such form as required under applicable law; and

(c) agrees to provide Subcontractor with notice of receipt and a copy of every sub-subcontractor Affidavit or other permissible verification procured by sub-subcontractor within five (5) business days after receiving the said Affidavit or verification.

CAPITAL PROGRAM CONTRACTS

SUBCONTRACTOR AFFIDAVIT AND AGREEMENT (Page 2)

SubContractor agrees to maintain records of such compliance and to provide notice of receipt and a copy of each such sub-SubContractor Affidavit or other applicable verification to the Contractor at the time the sub-SubContractor(s) is retained to perform such service or within five (5) days after receiving the said Affidavit or verification, whichever first occurs.

EEV/Basic Pilot Program User Identification Number

Date of Authorization

If an applicable Federal work authorization program as described above is used, other than the EEV/Basic Pilot Program, please identify the program.

BY: Authorized Officer or Agent

Date

(SubContractor Name)

Title of Authorized Officer or Agent of SubContractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN

BEFORE ME ON THIS THE

____ DAY OF _____, 20____

Notary Public

My Commission Expires:_____

SUB-SUBCONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned SubContractor verifies its compliance with O.C.G.A. 13-10-91, and attests **under oath** that:

(1) the undersigned individual, firm or corporation (“Sub-SubContractor”) is engaged in the physical performance of services under a contract with _____ (*name of contractor*), which has a contract with the Fulton County Board of Education.

(2) Sub-SubContractor has registered with, is authorized to use, uses, and will continue throughout the contract term to use and participate in, a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the “EEV/Basic Pilot Program” operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(3) Sub-SubContractor’s correct user identification number and date of authorization is set forth herein below.

(4) Sub-SubContractor agrees that the SubContractor will not employ or contract with any sub-SubContractor(s) in connection with the physical performance of services pursuant to this subcontract or the contract with the Fulton County Board of Education, unless said sub-SubContractor:

(a) is registered with and participates in the federal work authorization program;

(b) provides SubContractor with a duly executed, notarized affidavit with the same affirmations, agreements, and information as contained herein and in such form as required under applicable law; and

(c) agrees to provide Sub-SubContractor with notice of receipt and a copy of every sub-SubContractor Affidavit or other permissible verification procured by sub-SubContractor at the time the sub-SubContractor(s) is retained to perform such service or within five (5) days after receiving the said Affidavit or verification, whichever first occurs.

CAPITAL PROGRAM CONTRACTS

SUB-SUBCONTRACTOR AFFIDAVIT AND AGREEMENT (Page 2)

Sub-SubContractor agrees to maintain records of such compliance and to provide notice of receipt and a copy of each such sub-SubContractor Affidavit or other applicable verification to the Contractor at the time the sub-SubContractor(s) is retained to perform such service or within five (5) days after receiving the said Affidavit or verification, whichever first occurs.

EEV/Basic Pilot Program User Identification Number

Date of Authorization

If an applicable Federal work authorization program as described above is used, other than the EEV/Basic Pilot Program, please identify the program.

BY: Authorized Officer or Agent

Date

(SubContractor Name)

Title of Authorized Officer or Agent of SubContractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20____

Notary Public

My Commission Expires:_____

CAPITAL PROGRAM CONTRACTS

APPENDIX II

OFFEROR'S EXCEPTIONS FORM

CAPITAL PROGRAM CONTRACTS

OFFEROR'S EXCEPTIONS

The terms and conditions contained in the solicitation comprise the contract proposed by FCS. FCS does not intend to make changes to those terms and conditions, unless necessary to clarify the scope of work and/or technical requirements. Offeror may lose points for substantive modifications proposed by Offeror which materially differ from the RFQ terms and are likely to, in the opinion of FCS, require substantial legal negotiations to resolve. In addition, failure to accept the RFQ terms and conditions may result in significant unacceptable delays in FCS' ability to award a contract and may result in an Offeror's proposal being deemed to be nonresponsive. Nonetheless, if an Offeror must take an exception the Offeror shall provide the requested information for each exception or suggested deviation in the table below. By completing and submitting this form, an Offeror acknowledges that its proposal may be deemed to be nonresponsive at FCS' discretion.

No.	Section #, paragraph #, title, clause	Exception Taken and Reason	Proposed Resolution of Exception	Price / Schedule Impact
1				
2				

OFFEROR: _____(Name of Offeror) FCS RFQUAL No. 402-27

By: _____ (Signature) Date: _____

_____ (Printed name)

_____ (Title)

NOTES:

- All cells within a row must be completed for each exception.
- Section number, paragraph number, title and clause number: Identify section number, paragraph number, title, and clause containing the scope of work and/or technical requirement in issue (e.g., Section – Request for Qualification, Paragraph 5, Technical & Functional Requirements, Subparagraph 5.1.15 "integration with LMS third party systems").
- Exception Taken: Specify exception and reason for exception.
- Proposed Resolution of Exception: Provide proposed resolution of the exception taken.
- Price/Schedule Impact: Identify impact to schedule and price, if exception or deviation is accepted.

THIS FORM IS FOR PROPOSAL EVALUATION ONLY AND WILL NOT BE A PART OF THE CONTRACT.

CAPITAL PROGRAM CONTRACTS

APPENDIX III

OFFEROR'S MODIFICATIONS FORM

CAPITAL PROGRAM CONTRACTS

OFFEROR'S MODIFICATIONS

The terms and conditions contained in the solicitation comprise the contract proposed by FCS. FCS does not intend to make changes to those terms and conditions, unless necessary to clarify the scope of work and/or technical requirements. Offeror may lose points for substantive modifications proposed by Offeror which materially differ from the RFQ terms and are likely to, in the opinion of FCS, require substantial legal negotiations to resolve. In addition, failure to accept the terms and conditions may result in significant unacceptable delays in FCS' ability to award a contract and may result in an Offeror's proposal being deemed to be nonresponsive. Nonetheless, if an Offeror must propose modifications to any of the contractual terms contained in the solicitation the Offeror shall provide the requested information for each proposed modification in the table below. Offerors who submit a proposed or sample contract must still specifically identify each proposed modification using the format below. By completing and submitting this form, an Offeror acknowledges that its proposal may be deemed to be nonresponsive at FCS' discretion.

No.	Section #, Paragraph #, title and clause	Modification Proposed and Reason	Proposed Contract Provision to be substituted	Price / Schedule Impact
1				
2				

OFFEROR: _____(Name of Offeror) FCS RFQ No. 402-27

By: _____ (Signature) Date: _____

_____ (Printed name)

_____ (Title)

NOTES:

- All cells within a row must be completed for each proposed modification.
- Section number, paragraph number, title and clause number: Identify section number, paragraph number, title, and clause containing the contract provision in issue (e.g., Section II, paragraph 4, Insurance, subparagraph D, Health Insurance, "sole and exclusive responsibility").
- Proposed Modification: Specify proposed modification to contractual term and reason for modification.
- Proposed Contract Provision to be substituted: Provide proposed contract provision to be used in place of the existing provision, if modification is accepted by FCS.
- Price/Schedule Impact: Identify impact to schedule and price, if modification is accepted.

THIS FORM IS FOR PROPOSAL EVALUATION ONLY AND WILL NOT BE A PART OF THE CONTRACT.

CAPITAL PROGRAM CONTRACTS

SAMPLE /TEMPLATE

**FULTON COUNTY SCHOOLS
TASK ORDER AGREEMENT**

FOR HAZARDOUS MATERIALS CONSULTANT SERVICES

(CONTRACTOR COMPANY NAME)

CAPITAL PROGRAM CONTRACTS

SAMPLE
Task Order /Project Agreement
For Hazardous Materials Consultant Services

THIS AGREEMENT is entered into between _____ hereinafter referred to as the “CONTRACTOR”, and the FULTON COUNTY BOARD OF EDUCATION, hereinafter referred to as the “Board” or the “OWNER.” This Agreement (the “Agreement”) shall be governed by the laws of the State of Georgia.

WHEREAS the OWNER is authorized to contract with a professional services firm trained to perform specialty services as required; and WHEREAS the CONSULTANT is specially trained and experienced and competent to perform the special services pursuant to this Agreement, the parties hereto agree as follows:

1. The CONSULTANT’s Scope of Services stated in **EXHIBIT A**, attached to and made a part of this Agreement, which includes a description of the services to be performed and/or tasks to be accomplished.
2. The cost components that together constitute the Fee and Payment Schedule are stated in **EXHIBIT B** attached to and made a part of this Agreement.
- c. The Terms and Conditions governing this Task Order Agreement are stated in **EXHIBIT C**.
4. The insurance requirements are stated in **EXHIBIT D**, attached to and made a part of this Agreement.
5. The term of this Agreement shall begin on receipt of a fully executed Agreement and shall expire on **[DATE]**. Subject to Board approval, and at the option of Fulton County Schools, the term of this Agreement may be extended in one year terms.
6. The OWNER agrees to pay the CONSULTANT for services satisfactorily rendered in an amount not to exceed \$XXX,XXX.xx.
7. The OWNER shall order CONTRACTOR services on an as-needed, project to project basis. Each order shall include a description of services to be provided. The CONSULTANT shall submit a not to exceed fee for services based on its rates provided in **EXHIBIT B**, along with an estimate for expected reimbursable cost.

CAPITAL PROGRAM CONTRACTS

This Agreement, the Request for Qualifications, Sealed Qualifications, and any Exhibits attached hereto constitute the entire Agreement between the parties to the Agreement and supersede any prior or contemporaneous written or oral understanding or agreement, and may be amended only by written amendment executed by both parties to this Agreement

WITNESS the parties hereto:

The CONTRACTOR represents it has the background, knowledge, licensing (if required), experience and expertise necessary to provide the services set forth in this Agreement.

I understand that this Agreement is not valid, and no payment is authorized for services if the above representations are incorrect. I understand that this Agreement is not valid, and no payment is authorized for services until this document has been signed by the authorized signatory of the OWNER and ratified by the Board of Education.

CONTRACTOR: _____
Name of CONTRACTOR Firm

By: _____ Date: _____
Name:
Title:

Attest: _____
Name:
Title:

If applicable: Georgia License Number # _____

Federal Tax I.D. # _____

Address:

Telephone:

OWNER:
FULTON COUNTY BOARD OF EDUCATION

By: _____ Date: _____
Board Chair/President

Attest: _____
Mike Looney, Ed. D., Superintendent

CAPITAL PROGRAM CONTRACTS

Exhibit A
SCOPE OF SERVICES

HAZARDOUS MATERIALS CONSULTANT SERVICES

Services requested under this task order agreement may include one or more of the following:

- Provide site surveys (baseline survey, project design survey, and/or pre-construction survey) for ACM and lead-based paint in accordance with ASTM E2356-14 and other applicable regulations.
- Provide bid documents for ACM and/or lead-based paint abatement work.
- Perform air clearance testing (in compliance with EPA 560/5-89-001) and other related services as may be necessary to complete abatement projects, including filing of all Federal and State required correspondence and forms.

**Exhibit B
FEE AND PAYMENT SCHEDULE**

HAZARDOUS MATERIAL CONSULTANT FEE SCHEDULE

I. PROFESSIONAL SERVICES

- ◆ Principal Engineer/Project Manager \$_____ per hour
- ◆ Certified Industrial Hygienist..... \$_____ per hour
- ◆ Project Industrial Hygienist..... \$_____ per hour
- ◆ Clerical/Administrative \$_____ per hour

II. LABORATORY/TESTING SERVICES

- ◆ PLM analysis..... \$_____ per hour
- ◆ TEM analysis..... \$_____ per hour

III. HAZARDOUS MATERIALS SURVEYS

- ◆ Baseline Site Survey \$_____ (flat fee) + \$_____ per square foot
- ◆ Detailed Site Survey..... \$_____ (flat fee) + \$_____ per square foot
- ◆ Pre-construction Site Survey \$_____ (flat fee) + \$_____ per square foot

IV. SUBCONTRACTORS

Various Subcontract Fees..... at Cost plus _____%

CAPITAL PROGRAM CONTRACTS

Exhibit C
TERMS AND CONDITIONS
Hazardous Materials Consultant Services

1. **Performance Standard.** All services performed in connection with this Agreement shall be performed in a manner consistent with the standard of care applicable to those who specialize in providing such services for projects of the type, scope and complexity of the Project.
2. **Authority of CONTRACTOR.** CONTRACTOR authority to act on behalf of OWNER is limited to its scope of authority set forth in this Agreement and the General Conditions. Notwithstanding anything else stated in this Agreement or any of the Contract Documents, CONTRACTOR does not have the express or implied authority to obligate OWNER to any expenditure of money or extension of contractual time periods, including, without limitation, any adjustment to the price or time of performance of any contract between OWNER and the CONTRACTOR, Separate CONTRACTOR, OWNER Engineers or any other third persons or parties.
3. **Ownership of Documents**
 - a. **Property of OWNER.** The CONTRACTOR warrants that it is the author of the Design Documents prepared by it for the project and that it holds the copyright therein, subject to the last sentence of this Section. All Design Documents prepared by the CONTRACTOR and its Sub Consultants, and the designs depicted in them, shall become upon their creation the property of the OWNER whether the Project is constructed or not. Without limitation to the foregoing, OWNER shall hold, and CONTRACTOR shall be deemed to have irrevocably assigned to OWNER in perpetuity with no reserved or retained rights to CONTRACTOR or to any other persons or entities, all copyrights to the Design Documents and to the designs depicted in them.
 - b. **Use by CONTRACTOR.** The OWNER hereby grants to CONTRACTOR and its Sub Consultants a license, revocable at will of OWNER, to use and copy the Design Documents and the designs depicted in them during the term of this Agreement, for the sole purpose of performing the services required under this Agreement. With the exception of (i) standard and generic details in the Design Documents, and (ii) other designs or details that do not involve a replication of the overall building design or aesthetic appearance, the Design Documents shall not be used or replicated as a whole, or in substantial part, by the CONTRACTOR on other projects.
 - c. **Use by OWNER.** The OWNER may use the Design Documents, and the designs depicted in them, without the CONTRACTOR's consent, in connection with the Project, including, without limitation, future additions, alterations, connections, repairs, information, reference, use or occupancy of the Project. Any such use of the Design Documents without the CONTRACTOR's participation shall be at OWNER sole risk, and the CONTRACTOR shall not be responsible for losses arising from OWNER modification of the Documents without CONTRACTOR participation.
 - d. **Termination.** In the event of termination of this Agreement by either party for any reason, the OWNER reserves the right to receive, and the CONTRACTOR shall promptly provide to the OWNER, all Drawings, Specifications, models, and other Design Documents prepared to the date of termination by the CONTRACTOR and its Sub Consultants for the Project.
CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Design Documents for information and reference. Any dispute regarding the amount of any payment to be made by OWNER under this Agreement shall not diminish, restrict or limit the right of the OWNER

CAPITAL PROGRAM CONTRACTS

to own, receive and use the Design Documents, and the designs depicted in them, as provided in this section. The OWNER may withhold any payments due CONTRACTOR upon termination until all Design Documents prepared through the date of termination are furnished to OWNER pursuant to the terms of this paragraph.

4. **Applicable Laws, Orders of Governmental Authorities.** CONTRACTOR shall, at all times in its performance of its obligations under this Agreement, comply with all applicable laws and lawful orders of Governmental Authorities. All Design Documents prepared by CONTRACTOR and its Sub Consultants shall be in compliance with applicable laws and lawful orders of Governmental Authorities in effect on the date such Design Documents were created. CONTRACTOR shall exercise professional care to keep informed and advise OWNER of possible changes in applicable laws and lawful orders of Governmental Authorities that could affect the Project and shall promptly inform OWNER of such changes in advance of their becoming effective.
5. **Approval by OWNER.** Neither the review or approval of, nor any request for corrections to, the Design Documents by OWNER, Governmental Authorities or any other Project team member shall be construed as relieving CONTRACTOR of its responsibility for the suitability, completeness and coordination of the Design Documents prepared by CONTRACTOR or its Sub Consultants. Any errors, omissions, or ambiguities in the Design Documents shall be resolved by the CONTRACTOR at no cost to the OWNER.
6. **Time of Essence.** All time limits set forth in this Agreement pertaining to CONTRACTOR performance of any obligation or act relating to or for the benefit of the Project are of the essence to this Agreement and shall not be exceeded by the CONTRACTOR.
7. **Notice of Additional Services/Increase in Stated Cost Limitation.**
 - a. CONTRACTOR shall notify OWNER in writing within five (5) days after the discovery date of any circumstance (including, without limitation, any direction or OWNER representative's request) that CONTRACTOR believes may give rise to Additional Services. CONTRACTOR waives the right to compensation for additional services performed without prior written approval by OWNER that expressly acknowledges that such service is an additional service.
 - b. CONTRACTOR shall notify OWNER in writing within five (5) days after the discovery date of any circumstance (including, without limitation, any direction or request by an OWNER representative) that CONTRACTOR believes may cause an increase in the Stated Cost Limitation or Estimated Construction Budget.
8. **Additional Services.** CONTRACTOR shall provide additional services germane to the Professional Services Agreement when authorized by OWNER in writing. Compensation, as agreed to and set forth in such authorization, will be based on a negotiated fixed fee or according to the Fulton County Schools "Compensation Schedule for CONTRACTOR Staff Additional Services."
9. **OWNER Approvals.** Approval by OWNER of Design Documents prepared by CONTRACTOR or its Sub Consultants (i) shall not relieve CONTRACTOR or its Sub Consultants of their sole responsibility for the completeness, coordination or suitability of the Design Documents, and (ii) shall not constitute acceptance or approval of any revision to the Project Program unless CONTRACTOR informs OWNER in writing at the time of seeking such approval that it is requesting approval of a revision to the Program and OWNER thereafter issues approval of such change in the Program in writing. Any and all OWNER approvals or decisions that involve changes to the Program, CONTRACTOR compensation (including, without limitation, compensation for Additional Services or any reimbursable expenses), or time for performance by CONTRACTOR (including, without limitation, changes in the Project Schedule) must be approved by OR in writing.

CAPITAL PROGRAM CONTRACTS

10. Surveys, Services and Reports

- a. **General.** OWNER shall furnish such structural, mechanical, electrical, chemical, soils and other tests, Consultants and reports as required by Applicable Laws or by the Contract Documents and which are not required to be furnished by CONTRACTOR under this Agreement or by CONTRACTOR under the Contract Documents.
- b. **Surveys, Legal Restrictions.** If required for the performance of CONSULTANT services, OWNER shall furnish the CONTRACTOR with an engineering survey and topography of the Site, giving (as applicable) grades and lines of existing improvements (such as structures, streets, alleys, pavement); rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the Site; and information in OWNER possession concerning available service and utility lines, both public and private.
- c. **Geotechnical.** OWNER shall furnish geotechnical data and reports or employ Specialty Engineers to provide such data or reports, when reasonably deemed necessary by the CONTRACTOR, including test logs, soil classifications, soil bearing values and other data and information necessary to define subsoil conditions.
- d. **No Warranty by OWNER.** Although CONTRACTOR shall be entitled to rely upon the accuracy and sufficiency of surveys, data, reports or other information furnished by OWNER in performing its obligations under this Agreement, OWNER shall have no liability to CONTRACTOR, other than as permitted by this Agreement for authorized Additional Services, in the event that such surveys, data, reports or other information are found to be inaccurate, incomplete or insufficient.
- e. **Notice of Defects.** OWNER and CONTRACTOR shall each provide prompt written notice to the other party if either becomes aware of any defect or deficiency in the Project or nonconformance with the Contract Documents.
- f. **Governmental Authorities.** OWNER shall pay all fees required by any local, state or federal agency for filing and checking any of the Design Documents of CONTRACTOR or its Sub Consultants and for building and related permits required by Governmental Authorities.

11. Accompanying Documentation. Each Invoice for payment for Services, including Additional Services, performed and compensated on an hourly (as opposed to a lump sum) basis shall include detailed time summaries that are broken down by time keeper, task and time expended (block billings are not permitted) and copies of time sheets; and invoices, receipts and other documentation reasonably requested verifying the amounts of additional services reimbursable expenses for which reimbursement is sought in the invoice for payment.

12. Time for Payments. Payments of undisputed sums due shall be made by OWNER within thirty (30) days after receipt by OWNER of an Invoice for Payment that has been properly and timely prepared and submitted in accordance with this Agreement and accepted by the OR. No payment to the CONTRACTOR shall be deemed an acceptance of Work not completed in accordance with this Agreement. Final payment of sums due to CONTRACTOR pursuant to an Invoice for Payment prepared and submitted by CONTRACTOR in accordance with the requirements of this Agreement shall be made by OWNER to CONTRACTOR no later than forty-five (45) days after Final Completion of the Project. Making of such final payment by OWNER shall not release or limit CONTRACTOR's obligation to perform those Basic Services or Additional Services that are required by this Agreement to be performed after Final Completion of the Project.

CAPITAL PROGRAM CONTRACTS

13. Payment Disputes and Withholding by OWNER. OWNER shall have the right, after written notice to CONTRACTOR, to withhold from payment to CONTRACTOR any amounts in dispute, including without limitation any losses incurred by OWNER due to Design Defects in the Design Documents prepared by CONTRACTOR or its Sub Consultants or a failure by CONTRACTOR to perform any obligation under this Agreement. Such withholding shall not constitute a final determination or waiver of any rights or liabilities of OWNER or CONTRACTOR with respect to responsibility for such loss, which rights and liabilities shall remain subject to determination in accordance with this Agreement. CONTRACTOR shall continue performance of its services pending final determination of disputes relating to such withholding. CONTRACTOR shall not be entitled to any interest on any funds withheld under this paragraph.

14. Consultant by OWNER

- a. Records.** CONTRACTOR and its Sub Consultants shall maintain complete and accurate books and records with respect to services, costs, expenses, receipts and other information necessary to verify the scope or charges for any services provided under this Agreement. CONTRACTOR and its Sub Consultants shall maintain such records in sufficient detail to permit the OWNER, OWNER independent auditors, or a designee of any of them, to thoroughly evaluate and verify the nature, scope, value and charges for services performed under this Agreement. All such books and records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Such records shall be kept separate from other documents and records unrelated to the Project for a period of four (4) years after the later of termination of this Agreement or Final Completion of the Project.
- b. Audit.** The OWNER, OWNER independent auditors, or a designee of any of them, shall have the right to examine and to audit books, records, documents, and other evidence sufficient to reflect properly all costs and expenses claimed to have been incurred in CONTRACTOR and its Sub Consultants' performance of this Agreement, including, without limitation, verification of the amounts and tasks performed for all time expended that is charged to OWNER on an hourly basis. Such right to audit shall include Consultant at all reasonable times at the CONTRACTOR's offices or facilities. In addition, CONTRACTOR shall, at no cost or expense to the OWNER, furnish facilities and cooperate fully with the audit. Upon request, CONTRACTOR shall provide reproducible copies of books, records and other documents in the possession of CONTRACTOR and its Sub Consultants that are applicable to this Agreement for reproduction by the OWNER or its designee.
- c. Reimbursement.** To the extent that an audit by the OWNER, OWNER's independent auditors or a designee of any of them, discloses excess charges inaccurately or improperly attributed to this Project by the CONTRACTOR, CONTRACTOR agrees to remit the amount of the overpayment to the OWNER within five (5) days after demand.

15. Termination by OWNER

- a. For Cause.** If OWNER determines CONTRACTOR has failed to perform in according to the Agreement, OWNER may terminate all or part of the Agreement for cause upon seven (7) days written notice.
- b. For Convenience.** OWNER may terminate or suspend performance of all or part of this Agreement for convenience and without cause anytime upon ten (10) days written notice to CONTRACTOR, in which case OWNER will, within forty-five (45) days after receipt and OR acceptance of invoice prepared in accordance with Agreement, pay CONTRACTOR an amount calculated in accordance with this Agreement for all Basic Services and authorized Additional Services performed, and all authorized reimbursable expenses incurred, up to and including the effective date of termination.

CAPITAL PROGRAM CONTRACTS

- c. **Termination Payments.** CONTRACTOR payments, if any, made pursuant to this Section 15 shall be CONTRACTOR's sole and exclusive compensation and OWNER shall have no liability to CONTRACTOR for any other compensation or damages, including without limitation, anticipated profit, prospective losses or consequential damages, of any kind.
- d. **Deletion of Services.** In the event of termination by OWNER, for cause or convenience, of a portion of the Project or a portion of the Basic Services, then the CONTRACTOR's fixed compensation for Basic Services for the portions of the Project or Basic Services not so terminated shall be equitably adjusted to reflect the resulting reduction in CONTRACTOR's Scope of Basic Services.

16. Payment Contingent on CONTRACTOR Furnishing All Design Documents. Any provision to the contrary in this Agreement notwithstanding, no payment shall be due the CONTRACTOR following termination of this Agreement until the CONTRACTOR provides the OWNER with all Design Documents in its possession or control.

17. Indemnification

- a. **Indemnification by CONTRACTOR.** To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend and hold harmless OWNER and its Board of Education, and each of them, and each of their respective officers, agents, employees, representatives, volunteers and insurers (collectively, the "Indemnitee(s)"), utilizing legal counsel reasonably acceptable to OWNER, from and against any and all claims, damages, losses and expenses (including, without limitation, all fees and expenses of engineers, CONTRACTOR, attorneys, and experts and all court, arbitration or other dispute resolution costs), which arise out of or result from any of the following:
 - (1) Any negligent or actual act or omission of CONTRACTOR or its Sub Consultants or any person or entity for whose acts or omissions any of them may be liable;
 - (2) The material inaccuracy of any representation by CONTRACTOR given in connection with or contained in this Agreement;
 - (3) Any claim of loss by any third person or entity against any Indemnitee arising out of an alleged or actual act or omission of CONTRACTOR, its Sub Consultants, or any person or entity for whose acts or omissions any of them may be liable; or
 - (4) Infringement upon any United States patent, trademark or copyright arising out of the actual or alleged acts or omissions of the CONTRACTOR or any of the CONTRACTOR's Sub Consultants, in connection with performance of this Agreement; provided however, that nothing herein shall be interpreted as obligating CONTRACTOR to indemnify any Indemnitee against its sole negligence.

18. Dispute Resolution. The parties shall utilize each of the following steps in the Dispute Resolution Process in the sequence in which they appear below. Each party shall participate fully and in good faith in each step in the Dispute Resolution Process, which good faith effort shall be a condition precedent to the right of each party to proceed to the next step in the Dispute Resolution Process.

- a. **Direct Negotiations.** Designated representatives of OWNER and CONTRACTOR shall meet as soon as possible (but not later than ten (10) days after receipt of the plaintiff's statement of dispute, containing a detailed explanation of the claim) in a good faith effort to negotiate a resolution to the claim. Each party shall be represented in such negotiations by an authorized representative with full

CAPITAL PROGRAM CONTRACTS

knowledge of the details of the claim or defenses being asserted by such party and with full authority to resolve such claim then and there, subject only to OWNER's right and obligation to obtain Board of Education approval of any agreed settlement or resolution. If the claim involves the assertion of a right or claim by a third party (e.g., the CONTRACTOR) against CONTRACTOR that is in turn being asserted by CONTRACTOR against OWNER, then such third party shall also have a representative attend such negotiations, with the same authority and knowledge as just described. Upon completion of the meeting, if the claim is not resolved, the parties may either continue the negotiations or either party may declare negotiations ended. All discussions that occur during such negotiations and all documents prepared solely for the purpose of such negotiations shall be confidential and privileged.

- b. Litigation.** If the direct negotiations between the CONTRACTOR and the OWNER do not resolve the dispute, then the party asserting the claim shall have the option to initiate a lawsuit in the Superior Court of Fulton County, Georgia, and the parties hereby consent to the exclusive jurisdiction of such court and waive any right to a jury trial on any unresolved claim.

- 19. Non Discrimination.** It is the policy of the OWNER that in connection with all CONTRACTOR services rendered there be no discrimination against any prospective or active employee engaged in such CONTRACTOR services because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age, marital status, sexual orientation, political belief or affiliation or to deny family care leave, therefore CONTRACTOR agrees to comply with applicable Federal and Georgia laws including, but not limited to Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; The Americans with Disabilities Act of 1990; Age Discrimination Act of 1975 and Rehabilitation Act of 1973 (Section 504). In addition, CONTRACTOR agrees to require like compliance by all Sub Consultants employed by CONTRACTOR on the Project.

- 20. Addresses for Notices.** All notices, demands or requests from the CONTRACTOR to the OWNER shall include the Project name and date of this Agreement and be addressed to the parties as follows:

To OWNER:

Fulton County Board of Education
Mike Looney, Ed. D., Superintendent of Schools
c/o Fulton County Schools
6201 Powers Ferry Rd
Atlanta, Georgia 30339

To CONTRACTOR:

[Name] _____
[Address] _____
[City, State, Zip Code] _____

- 21. Waiver.** Provisions of this Agreement may be waived by OWNER only by a written statement expressing that it is intended as a waiver of specified provisions of the Agreement. A waiver by either party to this Agreement of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein whether of the same or a different character. OWNER approval, acceptance, use or payment for any part of CONTRACTOR services shall not in any way alter CONTRACTOR obligations or waive any OWNER rights, under this Agreement.

- 22. No Third Party Rights.** Nothing contained in this Agreement is intended to make any person or entity who

CAPITAL PROGRAM CONTRACTS

is not a signatory to this Agreement a third party beneficiary of any right or obligation created by this Agreement or by operation of law.

- 23. Extent of Agreement; Amendment.** This Agreement represents the entire Agreement between OWNER and CONTRACTOR for furnishing of services to the Project and supersedes all prior negotiations, representations or Agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and CONTRACTOR and approved as required by Georgia law and OWNER policy.
- 24. Severability.** In case any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of all remaining provisions shall not be affected.
- 25. Successors and Assigns.** This Agreement shall be binding upon OWNER and CONTRACTOR and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any monies due or to become due hereunder, nor any claim hereunder, may be assigned by CONTRACTOR without the prior written consent and approval of OWNER, which may be granted or withheld in OWNER's sole discretion. This Agreement and all of OWNER's rights in and to the Design Documents may be assigned by OWNER upon written notice to CONTRACTOR. OWNER shall have no liability or responsibility to CONTRACTOR for payment for any services performed after the date of such assignment and notice by OWNER.
- 26. Confidentiality.** CONTRACTOR shall treat all information and data furnished to it by OWNER or any other Project Team member or otherwise obtained or prepared by CONTRACTOR concerning the Project as strictly confidential and shall not disclose any of the same to any other person or entity unless required to do so in connection with CONTRACTOR's performance of this Agreement, any governmental filings or applications or the Georgia Open Records Act. CONTRACTOR shall not engage in or permit any public references or statements to the Project, OWNER or CONTRACTOR's services hereunder, including, without limitation, granting interviews to broadcast, print or other media, without the prior written consent of OWNER, which may be granted or withheld in the sole discretion of the OWNER. CONTRACTOR shall instruct all of its employees of the foregoing confidentiality obligation.
- 27. Independent CONTRACTOR.** CONTRACTOR is and shall at all times remain as to the OWNER a wholly independent CONTRACTOR. Neither the OWNER nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's officers, agents or employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the OWNER.
- 28. Representations by CONTRACTOR.** CONTRACTOR represents (i) that it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the services and perform the obligations required by this Agreement; (ii) that it is authorized to do business in the State of Georgia; and (iii) the CONTRACTOR's principal in charge of the Project is duly licensed in accordance with Georgia and all other applicable laws to render the services to be provided by this Agreement.
- 29. Survival.** The provisions of this Agreement which by their nature survive completion of the Services or termination of this Agreement, including, without limitation, all warranties, indemnities and payment obligations, shall remain in full force and effect after completion or termination of this Agreement.
- 30. Cost Principles.** CONTRACTOR agrees to be bound by the Expense Reimbursements Procedure of the Fulton County School System, in effect on the date of this Agreement and as modified thereafter, for any reimbursable project-related expenditure.

CAPITAL PROGRAM CONTRACTS

- 31. Interpretation.** CONTRACTOR and OWNER acknowledge that the terms of this Agreement have been mutually negotiated and, accordingly, shall not be interpreted against either OWNER or CONTRACTOR on the basis that either party was solely responsible for or in control of the drafting of this Agreement.
- 32. Advertising.** CONTRACTOR may not use OWNER's name or refer to OWNER or the Project, directly or indirectly in promotional materials, advertisement, news release or release to professional or trade publication without obtaining the OWNER's prior written approval.
- 33. Electronic Documents.** In the event of any conflict between a document contained in an electronic file and the hard copy of such document maintained in the files of OWNER or CONTRACTOR, the hard copy shall control.
- 34. Governing Law.** This Agreement shall be governed by and interpreted in accordance with laws of the State of Georgia.
- 35. Key Personnel.** The OWNER shall have the right, in its absolute discretion, to require the removal of CONTRACTOR's personnel or Sub Consultants at any level assigned to or hired for the performance of the work hereunder if the OWNER considers such removal in its best interests and directs such removal in writing to CONTRACTOR. Upon receipt of such direction by OWNER, CONTRACTOR shall remove the personnel or Sub Consultant immediately from the work.
- 36. Evaluation.** CONTRACTOR acknowledges that the presentation or services may be evaluated by the participants, the OR and any other OWNER offices or schools and understands that the results of the evaluation may be made available to the CONTRACTOR, other schools and offices within the OWNER, and other school OWNER and agencies upon request. CONTRACTOR agrees to cooperate fully with any such evaluation and agrees to promptly furnish any information that is requested by the OWNER for evaluation purposes.
- 37. Conflict of Interest.** CONTRACTOR represents that CONTRACTOR has no existing financial interest and will not acquire any such interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be subcontracted in connection with this Agreement, or employed by CONTRACTOR. CONTRACTOR shall not conduct or solicit any non-OWNER business while on OWNER property or time. CONTRACTOR will also take all necessary steps to avoid the appearance of a conflict of interest and shall have a duty to disclose to the OWNER prior to entering into this Agreement any and all circumstances existing at such time which pose a potential conflict of interest. CONTRACTOR warrants that it has not directly or indirectly offered or given, and will not directly or indirectly offer or give, to any employee, agent, or representative of OWNER any cash or non-cash gratuity or payment with view toward securing any business from OWNER or influencing such person with respect to the conditions, or performance of any Agreements with or orders from OWNER, including without limitation this Agreement. Any breach of this warranty shall be a material breach of each and every Agreement between OWNER and CONTRACTOR. Should a conflict of interest issue arise, CONTRACTOR agrees to fully cooperate in any inquiry and to provide the OWNER with all documents or other information reasonably necessary to enable the OWNER to determine whether or not a conflict of interest existed or exists. Failure to comply with the provisions of this section shall constitute grounds for immediate termination of this Agreement, in addition to whatever other remedies the OWNER may have.

CAPITAL PROGRAM CONTRACTS

Exhibit D
INSURANCE REQUIREMENTS
Hazardous Materials Consultant Services

I. INSURANCE

A. Basic Insurance Requirements. Prior to commencing Work, CONTRACTOR and each of its Sub Consultants shall procure and maintain insurance at their own cost and expense against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services by CONTRACTOR, its agents, representatives, employees or Sub Consultants.

1. Without in any way affecting the indemnity provided in or by the CONTRACTOR shall secure before commencement of the Work the types and amounts of insurance specified in this section.
2. Insurance is to be placed with insurers admitted to do business in the State of Georgia and approved by OWNER.
3. Each insurance coverage required by the Minimum Limits of Insurance shall be endorsed to state that coverage shall not be canceled or modified except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to OWNER in accordance with the notice provisions of this Agreement.

B. Minimum Limits of Insurance. CONTRACTOR and each of its Sub Consultants shall obtain insurance of the types and in the amounts described below:

1. Commercial General Liability Insurance (CGL) with a limit of not less than \$1,000,000 each occurrence/\$1,000,000 in the annual aggregate including contractual or assumed liability;
2. Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident/\$1,000,000 in annual aggregate.
3. Workers' Compensation Insurance and Employer's Liability Insurance with statutory limits as required by law, including Maritime coverage, if appropriate, and Employer's Liability limits of not less than \$1,000,000 each accident/\$1,000,000 each employee/\$1,000,000 policy limit.
4. Professional Liability (Errors and Omissions) Insurance with a minimum level of coverage equal to or greater than twenty percent (20%) of Stated Cost Limitation, but not less than \$250,000 for the Project and with a maximum deductible of \$50,000. The coverage provided shall contain an endorsement providing sixty (60) days notice to the OWNER prior to any cancellation of coverage.

C. Other Insurance Provisions. All policies required by this Agreement except Professional Liability (Errors and Omissions) insurance are to contain, or be endorsed to contain, the following provisions:

1. OWNER, Board of Education and any other person or entity specified by OWNER, as well as each of their officers, employees, agents and volunteers, are to be covered as additional insureds.
2. For any claims related to this Project, insurance coverage shall be primary as to OWNER,

CAPITAL PROGRAM CONTRACTS

Board of Education, and any other person or entity specified by OWNER to be named as additional insured, as well as each of their officers, employees and volunteers. Any insurance or self-insurance maintained by OWNER, its officers, officials, employees or volunteers shall be in excess of insurance required by this Agreement and shall not contribute with it.

- D. Waiver of Subrogation.** For Commercial General Liability, Workers' Compensation, and Employer's Liability insurance, the insurer shall agree to waive all rights of subrogation against OWNER and any other person or entity specified by OWNER as an additional insured, as well as each of their officers, employees, agents and volunteers, for losses arising from activities and operations of an insured in the performance of services under this Agreement.
- E. Lapse in Coverage.** If CONTRACTOR or any Sub Consultant, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. OWNER, at its sole option, may terminate this Agreement and recover all damages from CONTRACTOR resulting from said breach. Alternatively, OWNER may purchase such coverage (but has no obligation to do so), without further notice to CONTRACTOR, and deduct from sums due to CONTRACTOR any premium costs advanced by OWNER for such insurance.
- F. Verification of Insurance.** CONTRACTOR shall furnish OWNER with original certificates and amendatory endorsements effecting and evidencing coverage required by this Section. The certificates and endorsements for each policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. The certificates and endorsements shall be on forms acceptable to OWNER. All certificates and endorsements are to be received and approved by OWNER before performance by CONTRACTOR under this Agreement commences. OWNER reserves the right to require complete, certified copies of all required insurance policies at any time, including endorsements (and policies, if requested) affecting the coverage required by these specifications.
- G. Duration of Coverage.** The insurance coverages required by Article I, Section B shall be maintained without interruption, for a period of three (3) years after Final Completion of the Project, unless otherwise stated herein.
- H. Reserved Rights.** OWNER reserves the right to adjust monetary limits of insurance coverage at any time if deemed necessary in its reasonable judgment.
- I. Sub Consultants.** Unless otherwise approved by OWNER in writing, CONTRACTOR shall include all Sub Consultants as insured under its policies or shall furnish separate certificates and endorsements for each Sub Consultant. In addition, Sub Consultants shall be required to maintain insurance on the same terms and with the same coverages as required of CONTRACTOR under this Agreement.
- J. Failure to Maintain Coverage.** Failure to maintain the insurance required under this Exhibit D or to furnish the required certificates or policies may be considered a breach of contract by the CONTRACTOR and the OWNER may terminate the contract without waiver of any other remedy it may have.

CAPITAL PROGRAM CONTRACTS