



# REQUEST FOR PROPOSALS

## Newport News Public Schools

ISSUING OFFICE:

DATE: March 20, 2023

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

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

SEALED PROPOSALS will be received in the Issuing Office above until Closing Date and Closing Time as specified in this solicitation including any addenda 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 Request for Proposal are to be directed to the Issuing Office as defined herein.

COMMODITY: A/E Professional Services

NIGP CODE: 91842, 92517,  
92567, 92581, 92588, 90607  
90638

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

**THIS IS NOT AN ORDER**

<b>RFP ITEM NO.</b> 021-0-2023/SB
<b>PROCUREMENT OFFICER</b> Shannon Bailey, VCCO, VCO Director of Procurement
<b>CLOSING DATE</b> April 20, 2023
<b>CLOSING TIME</b> 2:00 PM
<b>OPTIONAL PREPROPOSAL CONFERENCE</b>  March 29, 2023 2:00 pm EST

THE SCHOOL BOARD OF THE CITY OF NEWPORT NEWS, HEREAFTER REFERRED TO AS NEWPORT NEWS PUBLIC SCHOOLS (NNPS), RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND ALL PROPOSALS IN WHOLE OR IN PART AND WAIVE ANY INFORMALITIES IN THE COMPETITIVE NEGOTIATIONS PROCESS. FURTHER, NNPS RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN ITS BEST INTEREST. THE ENTIRE CONTENTS OF THE REQUEST FOR PROPOSALS, ANY ADDENDA, OFFEROR'S PROPOSAL AND NEGOTIATED CHANGES SHALL BE INCORPORATED BY REFERENCE INTO ANY RESULTING CONTRACT.

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

### DESCRIPTION OF GOODS/SERVICES

Architectural and Engineering (A/E) Professional Services

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1\_\_\_\_#2\_\_\_\_#3\_\_\_\_#4\_\_\_\_(Please Initial)

IN COMPLIANCE WITH THIS SOLICITATION AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION. THE FOLLOWING SECTION SHALL BE SIGNED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN PROPOSAL REJECTION.

Authorized Agent:

_____	_____	_____	_____
	Signature		Type or Print Name
_____	_____	_____	_____
Email Address	Telephone Number	Fax Number	Company FEI/FIN#

ENCLOSURES

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**ANTI-COLLUSION/NONDISCRIMINATION/DRUG-FREE WORKPLACE REQUIREMENTS**

**ANTI-COLLUSION CLAUSE:**

IN THE PREPARATION AND SUBMISSION OF THIS PROPOSAL, SAID 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 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 PROPOSAL; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS PROPOSAL.

**DRUG-FREE WORKPLACE:**

DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL OFFEROR AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE SUCCESSFUL 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 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 OFFEROR THAT THE SUCCESSFUL 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 SUSUCCESSFUL 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 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 SUCESSFUL OFFEROR SHALL BE PROHIBITED:**

1. DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL OFFEROR AGREES AS FOLLOWS:
  - a. THE 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 OFFEROR. THE SUCCESSFUL OFFEROR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.
  - b. THE SUCCESSFUL OFFEROR, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE SUCCESSFUL OFFEROR, SHALL STATE THAT SUCH SUCCESSFUL 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. THE SUCCESSFUL OFFEROR WILL INCLUDE THE PROVISIONS OF THE FOREGOING PARAGRAPHS 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.

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

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

Is Offeror a "minority" business?  Yes  No      If yes, please indicate the "minority" classification below:  
 African American     Hispanic American     American Indian     Eskimo     Asian American     Aleut  Other; Please Explain:  
 Is Offeror Woman Owned?  Yes  No  
 Is Offeror a Small Business?  Yes  No  
 Is Offeror a Faith-Based Organization?  Yes  No

RFP022-0-2017/LC

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## **I. PURPOSE**

The purpose of this Professional Services term contract is to obtain qualified contractor(s) to provide Architectural and engineering (A/E) services for additions, renovations, and alternations for facilities within NNPS on an as-needed basis throughout the term of the contract.

## **II. BACKGROUND**

Based on the Commonwealth of Virginia Department of Education's (DOE), NNPS is the ninth largest school division in the Commonwealth with approximately 28,860 students. NNPS is an urban school system educating children in 5 early childhood centers, 24 elementary schools, 8 middle schools, and 6 high schools. A listing of NNPS facilities and its locations may be accessed via NNPS' official web site at <http://sbo.m.k12.va.us/schools>. NNPS employees approximately 5,000 employees in a variety of educational, managerial, professional, technical, clerical, service and maintenance positions.

NNPS seeks to establish a term contract for professional architectural and engineering services. Selection of contractors will be made in accordance with the Code of Virginia §2.2-4302.2. This RFP requests the Offeror provide its technical capabilities for accomplishing the A/E services required for NNPS for various disciplines. Offeror shall not provide estimates of man-hours to perform the requested services or the cost of the services to be provided, with its proposal. However, during discussions with Offerors determined to be qualified and responsive to the RFP, NNPS may discuss nonbinding estimates of total project costs or nonbinding estimates for the price of services to be rendered. All submitting firms shall be registered and licensed by the Virginia Department of Professional and Occupational Regulations (DPOR).

At the conclusion of discussions, NNPS will select, in the order of preference, only those Offerors whose professional qualifications and proposed methodologies for providing service is deemed most meritorious, to provide a Pricing Proposal, based on the evaluation of technical proposals, beginning with the Offeror determined to be the most qualified of all Offerors. Upon NNPS' request, the Offeror selected should provide a Price Proposal that clearly identifies any and all costs associated with performing the Tasks in Section III, "Statement of Needs", below.

However, should NNPS establish that the pricing of the most qualified Offeror(s) is acceptable, NNPS will award to those Offeror(s). Notwithstanding, NNPS may determine that only one (1) Offeror is fully qualified or is clearly more qualified and suitable, in terms of professional competence, than the others under consideration and reserves the right to award a contract to only that one (1) most qualified Offeror without further discussions or deliberations with any other Offeror. After selection of the qualified Offeror(s) is made, the pricing for this contract must be in a format that specifies the categories of labor to be used on any given project, the hourly burdened rate to be used for each category of labor, and any other costs and fees charged for, what the Contractor considers to be, general or specialized projects.

The Estimated Unit Prices offered and accepted will be Firm-Fixed for the duration of the Contract Term, and any renewal option periods exercised, and shall not be exceeded due to cost experience of the Contractor in performing the contract. Selected qualified Offerors may propose adjusted pricing for each subsequent renewal period. These prices, as well, will be Firm-Fixed Ceiling prices for the duration of the renewal period proposed.

The resulting term contract shall be for one (1) year, or when the cumulative total project fees reach the maximum cost authorized, whichever occurs first with three (3) renewable contract term options at NNPS' discretion. The sum of all projects performed in a contract term shall not exceed \$10 million, and the fee for any single project shall not exceed \$2.5 million. Any unused amounts from one contract term shall not be carried forward to any additional term.

## **III. STATEMENT OF NEEDS**

- A. Contractor will be required to provide design and engineering services for the addition, renovation, or alteration of various NNPS school buildings on an as-needed basis, as requested by NNPS during the term of the contract.

NNPS may require the following:

The selected A/E shall furnish all expertise, labor and resources to provide complete services necessary for Project Order(s) issued during the Contract Term. The following generally summarizes the types of scopes of services that the A/E may be required to perform, depending on the individual Project Order:

- Provide full project design services and construction administration services
- Provide full project engineering services
- Space planning/tenant buildout, construction documents, and construction administration services
- Site planning
- Plan Review
- Project Manager / Coordinator
- Architect
- Structural Engineer
- Mechanical Engineer
- Plumbing Engineer
- Fire Safety / Protection
- Electrical Engineer
- Civil Engineer
- Landscape Architect
- Surveyor
- Geotechnical Engineer
- Soil Engineer
- Architect Designer
- Engineer Designer
- CADD / Drafting
- Spec / Report Writer
- Typist / Clerical

At any time, NNPS may also require other related services, such as feasibility studies, structural analysis, and special inspections. Any project order for a feasibility study, programming, or bridging documents issued pursuant to the Term Contract shall not include the right to extend the A/E's scope of services to include full design and construction period services and shall not be considered as preparation of an RFP for services. The A/E completing such project order shall not be prohibited from participating in competitive negotiation procurement for such future services.

- B.** Contractor must have a sufficient number of staff and / or consultants to accomplish the tasks assigned under this contract in a timely fashion.
- C.** Should NNPS determine the pricing for a particular project to be unreasonable or if Contractor and NNPS cannot agree on an appropriate solution for an NNPS structure, NNPS reserves the right to perform any work designated for this contract by other means, such as use of in-house personnel, use of existing contracts, or by issuing a new contract for the work.
- D.** The Contractor's selected team of architects and engineers will be expected to visit the NNPS project locations, as frequently as necessary, to ascertain the condition of existing structures, related building systems and finishes. Based on the contractor's independent evaluation of the building and site, a scope of work must be developed that provides NNPS with a long range effective and cost efficient solution for successful accomplishment of the project. The contractor shall ensure that its finished project to NNPS (i.e. the design) is compliant with all regulations /codes (city, state, and federal) and industry accepted standards which may be applicable, including but not limited to: Americans with Disability Act (ADA), State of Virginia Education Department guidelines, site development, sanitation, environmental, and building codes / standards. It is the responsibility of the contractor to ensure that it is knowledgeable of all the current statutes, codes, standards, and regulations regarding the design, engineering, and alteration of a public school building and that he / she is compliant with all such laws, directives and guidelines, accordingly.
- E.** Contractor's design must be completed in a timely manner, as directed by NNPS.
- F.** The Contractor must identify any potential cost saving opportunities to NNPS prior to the Contractor's

development of any required designs.

- G. Inspection and acceptance of designs and / or services under this Contract will be made by the NNPS Contract Administrator or designated project manager.
- H. Contractor will submit a Task Report for each project assigned to the Contract Administrator or designated project manager for approval.
- I. The Task Report will include the following information, at a minimum:
  - 1. Description of the task to be performed.
  - 2. The amount of time to complete the task.
  - 3. The unit price/hourly rates associated with the task next to the number of hours estimated for each category of labor.

#### **IV. SPECIAL INSTRUCTIONS TO THE OFFEROR**

##### **A. Definitions:**

Issuing Office:

Wherever used in this Request for Proposal, Issuing Office will be:

Shannon Bailey, VCCO, VCO

Director of Procurement

Newport News Public Schools Purchasing Department

12465 Warwick Boulevard

Newport News, VA 23606-3041

Phone: (757) 591-4560

Fax: (757) 591-4593

Email: [shannon.bailey1@nn.k12.va.us](mailto:shannon.bailey1@nn.k12.va.us)

NNPS Chief Contract Administrator:

Wherever used in this Request for Proposal and for purposes of meeting with the architects to establish the scope and required services, evaluate and approve the architect's project proposal, approval of all AIA change orders and for purposes of any notices under this contract;

Wade Beverly, Executive Director, Plant Services

Newport News Public Schools Plant Services

12580 Patrick Henry Drive

Newport News, VA 23602

Phone: (757) 881-5024

Email: [wade.beverly@nn.k12.va.us](mailto:wade.beverly@nn.k12.va.us)

NNPS Contract Administrator:

Wherever used in this Request for Proposal and for purposes of any notices under this contract, the NNPS Contract Administrator will be:

Gregory Harrow, Supervisor of Plant Service, Maintenance

Newport News Public Schools Plant Services

12580 Patrick Henry Drive

Newport News, VA 23602

Phone: (757) 881-5024

Email: [gregory.harrow@nn.k12.va.us](mailto:gregory.harrow@nn.k12.va.us)

##### **B. 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 RFP or any subject related to this RFP is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent.

**C. Offerors of Record:**

Offerors receiving a copy of this RFP from a source other than the Issuing Office via [www.eVA.virginia.gov](http://www.eVA.virginia.gov) or NNPS Purchasing webpage must contact the Issuing Office and provide Offeror's name, address, contact person, telephone and email address, and the RFP Item Number.

**D. Preproposal Conference:** An optional attendance pre-proposal conference will be held virtually on ZOOM on **March, 29, 2023 at 2:00 PM EST** to answer any questions regarding this RFP at the following link, meeting ID, and password.

Join Zoom Meeting

<https://nn-k12-va-us.zoom.us/j/82129242407?pwd=eUNPenBtcE9JLzJxa05yTU8zRWMwUT09>

Meeting ID: 821 2924 2407

Passcode: 915040

Any changes determined necessary as a result of this conference or any other source that may affect the responses to the Proposal will be formally addressed by the Issuing Office via addenda. Attending this conference is not mandatory, but advisable.

**E. Questions:**

Offerors must submit questions regarding the Request For Proposal in writing to the Issuing Office at [shannon.bailey1@nn.k12.va.us](mailto:shannon.bailey1@nn.k12.va.us) no later than **2:00 PM EST, April, 4 2023**. Necessary replies will be issued to all Offerors of record as addenda that shall become part of the contract documents. Oral instructions do not form a part of the Proposal documents.

Offeror is responsible for checking the NNPS Purchasing webpage or [www.eVA.virginia.gov](http://www.eVA.virginia.gov) web site or contacting the Issuing Office within 48 hours prior to Proposal closing to secure any addenda issued for this RFP.

**F. Changes or Modifications:**

Changes or modifications to this Request for Proposals made prior to the date and time of closing will be addressed by addenda from the Issuing Office. Offerors are to acknowledge receipt of addenda in the space provided on the cover page of this Request for Proposal. Oral communications are not a part of the Proposal documents. This RFP and any addenda shall be incorporated, by reference, into any resulting contract.

**G. RFP Closing:**

Offeror shall ensure its Proposal is time stamped by the Issuing Office no later than the Closing Date and Time shown on the cover page of this Information for Proposal. Proposals received after the specified date and time (time stamped 2:01 P.M. or later) will not be considered and will be returned to the Offeror unopened.

**H. Proposal Submittal Requirements:**

1. Each Proposal submission shall be submitted to the Issuing Office and shall include the following documents:
  - a. The cover page of this Request for Proposal, which will contain:
    - 1) Original signature of an agent authorized to bind the company;
    - 2) Requested contact information;
    - 3) Company FEI/TIN number; and,
    - 4) Acknowledgment of any addenda on page one (1);
  - b. Completed and signed anti-collusion/nondiscrimination clauses on page 2;
2. Offerors are encouraged to submit their Proposals on recycled paper and to use double-sided copying.
3. Proposals must be submitted utilizing the following requirements:
  - a. Offerors shall submit proposals in a sealed envelope or package, and label the envelope or package with the Request for Proposal's item number and the name and address of the Offeror. **Proposals received by telephone, telegraph, facsimile, or any other means of electronic transfer shall not be accepted.**
  - b. Submit one (1) original and four (4) hard copies and one (1) electronic copy (CD or USB drive) of the proposal.

## I. Evaluation of Proposals:

1. After the proposal opening, NNPS will select for further consideration two or more Offerors deemed to be fully qualified and best suited among those submitting proposals based on Offerors' responses to the information requested in this RFP. NNPS will engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews may occur. The Offerors are encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project(s), as well as alternative concepts. In addition, Offerors will be informed of any ranking criteria that will be used by NNPS in addition to the review of the professional competence of the offeror.
2. The following criteria will be used in the evaluation process:
  - a. **Prior experience** of the Offeror's firm in the execution of Architectural design, engineering, and construction contracts with emphasis placed on past performance and experience in educational contracts, to include quality of designs, reflected compliance with government regulations and City codes regarding construction in designs, cost estimating, construction documents, and contract administration.
  - b. Offeror's **demonstrated ability** to perform design Projects with educational entities on time and within budget (to include design, construction documents and contract administration). Location and size of firm, now and 5 years ago; Recent, current and projected workloads of the firm;
  - c. **Qualification, experience, and skills** of Offeror's personnel, Project team members, and consultants.
  - d. Offeror's **construction management program** and implementation, to include how construction projects are monitored, process for coordination and dispatch of appropriate Engineers that may become needed on the project, process for response to RFIs and PCO's, process for review and approval of pay applications, and the response time of Offeror to NNPS requests for assistance on the project(s).
  - e. Evidence of **cost control effectiveness**;
  - f. **Creativity and insight** related to the project;
  - g. Offeror's **understanding** of State Department of Education procedures and requirements, as well as City of Newport News procedures for approval of plans and specifications and Offeror's experience working with the City of Newport News for design and construction projects.
2. Exceptions/Alternatives will also be considered.
3. NNPS shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services under this RFP. NNPS reserves the right to conduct repetitive informal interviews with select offerors, if necessary. Offerors are encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed Project, as well as alternative concepts. **Binding price data will not be discussed or considered under this phase of the evaluation process.**

At the conclusion of discussions and on the basis of the evaluation factors published herein, NNPS shall select, in the order of preference, two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. The offeror ranked first will be requested to submit cost and pricing data for consideration and negotiation.

Upon NNPS' request, the Offeror selected shall provide a Price Proposal that clearly identifies any and all costs associated with performing the Tasks in the Scope of Work above including:

Travel, mileage and telephone calls should be included in overhead.

An hourly rate for professional employees, including overhead.

An hourly rate for sub-professional technician service such as surveying, drafting and office computations including overhead.

An hourly rate for support staff, including overhead.



A statement detailing costs for direct expenses not chargeable to overhead; these include expenses for printing and reproduction.

4. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to the first ranked offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations will be conducted with the offeror ranked second, accordingly, and so on until such a contract can be negotiated at a fair and reasonable price.
5. Should NNPS determine in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.
6. NNPS is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous.

**J. Presentation/Demonstration:**

If in NNPS’s opinion, vendor presentations or demonstrations of the Offeror’s proposed system’s features and capabilities are warranted, NNPS will notify the appropriate vendors. Such presentation or demonstration will be at an NNPS site at a date and time mutually agreed to between NNPS and Offeror and will be at the Offeror’s expense.

**K. Evaluation of Proposals:**

In presenting their proposals, Offerors are encouraged to be thorough in addressing the *Statement of Needs*, the *Preparation of Proposal Guidelines*, and the *Proposal Submittal Requirements* as outlined in this RFP. To facilitate the NNPS’s evaluation of Offeror’s proposal, Offeror is to number all pages of its proposal and provide tabs listing the evaluation criteria indicated above.

Offerors should be completely responsive to this RFP, be able to conform to the terms and conditions provided, herein, and provide responses to the evaluation criteria outlined, below. Offeror should not incorporate its standard contract document into its proposal, by reference or in full text, without listing each exception it represents to the terms and conditions of this RFP, as described in the Exceptions/Alternatives section of this paragraph.

Offerors are encouraged to provide thorough and detailed information regarding the product and services being offered, based on the details provided, below.

To facilitate the NNPS’s evaluation of Offeror’s proposal, Offeror is to number all pages of its proposal and provide tabs as indicated above. **Offeror must fully address each of the following items and submit proposals using the following format:**

Evaluation Criteria	Weight
Experience, Expertise, and Qualifications	35 points
Capability and Skills	45 points
Services to be Provided	20 points
<b>Total</b>	<b>100 points</b>

1. **Experience, Expertise and Qualifications (35 pts)** - Provide a concise description of all work experiences as they relate to the scope of work outlined herein. Said description should include, but not be limited to:

- a. Offeror's prior experience in the execution of Architectural design, engineering, and construction contracts with emphasis placed on past performance and experience in educational contracts, to include quality of designs, reflected compliance with government regulations and City codes regarding construction in designs, cost estimating, construction documents, and contract administration.
  - b. Number and types of customers the Offeror has served with comparable services.
  - c. Number of years Offeror has been providing these types of services.
  - d. A **minimum** of five (5) references for which Offeror has completed services comparable to those described in this RFP. References should be from customers within the past 10 years for whom similar or comparable work has been done. Include references for work performed in an environment comparable to NNPS's. For each reference, detail:
    - 1) Name of firm;
    - 2) Address of firm;
    - 3) Name, title, address, e-mail address, and phone and fax number of a contact for the firm;
    - 4) Number of years Offeror has served the firm; and
    - 5) Brief summary of scope of services provided.
    - 6) Information detailing Projects of similar scope Offeror is currently engaged in, including:
      - a) Name of firm;
      - b) Address of firm;
      - c) Name, title, address, e-mail address, and phone and fax number of a contact for the firm;
      - d) Number of years Offeror has served the firm; and
      - e) Brief summary of scope of services being provided.
  - e. Other available documentation to verify Offeror's experience.
  - f. A statement detailing why the Offeror is the best candidate to provide the NNPS with the services requested in this RFP.
2. **Capability and Skills (45 pts)** - Describe the qualifications and skills of the organization to provide the services. Said description should provide, but not be limited to, the following information:
- a. Background information about the organization, e.g., philosophy, ownership, size, facilities and locations, etc.
  - b. Offeror's management structure of the firm -- e.g. organization chart of the firm, Project team, etc.
  - c. Size and location of the office that will serve the NNPS;
  - d. Offeror's qualifications to perform the services, including all resources available to Offeror for the performance of the contract.
  - e. Offeror's demonstrated ability to perform Projects with educational entities on time (design, construction documents and contract administration) and within budget.
  - f. Qualifications and resumes of the design team and other employees who will be managing and performing the services under this contract. Projects of individual team members may be submitted.
  - g. Offeror's understanding of State Department of Education procedures and requirements, as well as local building officials for approval of plans and specifications.
  - h. Offeror's **construction management program** and implementation, to include how construction projects are monitored, process for coordination and dispatch of appropriate Engineers that may become needed on the project, process for response to RFIs and COPs, process for review and approval of pay applications, and the response time of Offeror to NNPS requests for assistance on the project.
  - i. Name, title, address, e-mail address, phone and fax numbers, and work hours of the Offeror's Contract Representative for the following functions:
    - 1) Contact for prompt contract administration upon award of the contract;
    - 2) Contact during the period of evaluation;
    - 3) Authorized agent to accept any notices provided for in this contract.
  - j. Indicate the type of organization you represent, i.e. individual, partnership or corporation. If the Offeror

is a corporation, list the names of the President, Vice-President, Secretary, Treasurer and all principals. If the Offeror is a partnership, include the names of all principals or partners.

- k. A detailed history of all mergers or acquisitions.
  - l. A copy of the certificate verifying the firm is registered to do business in the Commonwealth of Virginia.
  - m. Offeror's current financial condition. Provide supporting documentation and audited annual reports for the past three (3) years.
  - n. If Offeror intends to subcontract any part of the work under this contract, indicate services to be subcontracted and subcontractor(s) to provide said services. NNPS reserves right to reject / change subcontractor(s).
3. **Services to be Provided (20 pts)** - Provide a detailed description of the services to be provided under this contract. Said description must address, at a minimum:
- a. An introduction - An overview of Offeror's understanding of the scope of work and services to be provided.
  - b. Best practice approaches to providing services to the NNPS that enhance efficiency and effectiveness. Innovative solutions will be considered by the NNPS. A/E's plan to respond to request for services and ability to complete any Project Orders in a timely manner.
  - c. Offeror's ability to quickly be on-site during the Project construction phase if necessary or as required by the School Board.
  - d. **EACH** of the *Specific Requirements* set forth under the *Scope of Work* specified in this RFP.
  - e. A detail of any assistance, equipment, or other items the Offeror will require the NNPS to furnish under this contract.
  - f. Provide a sample of the standard forms that would be used by offeror in the conduct of its business with NNPS.
  - g. A statement explaining why the Offeror's proposed solution would be the most advantageous to the NNPS.
  - h. Describe the one attribute that places the Offeror ahead of the competition.
4. **Exceptions/Alternatives** - Detail any exceptions taken to the *Scope of Work* and *Terms and Conditions* sections of this RFP. For each exception, specify the RFP page number, section number, and the exception taken. Offeror is not incorporate its standard contract document into its proposal, by reference or in full text, without listing each exception it represents to the terms and conditions of this RFP, as described in the Exceptions/Alternatives section of this RFP. ***Note: Offeror is not required to list exceptions to proposed contractual terms and conditions unless such terms and conditions are required by statute, regulation, ordinance, or standards developed per §2.2-1132, until after the qualified offerors are ranked for negotiations.***

**L. Cost of Responding:**

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

**V. GENERAL TERMS AND CONDITIONS**

**L. Contract Document:**

This RFP, its addenda, Successful Offeror's proposal, any additional information requested, and negotiated changes and will constitute the final contract hereafter referred to as this "contract". These documents will be incorporated by reference into the NNPS purchase order awarding this contract. This contract shall be governed by the contract documents in the following order of precedence:

This RFP document;

Any negotiated changes to the foregoing documents; and

Offeror's proposal

**M. Proposal Binding For One-hundred Twenty (120) Days:**

Offeror agrees that its Proposal shall be binding and may not be withdrawn for a period of one-hundred (120) calendar days after the scheduled closing date of this Request For Proposals.

**N. Proprietary Information/Non-Disclosure:**

Offeror 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 Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, Offeror shall:

1. Invoke the protections of this section prior to or upon submission of the data or other materials,
2. Provide a statement that identifies the data or other materials to be protected and that states the reasons why protection is necessary.
3. Submit trade secrets or other proprietary information under separate cover in a sealed envelope clearly marked “**PROPRIETARY**”.
4. Information submitted that does not meet the above requirements will be considered public information in accordance with State statutes.
5. NNPS reserves the right to submit such information to the NNPS attorney for concurrence of the Offeror’s claim that it is in fact proprietary.
6. References to the proprietary information may be made within the body of the Proposal; however, all information contained within the body of the Proposal shall be public information in accordance with State statutes.
7. Trade secrets or proprietary information submitted by an Offeror in conjunction with this RFP is not subject to public disclosure under the Virginia Freedom of Information Act (VFOIA).
8. Information submitted that does not meet the above requirements will be considered public information in accordance with the VFOIA.
9. An all-inclusive statement that the entire Proposal is proprietary is unacceptable. A statement that Offeror’s costs and/or Proposal pricing are to be protected is unacceptable. Offeror will be requested to remove any such statement(s) in order to be eligible for further consideration.

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

After award, any and all modifications to this contract shall be mutually agreed to by both parties, in writing, and authorized by the NNPS Purchasing Agent or his designee via issuance of a change order (purchase order).

**P. Offeror Obligation:**

Offeror shall carefully examine the contents of this Request for Proposals and any subsequent addenda. Failure to do so shall not relieve the Successful Offeror of its obligation to fulfill the requirements of any contract awarded as a result of this RFP.

**Q. Conditions of Work:**

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

**R. Prime Contractor:**

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

1. Successful Offeror 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.
2. Successful Offeror represents and warrants that Successful Offeror 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 NNPS is not liable to such third parties or subcontractors for any work performed under this contract.
3. The use of subcontractors and the work they perform must receive the prior written approval of NNPS. NNPS will designate a Contract Administrator to approve such work.
4. Successful Offeror shall be solely responsible for all work performed and materials provided by subcontractors.
5. Successful Offeror shall be responsible for the liability of subcontractors for the types and limits required of the Successful Offeror under this contract.

**S. Subcontractors:**

Contractor's use of subcontractors and the work they are to perform must receive written approval from the Contract Administrator at least ten (10) calendar days prior to the work being performed. Contractor shall be solely responsible for all work performed and materials provided by subcontractors. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor.

**T. Non-Assignment:**

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

**U. Antitrust:**

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

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

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

**W. Hold Harmless/Indemnification:**

It is understood and agreed that Successful Offeror 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 Offeror, 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 Offeror agrees to indemnify and hold harmless NNPS 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 Offeror or those for whom Successful Offeror is legally liable. Upon written demand by NNPS, Successful Offeror shall assume and defend at Successful Offeror's sole expense any and all such suits or defense of claims made against NNPS, its agents, volunteers, servants, employees or officials.

**X. 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 NNPS: NNPS Contract Administrator as designated in this RFP.

To Successful Offeror: Successful Offeror's Contract Administrator as defined in Successful Offeror's Proposal.

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.

**Y. Non-Performance:**

1. Delivery Delays: NNPS reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Offeror fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract.
2. Unacceptable Deliveries (Rejections): Upon notification by NNPS that goods and/or service deliverables provided by the Successful Offeror under this contract are damaged and/or not of the quality specified by NNPS, such goods and/or service deliverables will be rejected. Successful Offeror shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by NNPS.
3. Successful Offeror shall remove all rejected materials, equipment or supplies from the premises of NNPS within ten (10) days of notification. Rejected goods and/or service deliverables not removed from NNPS' premises within ten (10) days will be regarded as abandoned, shall become the property of NNPS, and NNPS shall have the right to dispose of such items.

4. NNPS reserves the right to authorize immediate purchase from other sources against rejections.
5. Liability: Successful Offeror shall be liable to NNPS for all costs incurred by NNPS as a result of Successful Offeror's failure to perform in accordance with the contract. Successful Offeror's liability shall include, but not be limited to:
  - a. Damages and other delay costs, to include costs to procure goods/services from alternate suppliers.
  - b. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Successful Offeror and/or rejections of Successful Offeror's goods and/or service deliverables.
  - c. Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by NNPS due to non-responsive performance of Successful Offeror.

**Z. Termination Without Cause:**

NNPS may at any time, and for any reason, terminate this Contract by written notice to Successful Offeror 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 Offeror by certified mail/return receipt requested, addressed to the Successful Offeror's Contract Administrator. In the event of such termination, Successful Offeror shall be paid such amount as shall compensate Successful Offeror for the work satisfactorily completed, and accepted by NNPS, at the time of termination. If the event NNPS terminates this Contract, Successful Offeror shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to NNPS any work completed or in process for which payment has been made.

**AA. Termination With Cause/Breach:**

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

**BB. Breach of Contract:**

Successful Offeror shall be deemed in breach of this contract if the Successful Offeror:

Fails to comply with any terms of this contract;

Fails to cure such noncompliance within ten (10) calendar days from the date of the NNPS 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 NNPS's notification of noncompliance within ten (10) calendar days after the date of the NNPS notice.

All notices under this contract shall be submitted, either by fax or certified mail, return-receipt requested, to the respective contract administrator. Successful Offeror 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 Offeror and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of NNPS in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.

**CC. 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.

**DD. Compliance With All Laws:**

Successful Offeror 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 Offeror 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 Offeror is a corporation, Successful Offeror 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 Offeror.

**EE. 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 NNPS.

**FF. 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.

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

It is understood and agreed between the parties herein that NNPS 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, NNPS shall immediately notify the Successful Offeror of such occurrence and this Contract shall terminate on the last day funds are available without penalty or expense to NNPS of any kind whatsoever.

**HH. Tax Exemption:**

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

**II. Vendor's Invoices:**

Successful Offeror shall submit to NNPS 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 NNPS purchase order awarding this contract or any subsequent change orders issued by the NNPS Purchasing Division. All shipping costs are the Successful Offeror's responsibility, except to the extent such charges are identified in the executed NNPS purchase order or change orders. Successful Offeror'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 RFP number and the NNPS Purchase Order Number.

**JJ. Contractual Disputes:**

Any dispute concerning a question of fact as a result of a contract with NNPS 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.

**KK. Warranty/Guarantee:**

Successful Offeror guarantees against defective or faulty material or workmanship for at least one (1) year or for the manufacturer's standard warranty period, whichever is greater, from date of acceptance by NNPS. To

furnish adequate protection from damage for all work and to repair damages of any kind for which Successful Offeror or Successful Offeror's workmen are responsible, to the building or equipment, to Successful Offeror's own work, or to the work of others. Any merchandise or service provided under the contract which is or becomes defective during the warranty period shall be replaced by the Successful Offeror free of charge with the specific understanding that all replacements shall carry the same guarantee as the original equipment or service (one year or manufacturer's standard warranty period, whichever is greater, from the date of acceptance of the replacement). Successful Offeror shall make any such replacement immediately upon receiving notice from NNPS.

**LL. Payment Terms:**

To be eligible for payment, all labor, equipment and materials covered under Successful Offeror's invoice must be completed and accepted by NNPS. NNPS 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 NNPS under the terms of this or any other agreement may be applied against Successful Offeror'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 NNPS and Successful Offeror 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 Proposals. All other payment terms shall be net thirty (30) calendar days or greater. Payment terms not specified by Offeror shall be Net 45 days.

Special Educational or Promotional Discounts

Successful Offeror shall extend any special educational or promotional sale prices or discounts immediately to NNPS during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

**MM. Prompt Payment:**

NNPS 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, NNPS shall notify the supplier of any defect or impropriety that would prevent payment by the payment date. Should NNPS 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 NNPS 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 NNPS, Contractor shall take one or more of the following actions:

1. Pay all subcontractors for the proportionate share of the total payment received from NNPS attributable to the work performed by the subcontractors under this Contract;
2. Notify NNPS 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 NNPS 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 NNPS. A Contract modification will not be made for the purpose of providing reimbursement by NNPS for interest charges owed by Contractor. A cost reimbursement claim to NNPS shall not include any amounts for reimbursement of interest charges owed by Contractor.

#### **NN. 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  
Kimberly Powell, Accounting Supervisor\_ [Kimberly.Powell@nn.k12.va.us](mailto:Kimberly.Powell@nn.k12.va.us)

**OO. Audits:**

NNPS 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 Offeror, including, but not limited to those kept by Successful Offeror, its employees, agents, assigns, successors and subcontractors. Successful Offeror 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 NNPS, through its employees, agents, representatives, contractors or other designees, during normal business hours at Successful Offeror'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 NNPS. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which NNPS may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

**PP. Notice of Award:**

Any contract resulting from this RFP will be publicly posted for inspection in the NNPS Purchasing Department, 12465 Warwick Boulevard, Newport News, Virginia.

**QQ. Award:**

NNPS intends to award a contract to one (1) or more fully qualified Offeror submitting the best proposal based on the criteria set forth herein and as determined by NNPS in its sole discretion. At NNPS' sole discretion, NNPS may reject any or all proposals in whole or in part if such action is determined to be in NNPS' best interest. NNPS reserves the right to enter into any contract deemed to be in its best interest, including the award of this contract to more than one contractor.

**RR. Disposition of Proposals:**

All materials submitted in response to this RFP will become the property of the NNPS. One (1) copy of each proposal will be retained for official files, will become a matter of public record after award of the contract, and will be open to public inspection subject to the *Proprietary Information/Disclosure* section of this RFP.

**SS. Exclusivity:**

Any contract resulting from this RFP shall be exclusive with the following exceptions:

- NNPS reserves the right to procure goods/services under this contract from a third party in the event of the following:
- Contractor is unable to provide required services within the required delivery time.
- Contract is unable to provide the required services requested.
- NNPS volume demands exceed original intent of the contract.

**VI. SPECIAL TERMS AND**

**CONDITIONS TT. Contract Term:**

This contract term shall be for **one (1) year**, commencing on the date of award.

**UU. Contract Extension:**

This contract may be extended upon mutual agreement of both parties for **three (3) additional, one-year periods**, upon the same prices, terms, and conditions set forth in the negotiated contract resulting from this RFP.

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

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

**WW. Insurance:**

1. 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.
2. 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.
3. 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.

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
Umbrella/Excess Liability	\$5,000,000
Professional Liability (to include Aggregate Errors and Omissions)	\$5,000,000

The establishment of minimum limits of insurance by NNPS does not reduce or limit the liability or responsibilities of the Successful Offeror.

**XX. Unauthorized Disclosure of Information:**

Successful Offeror 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 Successful Offeror, its subcontractors, agents or employees under or in connection with this contract. The Successful Offeror shall save harmless and indemnify NNPS 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 Successful Offeror shall, upon written demand by NNPS, assume and defend, at the Successful Offeror'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 Successful Offeror, its subcontractors, agents or employees under or in connection with this contract shall constitute a breach of the terms of this contract. NNPS may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Successful Offeror shall save harmless and indemnify NNPS 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.

**YY. CERTIFICATION REGARDING DEBARMENT**

This is to certify that this person/firm/corporation is 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.

\_\_\_\_\_  
Name of Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Firm or Corporation

\_\_\_\_\_  
Date

**ZZ. Copyright/Patent Indemnity:**

Successful Offeror 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 Offeror shall indemnify NNPS and hold NNPS harmless from any cost, expense, damage or loss incurred in any manner by NNPS on account of any such alleged or actual infringement.