

BID 19-003
RECONSTRUCTION OF PALM BAY SCHOOLS

INSTRUCTIONS TO BIDDERS

1. **PRE-BID CONFERENCE**

1.1 A Pre-Bid Conference will be held on February 20, 2019 at 9:00 a.m.(cst) at 1104 Balboa Avenue, Panama City, Florida. The purpose of the Pre-Bid Conference is to discuss the contents of this Bid and Bidder's inquiries.

2. **QUALIFICATIONS OF BIDDERS**

2.1 Each Bidder shall complete the Qualifications Statement and shall submit the same with the Bid. Failure to submit the Qualifications Statement and all documents required thereunder together with the Bid may constitute grounds for rejection of the Bid.

2.2 Palm Bay Education Group, Inc. (hereinafter "Palm Bay") reserves the right to make a pre-award inspection of the Bidder's facilities and equipment prior to award of Agreement.

2.3 Palm Bay reserves the right to consider a Bidder's history of citations and/or violations of environmental regulations in determining a Bidder's responsibility, and further reserves the right to declare a Bidder not responsible if the history of violations warrant such determination. Bidder shall submit with Bid, a complete history of all citations and/or violations, notices and dispositions thereof. The nonsubmission of any such documentation shall be deemed to be an affirmation by the Bidder that there are no citations or violations. Bidder shall notify Palm Bay immediately of notice of any citation or violation that Bidder may receive after the Bid opening date and during the time of performance of any contract awarded to Bidder.

3. **SPECIFICATIONS**

3.1 Items shown on the Plans but not noted in the Specifications, and items noted in the Specifications but not shown on the Plans, are to be considered as both shown on the Plans and noted in the Specifications. Any errors or omissions in the Specifications or on the Plans, as to the standards of the work, shall not relieve the CONTRACTOR of the obligation to furnish a satisfactory first class job in strict conformity with the best practice found in structures or in the work of a similar type. The failure of the Bidder to inform Palm Bay concerning errors or discrepancies will not relieve the Bidder, should Bidder be awarded the Contract, of the responsibility of performing the work to the satisfaction of Palm Bay.

4. BID FORM

4.1 The Bid Form, together with the Invitation to Bid, the Instructions to Bidders, constitutes an offer from the Bidder. If any or all parts of the Bid are accepted by Palm Bay, an authorized officer of Palm Bay shall affix his/her signature hereto and this document, together with the Invitation to Bid, the Instructions to Bidders, any Drawings, Plans and Specifications issued prior to the execution of this Bid Form, and any Purchase Order issued by Palm Bay after execution of this Bid Form, shall constitute the written agreement between the parties and shall together comprise the Contract Documents. The Contract Documents are complimentary and what is required by one shall be as binding as if required by all.

5. AWARD OF CONTRACT

5.1 If the Contract is to be awarded, it will be awarded to the most responsible and responsive Bidder for the Bid whose evaluation by Palm Bay indicates to Palm Bay that the award will be in the best interests of Palm Bay, and not necessarily to the lowest Bidder.

5.2 Criteria utilized by Palm Bay for determining the most responsible and responsive Bidder includes, but is not limited to the following:

- (a) Ability of Bidder to meet published specifications.
- (b) Bidder's experience and references, including but not limited to, the reputation, integrity, character, efficiency, experience, skill, ability and business judgment of the Bidder, the quality of performance of Bidder under previous contracts, any sub-contractors and other persons providing labor or materials to Bidder. Payment history with sub-contractors under previous contracts.
- (c) Bidder's qualifications and capabilities, including but not limited to, the size, financial history, strength and stability of the business to perform the work of the Contract, the possession of necessary facilities and equipment and the quality, availability and adaptability thereof to the particular use(s) required.
- (d) Whether Bidder can perform the Contract promptly or within the time specified, without delay or interference.
- (e) Previous and existing compliance by Bidder with laws, ordinances and regulations relating to the goods or services.
- (f) Price.

5.3 The CONTRACTOR must execute the required contracts prior to award by Palm Bay. After Palm Bay awards the CONTRACTOR will be issued a Notice of

Award. Within fifteen (15) days thereafter, the CONTRACTOR must deliver the required bonds and certificate of insurance to Palm Bay. Within ten (10) days thereafter, Palm Bay shall deliver one (1) fully executed contract to CONTRACTOR along with a Notice to Proceed. The fully executed contract will be accompanied by a complete set of drawings (if required).

- 5.4 If applicable, the Bidder to whom award is being recommended shall execute a written contract prior to contract award. If the Bidder fails to enter into a Contract as herein provided, the recommended award will be let to the next lowest Bidder who is responsible and responsive in the opinion of Palm Bay. Such Bidder shall fulfill every stipulation embraced herein as if he were the original party to whom the award was made.

6. PUBLIC ENTITY CRIMES INFORMATION STATEMENT

- 6.1 A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida State Statutes, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

7. CONTRACT TIME

- 7.1 The work to be performed under the Contract shall be commenced upon issuance of Notice to Proceed and after all applicable permits are obtained by CONTRACTOR.
- 7.2 The number of days, which the work is to be completed or goods are to be provided, is one hundred twenty days (120) consecutive calendar days from the date of the commencement of the Contract time as established in the Notice to Proceed.
- 7.3 By virtue of the submission of his Bid, Bidder agrees and fully understands that the completion time of the work of the Contract is an essential and material condition of the contract and the time is of the essence. The Successful Bidder agrees that all work shall be prosecuted regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified. Failure to complete the work within the time period specified shall be considered a default.

8. LIQUIDATED DAMAGES FOR BREACH OF CONTRACT

See Construction Services General Conditions, Paragraph 11.4 for details.

9. SAFETY

- 9.1 The Successful Bidder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The Successful Bidder shall comply with the rules and regulations of the Florida Department of Commerce regarding industrial safety (Fla Statutes Section 440.56) and with the standards set forth in the Occupational Safety and Health Act of 1970 (OSHA) and its amendments.
- 9.2 The Successful Bidder shall take all reasonable precautions for the safety of and shall provide all reasonable protection to prevent damage, injury or loss to:
- (a) All employees on the work site and all other persons who may be affected thereby.
 - (b) The work and all materials and equipment incorporated therein.
 - (c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, structures, irrigation systems and utilities not designated for removal, relocation or replacement in the course of the work.

10. WARRANTIES

- 10.1 Warranty of Title: The Successful Bidder warrants to Palm Bay that all goods and materials furnished under the Contract will be new unless otherwise specified and that Successful Bidder possess good, clear, and marketable title to said goods and there are no pending liens, claims or encumbrances whatsoever against said goods. All work not conforming to these requirements, including substitutions not properly approved and authorized may be considered defective.
- 10.2 Warranty of Specifications: The Successful Bidder warrants that all goods, materials and workmanship furnished, whether furnished by the Successful Bidder or its sub-contractors and suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted.
- 10.3 Warranty of Merchantability: The Successful Bidder warrants that the goods to be supplied pursuant to the Contract are merchantable, of good quality and free from defects, whether patent or latent in material or workmanship.
- 10.4 Warranty of Material and Workmanship: The Successful Bidder warrants all material and workmanship for a minimum of one (1) year from date of project completion and acceptance by Palm Bay. If within one (1) year after acceptance by Palm Bay, or within such larger period of time as may be prescribed by law any of the work is found to be defective or not in accordance with the Contract

Documents, the Successful Bidder shall after receipt of a written notice from Palm Bay to do so, promptly correct the work unless Palm Bay has previously given the Successful Bidder a written acceptance of such condition.

- 10.5 The Successful Bidder warrants to Palm Bay that it will comply with all applicable federal, state and local laws, regulations and orders in carrying out its obligations under the Contract.
- 10.6 The Successful Bidder warrants to Palm Bay that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Contract.
- 10.7 The Successful Bidder warrants to Palm Bay that the consummation of the work provided for in the Contract Documents will not result in the breach of any term or provision of, or constitute a default under any indenture, mortgage, contract, or agreement to which the Successful Bidder is a party.
- 10.8 The Successful Bidder warrants that there has been no violation of copyrights or patent rights either in the United States of America or in foreign countries in connection with the work of the Contract.
- 10.9 All warranties made by the Successful Bidder together with service warranties and guarantees shall run to Palm Bay and the successors and assigns of Palm Bay.

11. RISK OF LOSS

- 11.1 The risk of loss, injury, or destruction, regardless of the cause of the casualty, shall be on the Successful Bidder until the completion of the project and inspection and acceptance of the project by Palm Bay.

12. PERMITS, FEES AND NOTICES

- 12.1 The Successful Bidder shall secure and be responsible to pay for any and all permits and licenses that may be required for the proper execution and completion of the work. The Successful Bidder shall use their best efforts to obtain all necessary permits as soon as possible after the date of Contract award. Any delays in obtaining permits must be brought to the attention of Palm Bay without delay.
- 12.2 The Successful bidder shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work. Palm Bay shall not be responsible for monitoring the Successful Bidder's compliance with any laws or regulations.

12.3 The Successful bidder shall secure, complete, and file with the Clerk of Courts of Bay County, a Certified Notice of Commencement required per chapter 96-838, Laws of Florida. This notice must be on file with the Panama City Building Division, and be displayed on the job site prior to the first inspection.

13. CLEANING UP

13.1 The Successful Bidder at all times shall keep the premises free from accumulation of waste materials or rubbish caused by Bidder's operations. At the completion of the work Bidder shall remove all waste materials and rubbish from and about the site as well as all tools, equipment, machinery and surplus materials and provide final cleaning and return the space to a condition suitable for use by Palm Bay.

14. DELAYS AND EXTENSIONS OF TIME

14.1 The Contract time may only be changed by a change order or a written amendment. Any claims for an extension or shortening of Contract time shall be based upon written notice delivered by the party making the claim to the other party not more than three (3) calendar days after the occurrence of the event giving rise to the claim and stating the general nature of the claim otherwise it shall be waived.

14.2 No claim for damages or any claim other than an extension of time shall be made or asserted against Palm Bay by reason of any delays.

15. DEFAULT

15.1 In the event the Successful Bidder shall default in any of the terms, obligations, restrictions, or conditions in the Contract Documents, Palm Bay shall give the Successful Bidder written notice by certified mail of the default and that such default shall be corrected or actions taken to correct such default shall be commenced within five (5) calendar days thereof. In the event the Successful Bidder has failed to correct the condition(s) of the default or the default is not remedied to the satisfaction and approval of Palm Bay, Palm Bay shall have all legal remedies available to it, including, but not limited to termination of the Contract in which case the Successful Bidder shall be liable for all procurement and reprocurement costs and any and all damages permitted by law arising from the default and breach of the Contract.

16. TERMINATION FOR CONVENIENCE OF PALM BAY

See Construction Services General Conditions, Paragraph 13.13 for details.

17. ASSIGNMENT

17.1 The Successful Bidder shall not assign or transfer its rights, title or interests in the Agreement nor shall Successful Bidder delegate any of the duties or obligations undertaken by Successful Bidder without Palm Bay's prior written approval.

18. APPLICABLE LAWS, ORDINANCES, RULES, CODES AND REGULATIONS

18.1 Familiarity with Laws: Notice is hereby given that the Successful Bidder must be familiar with all federal, state and local laws, ordinances, rules, codes and regulations that may affect the work. Ignorance on the part of the Bidder will in no way relieve him from the responsibility of compliance therewith.

19. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENT INFORMATION:

19.1 A copy of Executive Order no. 11246, "Notice of Requirement for Affirmative Action to Insure Equal Employment Opportunity" is on file at Palm Bay, 1104 Balboa Avenue, Panama City, Florida 32401. All bidders must consider those requirements prior to submitting a bid. Those requirements shall be incorporated into and made a part of the Contract.

20. BID SECURITY

20.1 Each Bid must be accompanied by a certified or cashiers check or by a Bid Bond made payable to Palm Bay Education Group, Inc. on an approved form, duly executed by the Bidder as principal and having as surety thereon a surety company acceptable to Palm Bay and authorized to write such Bid Bond under the laws of the State of Florida, in an amount not less than five percent (5%) of the amount of the Bid.

20.2 The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Contract and furnished the required payment and performance bonds, whereupon the Bid Security will be returned. If the Successful Bidder fails to execute and deliver the Contract or furnish the required Bonds within fifteen (15) calendar days of the Notice of Award, Palm Bay may annul the Notice of Award and the entire sum of the Bid Security shall be forfeited. The Bid Security of the three (3) lowest bidders will be returned within seven (7) calendar days after Palm Bay and the Successful Bidder have executed the written Contract or if no such written Contract is executed within ninety (90) calendar days after the date of the Bid opening, upon the demand of any Bidder at anytime thereafter, provided that he has not been notified of the acceptance of his Bid. Bid Security of all other Bidders will be returned within seven (7) calendar days after the Bid opening. The attorney in fact or other officer who signs a Bid Bond for a surety company must file with such a Bond a certified copy of his power of attorney authorizing him to do so.

20.3 The Bid Security filed with the Bid shall be forfeited in its entirety to Palm Bay as liquidated damages if the Bidder to whom the Contract is awarded fails to execute

the Contract Documents within fifteen (15) calendar days of written notice by Palm Bay.

21. PAYMENT AND PERFORMANCE BONDS

21.1 Within Fifteen (15) calendar days after the Contract Award, but in any event prior to commencing work, the Successful Bidder shall execute and furnish to Palm Bay a performance bond and a payment bond, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR, Section 223.10, Section 223.11). Further, the surety company shall provide Palm Bay with evidence satisfactory to Palm Bay, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858:

Financial Stability - A
Financial size - VIII

21.2 Two (2) separate bonds are required and both must be approved by Palm Bay. The penal sum stated in each bond shall be the amount equal to the total amount payable under the terms of the contract. The performance bond shall be conditioned that the Successful Bidder performs the contract in the time and manner prescribed in the contract. The payment bond shall be conditioned that the Successful Bidder promptly make payments to all persons who supply the Successful Bidder with labor, materials and supplies used directly or indirectly by the Successful Bidder in the prosecution of the work provided for in the Contract and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate allowed by law; and that they shall indemnify and save harmless Palm Bay to the extent of any and all payments in connection with the carrying out of said Contract which Palm Bay may be required to make under the law.

21.3 Such bonds shall continue in effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or by the Contract Documents with the final sum of said bonds reduced after final payment to an amount equal to twenty five percent (25%) of the Contract Price, or an additional bond shall be conditioned that the Successful Bidder correct any defective or

faulty work or material which appear within one (1) year after final completion of the Contract, upon notification by Palm Bay.

22. INDEMNIFICATION

- 22.1 GENERAL INDEMNIFICATION: The parties agree that one percent (1%) of the total compensation paid to CONTRACTOR for the work of the Contract shall constitute specific consideration to CONTRACTOR for the indemnification to be provided under the Contract. To the fullest extent permitted by laws and regulations, CONTRACTOR shall indemnify, save and hold harmless Palm Bay, its officers, agents and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, or consequential, including, but not limited to, fees and charges of engineer, architects, attorney's, consultants and other professionals and court and arbitration costs arising out of or resulting from the performance of the Work excluding the sole negligence of Palm Bay. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (a) any and all bodily injuries, sickness, death, disease; (b) injury to or destruction of tangible personal property, including the loss of use resulting therefrom; (c) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this project including the warranty period; (d) the use of any improper materials; (e) any construction defect including patent defects; (f) any act, omission or default of CONTRACTOR or his subcontractors, agents, servants or employees; (g) the violation of any federal, state, county or city laws, by-laws, ordinances or regulations by CONTRACTOR, his subcontractors, agents, servants or employees; (h) the breach or alleged breach by CONTRACTOR of any term of the Contract, including the breach or alleged breach of any warranty or guarantee.
- 22.2 PATENT AND COPYRIGHT INDEMNIFICATION: CONTRACTOR agrees to indemnify, save and hold harmless Palm Bay, its officers, agents and employees, from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against Palm Bay, its officers, agents and employees, on account of any claims, fines, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against Palm Bay, its officers, agents and employees for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.
- 22.3 Pursuant to the requirements of Florida Statute 752.06, as amended, the indemnification from liability for damages caused in whole or in part by any act, omission or default by Palm Bay as contained in Paragraph 22.1 above, shall be limited to the monetary amount of comprehensive general liability insurance, which CONTRACTOR is required to obtain under the Contract. All other indemnification required hereunder shall not be limited to the amount of required comprehensive general liability insurance or any required excess insurance.

22.4 CONTRACTOR shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of Palm Bay, in connection with the foregoing indemnifications, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of Palm Bay when applicable.

22.5 Palm Bay reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the CONTRACTOR under the indemnification agreement. Such indemnification shall not be limited to the amount of comprehensive general liability insurance that CONTRACTOR is required to obtain under the Contract. Nothing contained herein is intended nor shall it be construed to waive Palm Bay's rights and immunities under the common law or Florida Statute 768.28 as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any party described in this Paragraph 22 and its subparts.

23. INSURANCE

See Construction Services General Conditions, Paragraph 16.4 for details.

24. ADDENDUM

An addendum, if needed, will be issued prior to the opening of bids. The intent of these addenda is to clarify, correct or change the scope of work and/or bidding documents.

It is the responsibility of the bidder to view the website to determine if any addenda have been issued, or to contact Palm Bay to determine if any addenda has been issued. In some cases, where the addendum has a direct effect on the scope of work or a change in the cost of the project, the omission of the signed addendum being returned with the bid submittal may cause the bid to be considered as non-responsive.