



**INVITATION FOR BIDS**

**DATE: August 26, 2019**

**Newport News Public Schools**

ISSUING OFFICE:

PURCHASING DEPARTMENT  
12465 WARWICK BOULEVARD  
NEWPORT NEWS, VA 23606-3041  
TELEPHONE: (757) 591-4525  
FAX: (757) 591-4593

Attention of Bidder is Directed To Section  
2.2-4367 to 2.2-4377 Code of Virginia  
(Ethics In Public Contracting)

<b>BID ITEM NO.</b> 002-0-2019LC
<b>PROCUREMENT OFFICER</b> Lisa Cumming C.P.M., VCO, CPPO
<b>OPENING DATE</b> September 10, 2019
<b>OPENING TIME</b> 2:00 PM
<b>PREBID CONFERENCE</b> N/A

**SEALED BIDS** will be received in the issuing office above until Opening Date and Opening Time as specified in this solicitation to include any addendums issued by this office. Newport News Public Schools is not responsible for late delivery by U. S. Postal mail or other couriers.

All inquiries for information regarding this Invitation for Bid should be directed to the Buyer listed in this IFB or 757-591-4525

**COMMODITY: Utility Locating Service NIGP CODE: 962-91**

PLEASE FILL IN BIDDER'S NAME & ADDRESS IN THE SPACES PROVIDED BELOW:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS IS NOT AN ORDER**

THE NEWPORT NEWS SCHOOL BOARD, HEREAFTER REFERRED TO AS NEWPORT NEWS PUBLIC SCHOOLS (NNPS) ALSO REFERRED TO AS "OWNER", RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL BIDS IN WHOLE OR IN PART AND TO WAIVE ANY INFORMALITIES IN THE BID PROCESS AND RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN ITS BEST INTEREST. THE SPECIFICATIONS IN THIS BID ARE INTENDED AS A QUALITY INDICATOR AND GUIDE FOR BIDDING AND UNLESS OTHERWISE STATED, NNPS WILL CONSIDER ALTERNATE BIDS OF EQUAL OR BETTER QUALITY, WHICH WILL BE ACCOMPANIED BY DESCRIPTIVE LITERATURE. THE ENTIRE CONTENTS OF THIS INVITATION FOR BID, ANY ADDENDA, AND BIDDER'S RESPONSE SHALL BE INCORPORATED INTO ANY RESULTING CONTRACT.

**NNPS DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS.**

Utility Locating Services

**ACKNOWLEDGE RECEIPT OF ADDENDUM: #1\_\_\_ #2\_\_\_ #3\_\_\_ #4\_\_\_ (Please Initial)**  
IN COMPLIANCE WITH THIS BID, AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO EXECUTE ANY CONTRACT AS A RESULT OF THIS BID. THE UNDERSIGNED OFFERS AND AGREES TO FURNISH THE GOODS/SERVICES AT THE PRICE(S) INDICATED ON THE PRICING SCHEDULE. THE FOLLOWING SECTION SHALL BE SIGNED BY AN AGENT AUTHORIZED TO BIND THE BIDDER/COMPANY. FAILURE TO MAKE THIS COMMITMENT MAY RESULT IN BID REJECTION.

PAYMENT TERMS: \_\_\_\_\_

SHIPPING TERMS: ALL PRICES QUOTED F.O.B. NEWPORT NEWS, VIRGINIA

Authorized Agent	_____ Signature	_____ Type or Print Name	_____ Email Address
Company FEI/FIN#	_____ Phone Number	_____ FAX Number	

**SPECIFIC LEGAL REQUIREMENTS**

**ANTI-COLLUSION:**

In the preparation and submission of this bid/proposal, said bidder/offeror did not either directly or indirectly enter into any combination or arrangement with any person, firm or corporation, or enter into any agreement, participate in any collusion, or otherwise take any action in violation of the Sherman Act (15 U.S.C. Section 1), Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia. The undersigned bidder/offeror hereby certifies that this agreement, or any claims resulting therefrom, is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation engaged in the same line of business or commerce; and, that no person acting for, or employed by, NNPS has an interest in, or is concerned with, this bid/proposal; and, that no person or persons, firm or corporation other than the undersigned, have, or are, interested in this bid/proposal.

**DRUG-FREE WORKPLACE:**

During the performance of this contract, the successful bidder/offeror agrees to (i) provide a drug-free workplace for the successful bidder's/offeror's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the successful bidder's/offeror's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the successful bidder/offeror that the successful bidder/offeror maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each successful bidder/offeror or vendor. For the purpose of this section, "drug-free workplace" means a site for the performance or work done in connection with a specific contract awarded to a successful bidder/offeror in accordance with federal law, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**EMPLOYMENT DISCRIMINATION BY THE SUCCESSFUL BIDDER/OFFEROR SHALL BE PROHIBITED:**

1. During the performance of this contract, the successful bidder/offeror agrees as follows:
  - a. Bidder/offeror shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the successful bidder/offeror. The successful bidder/offeror agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. Successful bidder/offeror, in all solicitations or advertisements for employees placed by or on behalf of the successful bidder/offeror, shall state that such successful bidder/offeror is an equal opportunity employer.
  - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. Successful bidder/offeror shall include the provisions of the foregoing Subsections a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**COMPLIANCE WITH STATE LAW; FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH:**

1. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
2. A bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 will include in its bid or proposal the identification number issued to it by the State Corporation Commission in the space provided below. Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement why the bidder/offeror is not required to be so authorized. Bidder/offeror is to include the VA Code reference authorizing the exemption in said statement.
3. Any bidder/offeror described in the foregoing Subsection 2. that fails to provide the required information shall not receive an award unless a waiver of this requirement is granted by the Superintendent or designee.
4. Any business entity described in the foregoing Subsection 1. that enters into a contract with NNPS shall not allow its existence to lapse or its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

**Name and Address of BIDDER/OFFEROR:** \_\_\_\_\_ Date: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**Federal Tax Identification Number/Social Security Number:** \_\_\_\_\_

**State Corporation Commission Identification Number:** \_\_\_\_\_

Is bidder/offeror a "minority" business?  Yes  No      If yes, please indicate the "minority" classification below:  
 African American     Hispanic American     Native American     Asian American     Other; Please Explain:

Service Disabled Veteran?  Yes  No  
Service Disabled Veteran Business?  Yes  No  
Woman Owned?  Yes  No  
Small Business?  Yes  No  
Faith-Based Organization?  Yes  No

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## I. SCOPE OF WORK

### A. GENERAL REQUIREMENTS

The purpose of this IFB is to solicit bids from responsive and responsible Bidders to provide Newport News Public Schools with private utility locating services, in accordance with Miss Utility of Virginia and the Virginia Underground Utility Damage Prevention Act of 1979.

The fiber backbone of the Newport News Public Schools (NNPS) Wide Area Network (WAN) consists of approximately 594 count single mode armor, shielded dry block, ribbon fiber which makes up three interconnected rings (east, central, and west) that run throughout the city of Newport News Virginia. The secondary paths, the ones to the individual facilities, consists of a 12 count single mode armor, dry black loose fiber and meets the minimum specification requirements established by the City of Newport News, the Commonwealth of Virginia, and other applicable agencies, institutes and authorities.

Below reflects the past 12 months of the NNPS ticket workload:

Month	Ticket Count (Normal/After Hours)	Month	Ticket Count (Normal/After Hours)
July	553/7	August	627/9
September	549/6	October	683/11
November	471/6	December	365/3
January	462/4	February	443/4
March	538/12	April	566/7
May	570/2	June	553/7

**NOTE:** This information is provided as historical data only to give potential Bidders a general idea of current ticket workloads.

The contract will be for one (1) initial year with the option to renew the (4) additional one-year terms.

### B. SPECIFIC REQUIREMENTS

1. Contractor shall be responsible for providing private utility locating services for an estimated 89-mile fiber optic (FO) interconnection ring for NNPS, to include, responding to issued locate tickets for line locations and occasional emergency locate services, on an as needed basis.
2. Bidders shall provide their Virginia Class A license, a record of bidder's experience in providing comparable services, and shall be bonded in the State of Virginia.
3. NNPS utility lines are currently marked and shall remain marked throughout the duration of this contract with orange paint that states: NNPS/FO. While the use of flags may be required under special circumstances, the standard paint marking (orange paint which states: NNPS/FO) will suffice.
4. Contractor shall be responsible for locating and marking NNPS utility lines to prevent possible damage to NNPS underground utility lines, injury, property damage, and service interruptions, in accordance with the pre-requisites and guidelines of Miss Utility of Virginia and the Virginia Underground Utility Damage Prevention Act.
5. Contractor shall work closely with NNPS Contract Administrator to ascertain the specific location and requirements of the proposed excavation work.
6. Contractor shall be responsible for completing any and all forms (either electronic or hard copy) required by Miss Utility of Virginia, prior to locating and marking any utility lines.

7. Contractor shall be responsible for the cost of any damages to utility lines, property (to include NNPS property and property that is not owned by NNPS), or extended service damages due to negligence and/or non-compliance with the requirements of Miss Utility of Virginia – notwithstanding any additional liabilities otherwise specified in this contract.
8. Contractor shall review with Miss Utility of Virginia current underground utility runs to ensure NNPS utility lines are in the correct grid lines and that grid lines are not labeled with NNPS utilities where none exist.
9. Contractor shall perform all markings in the time periods required by Miss Utility of Virginia.
10. This IFB includes this document and WAN drawings. It shall be the responsibility of the Bidder to examine the drawings thoroughly, and become familiar with the sites of the proposed work for all conditions surrounding the areas. Complete electronic AutoCAD drawings may be obtained directly from the Network Engineering Department via OneDrive.
11. Pricing for the requested services under this contract shall be provided to NNPS in the format of the table in section I.B. paragraph 13.
12. The Unit Prices offered and accepted shall be Firm-Fixed prices for the duration of the Contract Term, and any contract extension periods exercised, and shall not be exceeded due to cost experience of the Contractor during performance of the contract. Contractor must submit any proposed adjusted pricing for subsequent extension periods sixty (60) days prior to the beginning of the applicable contract extension date. Any increase in cost shall not increase by a greater percentage than the percentage change in the Consumer Price Index published by the United States Department of Labor during the previous twelve months or 3 % whichever is lower.

**13. Pricing Schedule**

**PRICING SCHEDULE: IFB# 002-0-2019/LC Utility Locating Service**

Estimated Annual Quantity	Unit	Description	Net Unit Bid	Net Total Bid
5,400 tickets	Per ticket	<b>Respond to issued locate Ticket:</b> This price includes receiving all tickets from VUPS, locating each ticket, supplying all paint, responding to tickets through VUPS tracking system, and documenting all work.		
25 hours	Hourly Rate	Emergency/After hours Locate Ticket: This price is for tickets during M-F, 6 pm until 7 am and weekends.		
25 hours	Hourly Rate	Rate for over 1 hour on allocate ticket		
25 hours	Hourly Rate	Rate for non-ticket related work		
Total Bid				

## II. SPECIAL INSTRUCTIONS TO THE BIDDER:

### A. Issuing Office:

Wherever used in this Invitation for Bid, Issuing Office will be:  
Lisa Cumming, CPPO, C.P.M., VCO, Director of Procurement  
Newport News Public Schools Purchasing Department  
12465 Warwick Boulevard  
Newport News, VA 23606-3041  
Phone: (757) 591-4525  
Fax: (757) 591-4593  
Email: lisa.cumming@nn.k12.va.us

### B. Owner's Representative:

Wherever used in this Invitation for Bid and for purposes of any notices under this contract, the Owner's Representative will be:

Attn: Mr. Jim Pike  
Coordinator II, Network Engineering  
Newport News Public Schools  
Phone: (757) 283-7808  
VoIP Extension: 12124  
Cell: (757) 532-2499

### C. Contact with NNPS Staff, Representatives, and/or Agents:

Direct contact with NNPS staff, representatives, and/or agents other than Purchasing Department staff on the subject of this IFB or any subject related to this IFB is expressly prohibited except with the prior knowledge and permission of the Purchasing Director

### D. Pre-Bid Conference: N/A

### E. Site Visit: N/A

### F. Bidders of Record:

Bidders receiving a copy of this IFB from a source other than the Issuing Office via the [www.eVA.virginia.gov](http://www.eVA.virginia.gov) website must contact the Issuing Office and provide Bidder's name, address, contact person, telephone and fax number, and the IFB Item Number. Bidder will be added to the eVA planholders' list and will receive notification of any addenda to the IFB.

### G. Examination of Contract Documents:

It is the responsibility of each Bidder before submitting a Bid:

- a. To examine thoroughly the Bid Documents;
- b. To study and carefully correlate the Bidder's knowledge and observations with the Bid Documents and such other related data; and;
- c. To promptly notify the Owner of all conflicts, errors, ambiguities, or discrepancies which the Bidder has discovered in or between the Bid Documents and such other related documents or field/site conditions.

## H. Questions:

Submit questions regarding the Invitation for Bid in writing to the Issuing Office at [lisa.cumming@nn.k12.va.us](mailto:lisa.cumming@nn.k12.va.us) not later than September 3, 2019, 4:00 P.M. Eastern Time. Necessary replies will be issued to all Bidders of record as addenda that shall become part of the contract documents. Oral instructions do not form a part of the bid documents.

Bidder is responsible for checking the [www.eVA.virginia.gov](http://www.eVA.virginia.gov) website or contacting the Issuing Office within 48 hours prior to bid closing to secure any addenda affecting this IFB.

## I. Changes or Modifications:

Changes or modifications to this Invitation for Bids made prior to the date and time of closing will be addressed by addenda from the Issuing Office. Acknowledge receipt of addenda in the space provided on the cover page of this Invitation for Bid. Oral modifications shall not form a part of the Bid documents. This IFB and any addenda shall be incorporated, by reference, into any resulting contract.

## J. Bid Submittal Requirements:

1. Each Bid submission shall be submitted to the Issuing Office and will include the following documents:
  - a. The cover page of this Invitation to Bid, which will contain:
    - (1) Original signature of an agent authorized to bind the company;
    - (2) Payment terms;
    - (3) Acknowledgment of any addenda on page one (1); and
    - (4) Registered Virginia Contractor No. and Class;
  - b. Pricing Schedule (Section I, B paragraph 13, pg. 6);
  - c. Completed and signed anticollusion/nondiscrimination clauses on page 2 of this IFB;
  - d. Copies of valid Commonwealth of Virginia Contractor license;
2. Bidder shall submit one original and one (1) copy of its Bid. This original of the Bid shall contain the original signature of the contracting authority.
3. Submit Bids in a sealed envelope or package. Clearly label the shipping/ mailing packaging as well as the outside of your sealed envelope or package with the Bid Item No., Closing Date and Time, and your firm's name and address. **Bids received by telephone, telegraph, facsimile, or any other means of electronic transfer shall not be accepted.** Bids will be received on or before the date and the hour and at the place stipulated in the Invitation to Bids as may be modified by subsequent Addenda. Purchasing Department operating hours are on the NNPS website at <http://sbo.nn.k12.va.us/index.html>.

The official time used for the receipt of responses is determined by reference to the clock designated by the Procurement Officer. The Procurement Officer shall determine when the Bid Receipt Deadline has arrived and shall announce that the Deadline has arrived and that no further bids or bid modifications will be accepted.

4. Bidders are encouraged to submit their bids on recycled paper and to use double-sided copying.
5. Bidder Qualification:



To demonstrate its qualifications to perform the Work, each Bidder shall be prepared to submit further written satisfactory evidence that the Bidder has sufficient experience, necessary capital, materials, machinery and skilled workers to complete the Work. If financial statements are required they shall be of such date as the Owner shall determine and shall be prepared on forms acceptable to the Owner. The Owner may make any such investigations as deemed necessary to determine the ability of the Bidder to perform the Work. The Owner's decision or judgment on these matters shall be final, conclusive and binding.

6. Subcontractor Qualification:

Each Bidder shall submit to the Owner a list of all Subcontractors who will be performing work on the Project. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of experience and qualifications of each such Subcontractor, person and organization. If the Owner, after due investigation, has reasonable objection to any proposed Subcontractor, other person and organization, the Owner may, before giving the Notice of Award, request the apparent low Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent low Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder. For any Subcontractors, other persons, or organization so listed and to whom Owner does not make written objection prior to giving the Notice of Award, it will be deemed the Owner has no objection.

7. Responsibility of the Bidder:

By submitting their Bid, Bidders certify that:

They are not now debarred by the Federal Government or by the Commonwealth of Virginia or by any other state, or by any town, city, or county, from submitting Bids on contracts for construction covered by this solicitation, nor are they an agent of any person or entity that is now so debarred;

Bidder has sufficient financial ability to perform the Contract;

Bidder (including any officer, director or owner thereof) has not had judgments entered against Bidder within the past ten years for the breach of contracts for governmental or nongovernmental work;

**K. Proprietary Information/Disclosure:**

Bidder is advised that the Virginia Public Procurement Act (Section 2.2-4342, Code of Virginia, 1950 as amended) shall govern public inspection of all records submitted by Bidder. Specifically, if Bidder seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342.

Bidder shall:

- (i) invoke the protections of this section prior to or upon submission of the data or other materials,
- (ii) identify the data or other materials to be protected,
- (iii) state the reasons why protection is needed.

Furthermore, the Bidder shall submit proprietary information under separate cover, and the Owner reserves the right to submit such information to the Owner's attorney for concurrence of the Bidder's claim that it is in fact proprietary. References may be made within the body of the bid to proprietary information; however, all information contained within the body of the bid not labeled proprietary or otherwise not meeting all three of the requirements of Section 2.2-4342 shall be public information in accordance with State statutes. Trade secrets or proprietary information submitted by an Bidder in conjunction with this IFB are not subject to public disclosure under the Virginia Freedom of Information Act (VFOIA). However, Bidder must invoke the protection of the VFOIA prior to or upon submission of the data or other materials. Information submitted that does not meet the above requirements will be considered public information in accordance with the VFOIA.

An all-inclusive statement that the entire bid is proprietary is unacceptable. A statement that Bidder's costs and/or bid pricing are to be protected is unacceptable. Bidder will be requested to remove any such statement(s) in order to be eligible for further evaluation and award.

**L. Notice of Award:**

Any contract resulting from this IFB will be publicly posted for inspection on the eVA.virginia.gov website as well as in the NNPS Purchasing Department, 12465 Warwick Boulevard, Newport News, Virginia.

**M. Award:**

Owner may elect to award a contract to more than one vendor.

The award of contracts shall be at the sole discretion of the Owner. Unless cancelled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, Owner may negotiate with the apparent low bidder to obtain a contract price within available funds. The Owner reserves the right to accept or reject any or all bids in whole or in part and to waive any informalities in the process. Furthermore, the Owner reserves the right to enter into any contract deemed to be in the Owner's best interest.

**N. IFB Opening:**

Bidder shall ensure their bid is time stamped by the Issuing Office no later than the Opening Date and Time shown on the cover page of this Invitation for Bid. Bids received after the specified date and time (time stamped 2:01 P.M. or later) shall not be considered and will be returned unopened to Bidder.

**O. Withdrawal of Bids:**

A bidder for a contract may request withdrawal of his or her bid under the following circumstances:

A bidder may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the NNPS Purchasing Agent in writing.

Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the NNPS Purchasing Agent, in writing, accompanied by full documentation supporting the request. The bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. If bid bonds were tendered with the bid, NNPS reserves its right to exercise collection.

No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. If a bid is

withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.”

**P. Disposition of Bids:**

All materials submitted in response to this IFB shall become the property of the Owner. One (1) copy of each bid will be retained for official files. Said copy will become public record after award of the contract and will be open to public inspection subject to the Proprietary Information/Disclosure section of this IFB.

**Q. Cost of Responding:**

This solicitation does not commit the Owner to pay any costs incurred by the Bidder or any other party in the preparation and/or submission of bids or in making necessary studies or designs for the preparation thereof, nor is the Owner obligated to procure or contract for such services.

**III. GENERAL TERMS AND CONDITIONS**

**A. Definitions**

**The Contract Documents** consist of this solicitation for bids, the Bid Pricing Schedule, Addenda issued prior to the execution of the Contract, each Project proposal submitted for each assigned project, and Modifications issued after execution of the Contract.

**The Contract** is formed by and consists of the Contract Documents.

**The Owner** is the Newport News School Board also sometimes referred to as the Newport News Public Schools or NNPS.

**The Work** means the services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or part of a Project.

**The Extra Work** means approved services added to the Project.

**The Project** is the total services of which the work performed under the Contract Documents.

**The Specifications** are that portion of the Contract Documents consisting of written requirements for materials, equipment, systems, standards, and workmanship for the Work, and performance of related services.

**The Owner Representative** is the person or entity identified by the Owner to make decisions with respect to the matters requiring the Owner’s approval or authorization.

**Substantial Completion** is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

**The Contract Sum** is stated in the Contract and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

**B. Administration of the Contract:**

The Owner’s Representative will advise and consult with the Owner and will have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

**C. Contract Document:**

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents are complementary and what is called for by one shall be as binding as if called for by all.

**D. Contract Modification(s):**

A Modification is (1) a written amendment to the Contract signed by both parties, After award, any and all modification to the Contract shall be made by a Modification.

**E. Bidder Obligation:**

Bidder shall carefully examine the contents of this Invitation for Bid and any subsequent addenda. Failure to do so shall not relieve the Successful Bidder of its obligation to note any exceptions (see Exceptions/Alternatives section) and to fulfill the requirements of this contract

**F. Conditions Of Work:**

Bidders shall inform themselves fully of the conditions relating to services required herein. Failure to do so will not relieve a Successful Bidder of the obligation to furnish all goods and/or services necessary to carry out the provisions of this contract

**G. Bid Binding For Ninety (90) Days:**

Bidder agrees that this bid shall be binding and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing date of this Invitation For Bid

**H. Prime Contractor:**

If in its performance of this contract, Successful Bidder supplies goods or services by or through another party or subcontractor, Successful Bidder agrees that:

Successful Bidder shall act as the prime contractor for the goods and services to be provided under contract and shall be the sole point of contact with regard to all obligations under this contract.

Successful Bidder represents and warrants that Successful Bidder has made third parties or subcontractors aware of the proposed use and disposition of the other party's products or services, and that such other party has agreed in writing that it has no objection and that OWNER is not liable to such third parties or subcontractors for any work performed under this contract.

The use of subcontractors and the work they perform must receive the prior written approval of Owner. The Owner will designate a Contract Administrator to approve such work.

Successful Bidder shall be solely responsible for all work performed and materials provided by subcontractors.

Successful Bidder shall be responsible for the liability of subcontractors for the types and limits required of the Successful Bidder under this contract.

**I. Subcontractors:**

Successful Bidder's use of subcontractors and the work they are to perform must receive written approval from the Owner. Successful Bidder shall be solely responsible for all work performed and materials provided by subcontractors. Successful Bidder shall be responsible for the liability of subcontractors for the types and limits required of the Successful Bidder.

**J. Non-Assignment:**

Successful Bidder shall not assign its rights and duties under this Agreement without the prior written consent of the NNPS Contract Administrator.

**K. Antitrust:**

Any perceived anti-trust violation shall be reported to the State Attorney General for possible enforcement of anti-trust laws.

**L. Anticollusion/Nondiscrimination Requirements Form:**

The attached "Anticollusion/Nondiscrimination Requirements" form, on page 2 of this IFB, shall be executed by Bidder and is to be submitted with Bidder's bid. The requirements set forth on said form shall be considered to be binding terms and conditions in any contract resulting from this IFB. A contract will not be awarded to an Bidder who has not signed the anticollusion/nondiscrimination statement.

**M. Compliance with Federal, State, and Local Laws and Federal Immigration Law:**

Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

**N. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth:**

Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. NNPS may void any contract with the Contractor if the Contractor fails to remain in compliance with the provisions of this section.

**O. Hold Harmless/Indemnification:**

It is understood and agreed that Successful Bidder hereby assumes the entire responsibility and liability for any and all material damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Successful Bidder, its subcontractors, agents or employees under or in connection with this Contract or the performance or failure to perform any work required by this Contract. Successful Bidder agrees to indemnify and hold harmless Owner and its agents, volunteers, servants, employees and officials from and against any and all claims, losses, or expenses, including reasonable attorney's fees and litigation expenses suffered by any indemnified party or entity as the result of claims or suits due to, arising out of or in connection with (a) any and all such damages, real or alleged, (b) the violation of any law applicable to this Contract, and (c) the performance of the work by Successful Bidder or those for whom Successful Bidder is legally liable. Upon written demand by the Owner, Successful Bidder shall assume and defend at Successful Bidder's sole expense any and all such suits or defense of claims made against the Owner, its agents, volunteers, servants, employees or officials.

**P. Notices:**

All notices, requests, demands, and elections under this contract, other than routine operational communications, shall be in writing and shall be deemed to have been duly given on the date when hand-delivered, or on the date of the confirmed facsimile transmission, or on the date received when delivered by courier that has a reliable system for tracking delivery, or six (6) NNPS business days after the date of mailing when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the following individuals:

To Owner: NNPS Contract Administrator as designated in this IFB.

To Successful Bidder: Successful Bidder's Contract Administrator as defined in Successful Bidder's bid.

Either party may from time to time change the individual(s) to receive notices and/or its address for notification purposes by giving the other party written notice as provided above.

**Q. Non-Responsive Performance:**

Delivery Delays: Owner reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Bidder fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract.

Unacceptable Deliveries (Rejections): Upon notification by the Owner that goods and/or service deliverables provided by the Successful Bidder under this contract are damaged and/or not of the quality specified by the Owner, such goods and/or service deliverables will be rejected. Successful Bidder shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by Owner.

Successful Bidder shall remove all rejected materials, equipment or supplies from the premises of Owner within ten (10) days of notification. Rejected goods and/or service deliverables not removed from Owner's premises within ten (10) days will be regarded as abandoned, shall become the property of Owner, and Owner shall have the right to dispose of such items.

Owner Purchase From Alternate Sources: Owner reserves the right to authorize immediate purchase from other sources against delayed deliveries and/or rejections.

The Successful Bidder shall reimburse Owner promptly for excess costs incurred by Owner for such purchases. Any such purchases will be deducted from the contract amount. In the event Owner's cost of obtaining goods and/or service deliverables from other sources be less, Successful Bidder shall have no claim to the difference.

Liability: Successful Bidder shall be liable to Owner for all costs incurred by Owner as a result of Successful Bidder's failure to perform in accordance with the contract. Successful Bidder's liability shall include, but not be limited to:

Damages and other delay costs, to include costs to procure goods/services from alternate suppliers.

Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Successful Bidder and/or rejections of Successful Bidder's goods and/or service deliverables.

Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by Owner due to non-responsive performance of Successful Bidder.

#### **R. Termination Without Cause:**

Owner may at any time, and for any reason, terminate this Contract by written notice to Successful Bidder specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed. Notice shall be given to Successful Bidder by certified mail/return receipt requested, addressed to the Successful Bidder's Contract Administrator. In the event of such termination, Successful Bidder shall be paid such amount as shall compensate Successful Bidder for the work satisfactorily completed, and accepted by Owner, at the time of termination. In the event Owner terminates this Contract, Successful Bidder shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to Owner any work completed or in process for which payment has been made.

#### **S. Termination With Cause/Breach:**

In the event that Successful Bidder shall for any reason or through any cause be in default of the terms of this Contract, Owner may give Successful Bidder written notice of such default by certified mail/return receipt requested, addressed to the Successful Bidder's Contract Administrator. Unless otherwise provided, Successful Bidder shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of the Successful Bidder to cure the default, Owner may immediately cancel and terminate this Contract as of the mailing date of the default notice. Upon termination, Successful Bidder shall withdraw its personnel and equipment, cease performance of any further work under the Contract, and turn over to Owner any work in process for which payment has been made. In the event of violations of law, safety or health standards and regulations, this Contract may be immediately cancelled and terminated by Owner and provisions herein with respect to opportunity to cure default shall not be applicable.

#### **T. Breach of Contract:**

Successful Bidder shall be deemed in breach of this contract if the Successful Bidder: Fails to comply with any terms of this contract; Fails to cure such noncompliance within ten (10) calendar days from the date of the Owner written notice or such other time frame, greater than ten (10) calendar days, specified by the NNPS Contract Administrator in the notice. Fails to submit a written response to the Owner notification of noncompliance within ten (10) calendar days after the date of the Owner notice. All notices under this contract shall be submitted, either by fax or certified mail, return-receipt requested, to the respective contract administrator. Successful Bidder shall not be in breach of this contract as long as its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on

the part of both the Successful Bidder and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of Owner in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.

**U. Applicable Law:**

This Contract shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Contract shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

**V. Compliance With All Laws:**

Successful Bidder shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of this contract. Successful Bidder represents that it possesses all necessary licenses and permits required to conduct its business and/or will acquire any additional licenses and permits necessary for performance of this contract prior to the initiation of work. If the Successful Bidder is a corporation, Successful Bidder further expressly represents that it is a corporation of good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of the contract and any extensions. All City of Newport News business license, personal property, real estate and other applicable tax requirements shall be met by Successful Bidder.

**W. Venue:**

Venue shall be in the Circuit Court of the City of Newport News, Virginia, and the United States District Court for the Eastern District of Virginia, Norfolk Division, compliant with applicable laws and regulations, as deemed appropriate by the Owner.

**X. Severability:**

If any provision of this contract is found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity of such provision shall not affect the other provisions of this contract, and all other provisions of this contract shall remain in full force and effect.

**Y. Non-Appropriation of Funds:**

It is understood and agreed between the parties herein that the Owner shall be bound hereunder only to the extent that the funds shall have been appropriated. In the event no funds or insufficient funds are appropriated, Owner shall immediately notify the Successful Bidder of such occurrence and this Contract shall terminate on the last day funds are available without penalty or expense to the Owner of any kind whatsoever.

**Z. Tax Exemption:**

The Owner is exempt from federal excise tax and from all State and local taxes. Successful Bidder shall not include such taxes in any invoices under this agreement. Upon request, the Owner will furnish the Successful Bidder with tax exemption certificates or the Owner tax exempt number.

**AA. Vendor's Invoices:**

Successful Bidder shall submit to the Owner all invoices promptly upon completion of the requirements for installation, delivery, and acceptance of the Products and Services required under this contract. Invoices shall not include any costs other than those identified in the executed Owner purchase order awarding this contract or any subsequent change orders issued by the NNPS Purchasing Division. All shipping costs are the Successful Bidder's responsibility, except to the extent such charges are identified in the executed NNPS purchase order or change orders. Successful Bidder's invoices shall provide at a minimum:

- Type and description of the Product or Service installed, delivered and accepted;
- Serial numbers, if any;
- Quantity delivered;

- Charge for each item;
- Extended total (unit costs x quantity);
- This IFB number and the NNPS Purchase Order Number.

**BB. Contractual Disputes:**

Any dispute concerning a question of fact as a result of a contract with the Owner which is not disposed of by agreement shall be decided by the NNPS Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the NNPS Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

**CC. Payment Terms:**

To be eligible for payment, all labor, equipment and materials covered under Successful Bidder's invoice must be completed and accepted by the Owner. Owner agrees to make payments under this contract within thirty (30) days after receipt of a correct invoice for such payment. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due the Owner under the terms of this or any other agreement may be applied against Successful Bidder's invoices with documentation for the basis of the adjustment attached. In no event shall any interest penalty or late fee accrue when payment is delayed because of disagreement between the Owner and Successful Bidder regarding the quantity, quality, time of delivery, or other noncompliance with the contract requirements for any Product or Service or the accuracy or correctness of any invoice. Payment terms offering a "prompt payment discount" of 20 days or greater will be considered in the evaluation of bids. All other payment terms shall be net thirty (30) calendar days or greater. Payment terms not specified by Bidder shall be Net 45 days.

**Special Educational or Promotional Discounts:**

The contractor shall extend any special educational or promotional sale prices or discounts immediately to Newport News Public Schools during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

**DD. Prompt Payment**

The Owner will promptly pay for completed, delivered goods or services accepted under this Contract by the payment date established. The required payment date will be either: (i) the date on which payment is due under the terms of this Contract for the provision of the goods or services; or (ii) if a date is not established by this Contract, not more than forty-five (45) days after goods or services are received or not more than forty-five (45) days after the invoice is rendered, whichever is later.

Within twenty (20) days after the receipt of the invoice or goods or services, the Owner shall notify the supplier of any defect or impropriety that would prevent payment by the payment date. Should Owner fail to pay the Contractor by the pay date, finance charges may be assessed by the Contractor. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of one percent (1%) per month. This will not apply to late payment provisions in any public utility tariffs or public utility negotiated Contracts. Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

In cases where payment to Contractor is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of this Contract.



Individual Contractors shall provide to the Owner their social security numbers and proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

Within seven (7) days after Contractor receives payment from the Owner, Contractor shall take one or more of the following actions:

1. Pay all subcontractors for the proportionate share of the total payment received from Owner attributable to the work performed by the subcontractors under this Contract;
2. Notify Owner and all affected subcontractors, in writing, of Contractor's intention to withhold all or a part of each affected subcontractor's payment including the reason for nonpayment.
3. Pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after (7) seven days following receipt by the Contractor of payment from Owner for work performed by the subcontractor under that Contract, except for amounts withheld, as allowed in #2 above.

A Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of Owner. A Contract modification will not be made for the purpose of providing reimbursement by Owner for interest charges owed by Contractor. A cost reimbursement claim to the Owner shall not include any amounts for reimbursement of interest charges owed by Contractor.

#### **EE. Payment by Electronic Funds Transfer (EFT)**

(a) Method of payment.

(1) All payments by Newport News Public Schools (NNPS) under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event NNPS is unable to release one or more payments by EFT, the Contractor agrees to either—

- (i) Accept payment by check or some other mutually agreeable method of payment; or
- (ii) Request NNPS to extend payment due dates until such time NNPS makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required to provide NNPS with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the NNPS Accounting Department (hereafter referred to as "Accounting") no later than 15 days prior to submission of the first request for payment. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the Accounting.

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to Accounting.

(c) Mechanisms for EFT payment. NNPS may make payment by EFT through the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association

(d) Suspension of payment.

(1) The NNPS is not required to make any payment under this contract until after receipt, by Accounting, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract.

(2) If the EFT information changes after submission of correct EFT information, NNPS shall begin using the changed EFT information no later than 30 days after its receipt by Accounting to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by Accounting. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because NNPS used the Contractor's EFT information incorrectly, NNPS remains responsible for—

- (i) Making a correct payment;

- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.
- (2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of NNPS' release of the EFT payment transaction, and—
  - (i) If the funds are no longer under the control of Accounting, NNPS is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
  - (ii) If the funds remain under the control of Accounting, NNPS shall not make payment and the provisions of paragraph (d) shall apply.
- (f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.
- (g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to Accounting, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to NNPS, is incorrect EFT information within the meaning of paragraph (d) of this clause.
- (h) Liability for change of EFT information by financial agent. NNPS is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.
- (i) Payment information. Accounting shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. NNPS may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods Accounting is capable of executing. However, NNPS does not guarantee that any particular format or method of delivery is available and retains the latitude to use the format and delivery method most convenient to NNPS. If NNPS makes payment by check in accordance with paragraph (a) of this clause, NNPS shall mail the payment information to the remittance address in the contract.
- (j) EFT information. The Contractor shall provide the following information to Accounting. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.
  - (1) The contract number (or other procurement identification number).
  - (2) The Contractor's name and remittance address, as stated in the contract(s).
  - (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
  - (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
  - (5) The Contractor's account number and the type of account (checking, saving, or lockbox).
  - (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
  - (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

NNPS Accounting Department Designated Contact:

Accounting Department  
NNPS Administration Building  
12465 Warwick Blvd.  
Newport News, Virginia 23606  
Tel: (757)591- 4513  
Steven Kanehl, Accounting Supervisor  
Steve.Kanehl@nn.k12.va.us

**FF. Audits:**

The Owner shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Contract (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Successful Bidder, including, but not limited to those kept by Successful Bidder, its employees, agents, assigns, successors and subcontractors. Successful Bidder shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Contract and for at least three years following the completion of this Contract, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the Owner, through its employees, agents, representatives, contractors or other designees, during normal business hours at Successful Bidder’s office or place of business in Newport News, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Newport News, Virginia, which is convenient for the Owner. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the Owner may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

**IV. SPECIAL TERMS AND CONDITIONS**

**A. Contract Term:**

Contract term is one (1) year commencing on date specified in Notice of Award with three (4) one-year renewals.

**B. Time is of the Essence:**

Time is of the essence in this Contract. Contractor expressly acknowledges that in the performance of its obligations, Owner is relying on timely performance and will schedule operations and incur obligations to third parties in reliance upon timely performance by Contractor and may sustain substantial losses by reason of untimely performance.

**C. Insurance:**

Contractor shall submit to the NNPS Contract Administrator certificates of insurance, prior to beginning work under the contract and no later than ten (10) days after award of the contract.

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to Owner, and shall carry the provision that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to the Owner or to the extent permitted by Virginia law. The certificates of insurance shall list NNPS, 12465 Warwick Boulevard, Newport News, Virginia, 23606-0130, as the additional insured for the specified project as outlined in this IFB. Copies of actual endorsements to the policy shall be required to confirm any special request, such as, additional insured status. A COI shall not be issued or delivered that gives the impression there are coverage terms the referenced policy does not specifically provide.

**IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO IMMEDIATELY NOTIFY THE OWNER SHOULD ANY POLICY BE CANCELLED. FAILURE TO NOTIFY THE OWNER SHALL CONSTITUTE A MATERIAL BREACH OF THE CONTRACT.**

Insurance shall be maintained during the entire term of the contract and shall be of the following forms and limits:

Forms	Limits
Workers' Compensation	Statutory
Automobile Liability	\$1,000,000 Combined Single Limit
Commercial General Liability, including Contractual Liability and Products and Completed Operations Coverage	\$1,000,000 Combined Single Limit

Miscellaneous Errors and Omissions with Intellectual Property Rights Coverage, Including Copyright Infringement Umbrella/Excess Liability	\$1,000,000   \$1,000,000
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The establishment of minimum limits of insurance by Owner does not reduce or limit the liability or responsibilities of the Contractor.

**D. Unauthorized Disclosure of Information:**

The Contractor shall assume the entire responsibility and liability for any and all damages caused by or resulting from or arising out of the negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in connection with this contract. The Contractor shall save harmless and indemnify Owner and its agents, volunteers, servants, employees and officers from and against any and all claims, losses or expenses, including but not limited to attorney’s fees, which either or both of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with, any and all such unauthorized disclosures, real or alleged. The Contractor shall, upon written demand by Owner, assume and defend, at the Contractor’s sole expense, any and all such suits or defense of claims alleging unauthorized disclosures of confidential information.

Any negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in connection with this contract shall constitute a breach of the terms of this contract. Owner may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Contractor shall save harmless and indemnify Owner for court costs, litigation expenses and attorney’s fees that it may pay or incur as the result of seeking to prevent or stop any and all unauthorized disclosures of confidential information.

**E. Copyright/Patent Indemnity:**

The Successful Bidder shall pay all royalty and license fees relating to the items covered by this contract. In the event any third party shall claim that the manufacture, use and sales of the goods supplied under this contract constitute an infringement of any copyright, trademark, or patent, the Successful Bidder shall indemnify Owner and hold Owner harmless from any cost, expense, damage or loss incurred in any manner by Owner on account of any such alleged or actual infringement.

**F. Permits and Responsibilities:**

The Contractor shall, without additional expense to Owner, be responsible for obtaining any necessary licenses and permits required to complete work under this contract, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occurs as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work, which may have been accepted under the contract.

**G. Material and Appliances**

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities of a quantity and quality necessary for the execution and completion of the Work. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The Contractor shall promptly notify in writing the Owner representative if any change in materials as specified is contemplated or proposed. Any such proposed change shall be promptly investigated, and if found to be necessary and/or acceptable, the Contract shall be formally modified. Any change in materials shall be made at the Contractors own risk unless approved as prescribed above.

**H. Employees:**

The Contractor shall at all times enforce proper discipline and order among his employees, and shall seek to avoid employing on the Work any unfit person or anyone not skilled in the Work assigned to him. The Owner reserves the right to require the Contractor to remove from the Project any employee whose actions are detrimental and disruptive to the Project. Proper discipline and order includes the wearing of appropriate clothing; inappropriate messages such as drug, sex, tobacco or alcohol messages depicted on clothing will not be tolerated and will result in immediate removal of the employee from the job site. All NNPS properties are tobacco free; smoking is banned from all school property. Adequate sanitary facilities shall be provided by the Contractor. The Contractor shall be responsible for complying with all OSHA, Virginia OSHA, NFPA, NEC, etc. requirements. Contractor shall provide to the Owner's Representative, its Employee Worker Safety Program prior to receiving the Notice to Proceed.

**I. Protection of the Public and of Work and of Property**

The Contractor shall provide and maintain all necessary watchmen, flagmen, barricades, and signage in accordance with requirements of the law and of the Owner Representative and take all reasonable precautions for the protection and safety of the public. Contractor shall continuously maintain reasonable protection of all Work from damage, and shall take all reasonable precautions to protect property from injury or loss arising in connection with this Contract. The Contractor shall take reasonable precautions to protect private property adjacent to the project from such nuisances as debris and excessive noise. Contractor shall make good any damage, injury or loss to his Work and to the property Owner resulting from lack of reasonable protective precautions, except such as may be caused by agents or employees of the Owner.