



**Charles City County Public Schools**

**REQUEST FOR PROPOSAL (RFP)**

**FOR**

**WASTEWATER TREATMENT PLANT REPLACEMENT**

**RFP# WWTP-23-04**

**[April 13, 2023](#)**

**REQUEST FOR PROPOSAL  
(RFP)**Issue Date: April 13, 2023 RFP# WWTP-23-04Title: Charles City Public Schools Wastewater Treatment Plant ReplacementIssuing Agency: Charles City County School Board  
Attn: Jerome M. Tyler  
10035 Courthouse Road  
Charles City, VA 23030Location Where Work Will Be Performed: 10047 Courthouse Road  
Charles City, VA 23030Period of Contract: From TBD Through CompletionRenewable: N/AProposals Will Be Received Until: May 4, 2023 @ 3:00 p.m. local prevailing timeDirect All Inquiries for Information To: Jerome M. Tyler  
10035 Courthouse Road  
Charles City, VA 23030  
(804) 652-4514  
jmt Tyler@ccps.net**IF PROPOSALS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF PROPOSALS ARE HAND DELIVERED, DELIVER TO:**Charles City County Public Schools  
Attn: Jerome M. Tyler  
10035 Courthouse Road  
Charles City, VA 23030  
(804) 652-4514**Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a proposer or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.**

**REQUEST FOR PROPOSAL TITLE PAGE**REQUEST NUMBER: WWTP-23-04 ISSUE DATE: 04/13/2023TITLE: Charles City Public Schools Wastewater Treatment Plant Replacement

In compliance with this Request for Proposal and to all the conditions imposed herein, by signing below, Offeror:

- (1) Offers and agrees to furnish the goods/services in accordance with the attached signed proposal;
- (2) Agrees that upon Charles City School Board's written acceptance of Offeror's response to the Request for Proposal, a valid and binding contract for services exists between Offeror and the Charles City School Board;
- (3) Agrees that the Contract Documents will consist of, and *only* of, the Request for Proposal, and Offeror's response to the Request for Proposal;
- (4) Certifies and warrants that the individual signing on Offeror's behalf is authorized to bind the Offeror in all contractual matters relating to this Request for Proposal;
- (5) Certifies and warrants that neither Offeror, nor the individual signing on Offeror's behalf, has any business or personal relationships with any other persons, including Charles City School Board employees, or companies that conflict with the Commonwealth of Virginia's Conflict of Interest Agreement; and,
- (6) Certifies and warrants that the Offeror is properly licensed for providing the goods/services specified in the Request for Proposal and has the appropriate License or Certificate and classification(s) required to perform the work included in the scope of the proposal documents, prior to submitting the proposal, in accordance with Title 54.1, Chapter 11 of the Code of Virginia. If an Offeror fail to obtain the required license prior to submission of his proposal, he shall be deemed to be in violation of § 54.1-1115 of the *Code of Virginia* (1950), as amended, and his proposal will not be considered.

Sign in ink and type or print requested information.

Legal Name and Address of Firm:

_____	Date: _____
_____	By: _____
_____	(Signature)
_____	Name: _____
FEI/FIN/SSN: _____	(Please Print)
Fax Number: _____	Title: _____
E-mail Address: _____	Telephone Number: _____

Please provide the following if applicable to this RFP:

Virginia Contractor License # \_\_\_\_\_ SCC ID # \_\_\_\_\_

The offeror shall ascertain prior to submitting a response that all Addenda issued have been received and shall. **acknowledge receipt and inclusion of all Addenda here:**

Addendum #: _____	Date Issued: _____
Addendum #: _____	Date Issued: _____
Addendum #: _____	D a t e Issued: _____

**Information the Offeror deems Proprietary is included in this response in the separate section of the proposal identified immediately below.**

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

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

**ANTI-COLLUSION CLAUSE:**

IN THE PREPARATION AND SUBMISSION OF THIS PROPOSAL, SAID BIDDER 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 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, CITY 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 BIDDER AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE SUCCESSFUL BIDDER'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 BIDDER AGREES AS FOLLOWS:
  - a. THE BIDDER, 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 BIDDER 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 BIDDER, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE SUCCESSFUL BIDDER, SHALL STATE THAT SUCH SUCCESSFUL BIDDER 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 BIDDER 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 BIDDER:**

Date: \_\_\_\_\_ Authorized Signature\_\_\_\_\_

Printed Name:\_\_\_\_\_ Title:\_\_\_\_\_

Phone Number:\_\_\_\_\_ Fax Number:\_\_\_\_\_

Email Address:\_\_\_\_\_

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

Is your firm 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 your firm Woman Owned? Yes No

Is your firm a Small Business? Yes No

Is your firm Service-Disabled Veteran Owned? Yes No

**This Title Page MUST be Submitted as Part of your Proposal.**  
**TABLE OF CONTENTS FOR RFP # WWTP-23-04**

	<u>PAGE</u>
I. <u>PURPOSE</u>	6
II. <u>STATEMENT OF NEEDS/SCOPE OF SERVICES</u>	6
III. <u>OFFEROR’S INSTRUCTION</u>	8
IV. <u>PROPOSAL EVALUATION PROCESS</u>	12
V. <u>PROPOSAL EVALUATION CRITERIA</u>	12
VI. <u>GENERAL TERMS AND CONDITIONS</u>	13
VII. <u>SPECIAL TERMS AND CONDITIONS</u>	21
VIII. <u>APPENDIX A</u>	26

## **I. PURPOSE:**

The Charles City County School Board (“School Board” or “CCPS”) is seeking the services of a qualified Professional Engineering and Architecture Firm for the replacement of our existing wastewater treatment plant located at 10047 Courthouse Road, Charles City, VA 23030.

Charles City County Public Schools School Board includes one elementary and one high school. The Charles City County Public Schools employs approximately 120 people to support a student population of about 600 students. We are a small, rural school system located in Central Virginia approximately 30 miles from Richmond, our state capital, and 25 miles from Colonial Williamsburg.

In using this method for solicitation, we are requesting your best effort in seeking a “best value” solution to our requirement. To be entitled for consideration, sealed proposals shall be presented in accordance with the instructions of this solicitation and within the timeframe specified. It shall be the responsibility of the selected Respondent to meet all specifications and guidelines set forth herein. CHARLES CITY COUNTY PUBLIC SCHOOLS, at its sole discretion, determines the criteria and process whereby proposals are evaluated and awarded. No damages shall be recoverable by any challenger resulting from determinations or decisions by the School Board.

CCPS will select the firm(s) who they determine most closely satisfies the needs of the school division. There is no requirement for acceptance of the lowest cost of service offered, and specific requirements may be waived or amended at the discretion of the school board.

## **II. Scope of Work:**

- A. CCPS is seeking written proposals relating to Professional Engineering and Architectural Services for the replacement of our wastewater treatment facility located at 10047 Courthouse Road, Charles City, VA 23030.
- B. The services to be rendered for this project include design services, coordination, and support activities for the wastewater treatment plant replacement in this RFP, and are described below:
  - 1. **Preliminary Engineering Report.** This includes an assessment of the existing Charles City County Schools wastewater treatment plant and a review of our current usage and permitted limits.
  - 2. **Final Engineering Design Services.** This shall include the tasks and deliverables necessary to complete the final engineering design of the replacement wastewater treatment plant. This includes, but is not limited to the following major services and deliverables:
    - a. Development of a project critical path method (CPM) schedule for design and construction;
    - b. Quality Control / Quality Assurance;
    - c. Progress Meetings and Trainings;
    - d. Coordination with CCPS and Authority staff;
    - e. Design support services (survey, geotechnical investigations, sampling, site plan, etc.)
    - f. Development of a Theory of Operations, Standard Operating Procedures (SOPs), and Operations for the system.

- g. Development of a Theory of Operations, SOP and Operations Planning for the facility;
  - h. Presentations to the School Board and/or County as required;
  - i. Preparation of an Engineer's Opinion of Cost; and
  - j. Presentations, meetings, and communications to the CCPS and School Board as requested.
3. **Permitting Support Services.** This scope item encompasses the tasks and deliverables necessary to obtain the requisite permits, approvals, and permissions for construction of a wastewater treatment plant. The necessary permits, approvals and permissions include, but are not limited to, the following major anticipated permitting efforts:
- a. Virginia Department of Health and Department of Environmental Quality Construction Permits;
  - b. Virginia Department of Transportation Permits;
  - c. County Permits; and
  - d. Others as identified in this Request for Proposal (RFP), or by the County; and
  - e. Operations Permits.
4. **Construction Phase Services.** This shall include the tasks and deliverables related to the delivery and installation of the replacement wastewater treatment plant. The scope of these services will be identified by the CCPS during the final design, and may include, but not be limited to, the following services and deliverable items:
- a. Review of contractor's schedule and project management plan;
  - b. Shop Drawing & Submittal Review;
  - c. Review and response to contractors' request for information (RFIs);
  - d. Construction Inspection and Testing;
  - e. Start-up and Commissioning;
  - f. Operational Training;
  - g. Preparation of Operations and Maintenance (O&M) Manuals;
  - h. Preparation of Record Drawing; and
  - i. Standard Operating Procedures for facilities and maintenance; and
  - j. Other services as identified.

### III. OFFEROR'S INSTRUCTION:

#### A. PROPOSAL PREPARATION:

1. A **mandatory Pre-Proposal conference** will be held in the media center located at 10047 Courthouse Road Charles City, VA 23030, on April 20, 2023, at 10:00 AM EST to answer any questions regarding this RFP. Any changes determined necessary because 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 mandatory, only Offerors who attend the pre-proposal conference shall be eligible for submission of a proposal. Failure to comply will result in rejection of proposal.
2. Offerors may submit any questions or requests for additional information regarding the project in written format by April 27, 2023. All questions shall be directed to Jerome M. Tyler at [jmtyler@ccps.net](mailto:jmtyler@ccps.net). A formal clarification will be posted on eVA and on CCPS procurement page.
3. The Offeror must submit a proposal, which demonstrates and provides evidence that the Offeror has the capabilities, professional expertise, and experience to provide the necessary services as described in this RFP. The Offeror shall ensure that all information required herein is submitted with the proposal. All information provided should be verifiable by documentation requested by CCPS. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the proposal or rescission of an award. **Each copy of the proposal should be bound with all documentation in a single volume where practical.**

Responses must, in any event, contain the following information and be organized into separate chapters and sections using the format described below to provide each firm with an equal opportunity for consideration.

1. **Cover Letter** - Provide a cover letter cover letter that confirms the Offeror's understanding of this Request for Proposal and a general understanding of the project.
2. **Overview** - The purpose of this section is to provide CCPS with an overview of the history, qualifications, and abilities of the Offeror's firm and for the Offeror to demonstrate the specific qualifications of the staff the Offeror will assign to this project if selected. At a minimum, the proposal should:
  - a. Designate a Project Manager and indicate office location.
  - b. Include the organization chart, functional discipline, and responsibilities of project team members.
3. **Resumes** - Provide a concise resume or description of each team member's education, relevant professional experience, length of time employed by the Offeror and/or subconsultant, and professional license.



4. **Demonstrated History of Successful Projects** - Discuss the Offeror's ability to work in harmonious, non-adversarial relationships with CCPS and their agents.
  - a. The personnel named in the proposal shall remain assigned to the project throughout the period of the contract unless requested to be replaced by CCPS. If CCPS requests an individual to be replaced (including any personnel of any subcontractor), the Offeror shall do so within 30 days of the request, and without any additional charge to CCPS. No replacement may be made without submission of a resume of the proposed replacement for approval by CCPS.
5. **Proposed Sub-Consultants** - The Offeror shall clearly state whether it is proposing to subcontract any of the work herein. The names of all proposed sub-consultants shall be provided. By proposing such firm(s) or individuals, the Offeror assumes full liability for the sub-consultant's performance. The Offeror shall state the amount of previous work experience with the sub- consultant(s).
6. **Project Approach** - Offeror's Project and Management Approach:  
The purpose of this section is to provide CCPS with the Offerors understanding and proposed approach to the project. The Offeror should discuss in detail the proposed management and project approach.
7. **Representative Projects:**  
This section of the Offeror's Proposal should list and describe representative clients currently served focusing on water and sewer system design projects. Describe the local office experience including the project name and location, brief description of the project, description of the scope of services provided, and principal contact person.
8. **Effective Cost Control** - Demonstrated history of effective control of project costs and ability to accomplish work in a timely manner:
  - a. Describe the Offeror's cost control methodology.
  - b. Describe the approach to reducing project costs.
  - c. Describe the documentation, tracking and reporting system.
  - d. Describe the program for quality control.
9. **References:**  
Provide the current name, address, and telephone number of at least five (5) references the Offeror has served either currently or in the past three (3) years; preferably those where one or more of the project team members provided the same or similar services as requested herein. Indicate the Scope of Services provided to each reference.
  - The authorized representative of the Offeror shall sign proposals.
  - Proposals should be prepared simply and economically, providing a straightforward, concise, detailed description of capabilities to satisfy the requirements of the RFP.
  - All expenses for making proposals to the CCPS shall be incurred by the Offeror.
  - Offeror must be authorized to transact business in Virginia as a domestic or foreign business entity as required by the State Corporation Commission, if such

is required by law. Such status shall be maintained during the term of a contract. A contract entered by a business in violation of the requirements is voidable at the option of the public body.

- Offerors are reminded that changes to the RFP, in the form of addenda, are often issued between the issue date and the due date of the solicitation. All addenda must be acknowledged on the RFP Title Page. Notice of addenda will be posted on eVA and on CCPS procurement page.

[https://www.ccps.net/groups/74337/departments\\_of\\_finance\\_page/purchasing](https://www.ccps.net/groups/74337/departments_of_finance_page/purchasing).

It is the offeror's responsibility to monitor the webpage for the most current addenda.

**B. PROPOSAL SUBMISSION:** The following documents must be received in our office via **hard copy AND electronic copy (emails are not permissible – please send an electronic version such as a CD or flash drive with your hard copy)** no later than the closing date and time stated below (Note: a hard copy and electronic copy must **both** be received by the closing date. If one or the other is not received, your proposal will be deemed late and not be considered):

- i. Your original proposal. If applicable, please also include a redacted copy which does not include trade secrets or proprietary information.
- ii. Signed original of the completed Request for Proposal Title Page.

**The RFP number and closing date must be clearly marked on the outside of the sealed envelope.** Each sealed envelope containing a Proposal must be plainly marked on the outside as follows:

1. Flexible Spending Accounts & Health Savings Account Administration
2. RFP# WWTP-23-04
3. Name of the Proposer
4. Address of the Proposer
5. Due Date and Time: **05/04/23 @ 3:00 p.m.**
6. A Statement reading "This container is not to be opened prior to the Due Date and Time."

Should any Proposal be received which is not so identified, the proposer assumes the risk that the submission will be opened prior to the Proposal Due Date. Proposals so open shall be disqualified.

This solicitation will close on **Thursday, May 4, 2023**, at 3:00 p.m., local time prevailing.

**Return the proposal to:**

Charles City County Public Schools  
Attn: Jerome M. Tyler  
10035 Courthouse Road  
Charles City, VA 23030  
(804) 652-4514

- C. SUBMISSION OF PROPRIETARY INFORMATION:** All information submitted to the CCPS in response to this solicitation will constitute public information and will be available to the public for inspection upon request pursuant to the Virginia Freedom of Information Act (FOIA).

Pursuant to Virginia Code Section 2.2-4342, a Proposer/Offeror may request an exception to disclosure for trade secrets or proprietary information as such is defined under Virginia Code Section 59.1-336, part of the Uniform Trade Secrets Act.

To claim this exemption, the Proposer/Offeror shall perform ALL the following: (i) include a written request indicating Proposer/Offeror's desire to invoke the protections of Virginia Code Section 2.2-4342 with submitted proposal materials/data.

(ii) specifically identify the data or other materials to be protected by clearly labeling each page containing applicable data as PROPRIETARY; and (iii) to CCPS's satisfaction, articulate the rationale for why protection for the data or materials is necessary. The classification of an entire bid or proposal document, portions of a bid or proposal document that do not contain trade secrets or proprietary information, line-item prices and/or total bid or proposal prices as proprietary or trade secrets is not acceptable.

Without waiving sovereign immunity or any other available defenses, the CCPS asserts that failure to meet all of these requirements will result in the data or materials being open for inspection in response to a valid inquiry under FOIA and will serve to waive any right of the Proposer/Offeror to assert a claim against the CCPS for disclosure of trade secrets or proprietary information.

Proposer/Offeror shall be responsible for intervening and defending, at its expense, any demands made upon the CCPS by third parties for production of any such items.

- D. RECEIPT OF PROPOSALS/LATE PROPOSALS:** It is the Offerors responsibility to ensure that his/her proposal is received prior to or at the specific time and the place designated in the solicitation. **Proposals received after the date and time specified shall not be considered.**

Proposals shall be addressed as indicated in the Advertisement for Proposals and shall be delivered, enclosed in a sealed envelope, marked "Proposal," and bearing the title of the work, name of the offeror, and the contractor's license number of the offeror. Offerors shall clearly mark on the outside of the bid envelope which contract(s) they are bidding.

No responsibility will be attached to any CCPS personnel for the premature opening of a proposal not properly addressed and identified on the outside of a sealed envelope.

#### **E. PROPOSAL EVALUATION PROCESS:**

CCPS shall appoint a Selection Committee to review and evaluate all proposals submitted by Offerors responding to this RFP. The Selection Committee 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. Offerors may be asked to attend a presentation discussion and should be prepared to have general discussions on non-binding estimates of the cost to provide requested services. The proposals will be evaluated and ranked based on the Evaluation Criteria listed in Section V. At the conclusion of the evaluation process, CCPS will 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. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the public body, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

#### **F. PROPOSAL EVALUATION CRITERIA**

The respondents will be evaluated on the following criteria:

- 25 points - Project team qualifications and experience
- 20 points - Offeror's project and management approach
- 10 points - Representative projects
- 25 points - Ability to control project costs.
- 5 points - References

The selection process shall be governed by and completed in accordance with the CCPS Procurement Policy. If any provision of this Request for Proposal shall be found to be inconsistent or in conflict with such policy, the terms of the ordinance shall govern.

CCPS reserves the right to reject any or all proposals.

CCPS reserves the right to evaluate any sources of information available to a potential vendor.

## VI. General Terms and Conditions

Offeror (which may be referred to as “Contractor” in this section) agrees to the following:

### A. Contract Document:

This RFP, its addenda, Contractor’s proposal, any additional information requested, and negotiated changes in will constitute the final contract hereafter referred to as this “contract.” These documents will be incorporated by reference into CCPS 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

### B. 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.

### C. Contract Modification(s):

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

### D. Offeror Obligation:

The offeror shall carefully examine the contents of this Request for Proposals and any subsequent addenda. Failure to do so shall not relieve the Contractor of its obligation to fulfill the requirements of any contract awarded because of this RFP.

### E. Conditions of Work:

The offeror shall inform itself fully of the conditions relating to services required herein. Failure to do so will not relieve a Contractor of the obligation to furnish all goods and/or services necessary to conduct the provisions of this contract.

### F. Prime Contractor:

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

1. The contractor shall function as the prime contractor for the goods and services to be provided under contract and shall be the sole point of contact about all obligations under this contract.
2. Contractor represents and warrants that Contractor 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 CCPS 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 CCPS. CCPS will designate a Contract Administrator to approve such work.
4. The contractor shall be solely responsible for all work performed and materials provided by subcontractors.
5. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor under this contract.
6. To obtain payment for work performed under this Agreement, if the Contractor is an individual, the individual Contractor shall provide his social security number. If the Contractor is a proprietorship, partnership, or corporation, the Contractor shall provide its federal employer identification number.

**G. Subcontractors:**

A 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. The 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.

**Payments to Subcontractors:**

If subcontractors are used in the performance of any resulting contract:

Contractor shall take one of the two following actions within seven days after receipt of amounts paid to it for work performed by a subcontractor:

- a. Pay the subcontractor for the proportionate share of the total payment received from the School Board attributable to the work performed by the subcontractor; or
- b. Notify the School Board and subcontractor, in writing, of Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

Contractor shall provide the School Board with its federal employer identification number prior to receiving any payments hereunder.

Contractor shall pay interest to the subcontractor on all amounts owed by it that remain unpaid after seven days following receipt by it of payment from the School Board for work performed by the subcontractor under the contract, except for amounts withheld as allowed in subparagraph b above.

Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent per month for amounts owed to a subcontractor.

The 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.

Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this paragraph shall not be construed to be an obligation of the School Board. The contract shall not be modified for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the CCPS. An agreement modification may not be made for the purpose of providing reimbursement for such an interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

A contractor on a construction contract shall be liable for the entire amount owed to any subcontractor with which it contracts. Such contractor shall not be liable for amounts otherwise reducible due to the subcontractor's noncompliance with the terms of the contract. However, in the event that the contractor withholds all or a part of the amount promised to the subcontractor under the contract, the contractor shall notify the subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment. Payment by the party contracting with the contractor shall not be a condition precedent to payment to any lower-



tier subcontractor, regardless of that contractor receiving payment for amounts owed to that contractor. Any provision in a contract contrary to this section shall be unenforceable.

**H. Non-Assignment:**

Contractor shall not assign its rights and duties under this Agreement without the prior written consent of CCPS Contract Administrator.

**I. Antitrust:**

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

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

The attached "Anticollusion/Nondiscrimination Requirements" form, on page 4 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 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.

**K. Hold Harmless/Indemnification:**

It is understood and agreed that Contractor hereby assumes the entire responsibility and liability for all material damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor, 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. Contractor agrees to indemnify and hold harmless CCPS 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 Contractor or those for whom Contractor is legally liable. Upon written demand by CCPS, Contractor shall assume and defend at Contractor's sole expense all such suits or defense of claims made against CCPS, its agents, volunteers, servants, employees, or officials.

**L. 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 (1) hand-delivered, (2) sent via confirmed facsimile transmission, (3) delivered by courier that has a reliable system for tracking delivery, or (4) six (6) CCPS business days after the date of mailing when mailed by United States mail, certified mail, return receipt requested, postage prepaid. Any notices sent by any method not identified in this paragraph shall not be considered a notice for the purposes of this paragraph.

All notices shall be addressed to the following individuals:

To CCPS Contract Administrator as designated in this RFP.

To Contractor: Contractor's Contract Administrator as defined in Contractor'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.

**M. Non-Performance:**

- 1- Delivery Delays: CCPS reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Contractor 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 CCPS that goods and/or service deliverables provided by the Contractor under this contract are damaged and/or not of the quality specified by CCPS, such goods and/or service deliverables will be rejected. The contractor shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by CCPS.

3. The contractor shall remove all rejected materials, equipment or supplies from the premises of CCPS within ten (10) days of notification. Rejected goods and/or service deliverables not removed from CCPS's premises within ten (10) days will be regarded as abandoned, shall become the property of CCPS, and CCPS shall have the right to dispose of such items.
4. CCPS reserves the right to authorize immediate purchase from other sources against rejections.
5. Liability: Contractor shall be liable to CCPS for all costs incurred by CCPS because of Contractor's failure to perform in accordance with the contract. Contractor'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 Contractor and/or rejections of Contractor'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 CCPS due to non-responsive performance of Contractor.

**N. Termination Without Cause:**

CCPS may at any time, and for any reason, terminate this Contract by written notice to Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is provided. Notice shall be given to the Contractor as required by Paragraph M in this Section. In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by CCPS, at the time of termination. In the event CCPS terminates this Contract, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to CCPS any work completed or in process for which payment has been made.

**O. Termination with Cause/Breach:**

If Contractor shall for any reason or through any cause be in default of the terms of this Contract, CCPS may give Contractor written notice of such default as set forth in Paragraph M. Unless otherwise provided, Contractor shall have ten (10) days from the date such notice is received in which to cure the default. Upon failure of Contractor to cure the default, CCPS may immediately cancel and terminate this Contract as of the mailing date of the default notice. Upon termination, Contractor shall withdraw its personnel and equipment, cease performance of any further work under the Contract, and turn over to CCPS 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 CCPS and provisions herein with respect to opportunity to cure default shall not be applicable. This contract may be terminated by either party if the other party has failed to perform a material obligation or has otherwise breached a material term of this contract if that other party has failed to cure that failure or breach within ten (10) days after receipt of written notice thereof from the other party.

**P. Breach of Contract:**

Contractor shall be deemed in breach of this contract if the Contractor:

- Fails to comply with any terms of this contract.
- Fails to cure such noncompliance within ten (10) calendar days from the date of CCPS's written notice or such other time frame, greater than ten (10) calendar days, specified by CCPS Contract Administrator in the notice.
- Fails to submit a written response to CCPS's notification of noncompliance within ten (10) calendar days after the date of CCPS notice.



- Contractor shall not be in breach of this contract if its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on the part of both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of CCPS in its sovereign capacity, fires, floods, epidemics, pandemic, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes. Upon noncompliance of the contract by the contractor for completeness and thoroughness in the duties as judged by the School Board, the School Board shall so inform the contractor in writing thereof. The School Board shall notify the contractor of noncompliance and will reserve the right to have the duties completed by other means. The School Board shall reduce the contractor's invoice for an amount equal to such time as is required. Noncompliance shall be cause for the School Board to cancel this agreement.

**Q. 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.

**R. Compliance with All Laws:**

The contractor shall comply with all federal, state, and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of this contract, including all policies and regulations of the School Board. Contractor 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 Contractor is a corporation, Contractor 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 Charles City business license, personal property, real estate, and other applicable tax requirements shall be met by the Contractor.

**S. Immigration Reform and Control Act of 1986**

Contractor/Vendor does not and shall not during the performance of the Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

**T. Venue:**

Venue shall be in the Circuit Court of City of Charles City, Virginia, and the United States District Court for the Eastern District of Virginia, Richmond Division, compliant with applicable laws and regulations, as deemed appropriate by Charles City. All suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in Charles City, **or the United States District Court for the Eastern District of Virginia, Richmond Division.**

**U. 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.

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

It is understood and agreed between the parties herein that any resulting contract shall be null, void, and unenforceable if the School Board fails to receive, or to continue to receive, funds which, in its sole opinion, are sufficient to meet its obligations hereunder.

**W. Tax Exemption:**

CCPS is exempt from federal excise tax and from all State and local taxes. The contractor shall not include such taxes in any invoices under this agreement. Upon request, CCPS will furnish the Contractor

with tax exemption certificates or CCPS tax exempt number.

**X. Vendor's Invoices:**

The contractor shall submit to CCPS 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 purchase order awarding this contract or any subsequent change orders issued by the Consolidated Purchasing Division. All shipping costs are the Contractor's responsibility, except to the extent such charges are identified in the executed purchase order or change orders. Contractor'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 CCPS Purchase Order Number.

**Y. Contractual Disputes:**

Any dispute concerning a question of fact because of a contract with CCPS which is not disposed of by agreement shall be decided by CCPS Purchasing Agent or designee, 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 CCPS Purchasing Agent or designee 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 consistent with Virginia law. 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.

**Z. Warranty/Guarantee:**

The contractor 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 CCPS. To furnish adequate protection from damage for all work and to repair damages of any kind for which Contractor or Contractor's workers are responsible, to the building or equipment, to Contractor'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 Contractor 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). The contractor shall make any such replacement immediately upon receiving notice from CCPS.

**AA. Payment Terms:**

To be eligible for payment, all labor, equipment, and materials covered under Contractor's invoice must be completed and accepted by CCPS. CCPS 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 CCPS under the terms of this or any other agreement may be applied against Contractor'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 CCPS and Contractor 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**

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

**BB. Audits:**

CCPS 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 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 Contractor, including, but not limited to those kept by Contractor, its employees, agents, assigns, successors and subcontractors. Contractor 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 all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to CCPS, through its employees, agents, representatives, contractors, or other designees, during normal business hours at Contractor's office or place of business. If 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 that is convenient for CCPS. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which CCPS may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

**CC. Notice of Award:**

Any contract resulting from this RFP will be publicly posted for inspection on the school's website under the Procurement section.

**DD. Award:**

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

**EE. Disposition of Proposals:**

All materials submitted in response to this RFP will become the property of CCPS. 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.

**FF. Non-Exclusivity:**

CCPS reserves the right to procure goods or services covered under this contract from a third party when, in CCPS's sole discretion; it is deemed to be in CCPS's best interest.

**GG. Authority to Transact Business in Virginia.** Contractor warrants that it is, and for the duration of the Agreement shall remain, authorized to transact business in the Commonwealth of Virginia and that the identification number issued to it by the Virginia State Corporation Commission is \_\_\_\_\_.

#### IV. SPECIAL TERMS AND CONDITIONS

##### HH. Time is of the essence:

Time is of the essence in this Contract. Contractor expressly acknowledges that in the performance of its obligations, CCPS 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.

##### II. Insurance:

The contractor shall submit to CCPS Contract Administrator Certificates of Insurance, prior to beginning work under this contract and no later than ten (10) days after awarding 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 CCPS, and shall carry the provision that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to CCPS.

The certificates of insurance shall list the School Board of Charles City County Public Schools, 10035 Courthouse Road Charles City, VA 23030, as the additional insured for the specified project as outlined in this RFP.

Insurance shall be maintained during the entire term of the contract and any extensions 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, Single Limit including Contractual Liability and Products and Completed Operations Coverage	\$2,000,000 Combined
Umbrella/Excess Liability	\$5,000,000
Professional liability per occurrence, \$6,000,000 aggregate	\$2,000,000

The establishment of minimum limits of insurance by the CCPS does not reduce or limit the liability or responsibilities of the Contractor.

The endorsement would be that which is attached to the policy that acknowledges the CCPS as an also insured on all policies we have required to be endorsed.

This will be either a direct endorsement that names the CCPS or a blanket endorsement that contract states that the CCPS will be named as an also insured on the insurance policy.

**Contractor shall provide CCPS with its social security number or federal taxpayer identification number prior to receiving any payments for services under this Contract.**

**JJ. Unauthorized Disclosure of Information:**

Contractor shall assume the entire responsibility and liability for 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 CCPS and its agents, volunteers, servants, employees, and officers from and against all claims, losses, or expenses, including but not limited to attorney's fees, which either or both may suffer, pay, or incur as the result of claims or suits due to, arising out of or in connection with, all such unauthorized disclosures, real or alleged. The Contractor shall, upon written demand by CCPS, assume and defend, at the Contractor's sole expense, 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. CCPS may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Contractor shall save harmless and indemnify CCPS for court costs, litigation expenses and attorney's fees that it may pay or incur as the result of seeking to prevent or stop all unauthorized disclosures of confidential information.

**KK. Copyright/Patent Indemnity:**

The contractor 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 Contractor shall indemnify CCPS and hold CCPS harmless from any cost, expense, damage, or loss incurred in any manner by CCPS on account of any such alleged or actual infringement.

**LL. Cooperative Procurement**

Section 2.2-4304 Code of Virginia (VPPA) will apply to this solicitation. Other Public Bodies may utilize any contract(s) issued pursuant to this solicitation by placing their own order(s) directly with the Contractor(s). CCPS acts only as the issuing agent and is not responsible for placement of orders, payment, or discrepancies of other participating Public Bodies.

**MM. Student Privacy**

While providing services during the term of the resulting Agreement, Contractor may have access to identifiable student information that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and its implementing regulations, and Virginia state law. Such information is considered confidential and is protected by FERPA. To the extent that Contractor has access to "education records" under this Agreement, it is deemed a "school official," as each of these terms are defined under FERPA. Contractor agrees that it shall not use education records for any purpose other than in the performance of this Agreement. Except as required by law, Contractor shall not disclose or share education records with any third party unless permitted by the terms of the Agreement or to subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Contractor under this Agreement.

In the event any person(s) seeks to access protected education records, whether in accordance with FERPA or other Federal or relevant state law or regulations, the Contractor will immediately inform the School Board of such request in writing. Contractor shall not provide direct access to such data or information or respond to individual requests. The contractor shall only retrieve such data or information upon receipt of, and in accordance with, written directions by the School Board and shall only provide such data and information to the School Board. It shall be the School Board's sole



responsibility to respond to requests for data or information received by the Contractor. Should Contractor receive a court order or lawfully issued subpoena seeking the release of such data or information, Contractor shall provide immediate notification to the School Board of its receipt of such court order or lawfully issued subpoena and shall immediately provide the School Board with a copy of such court order or lawfully issued subpoena prior to releasing the requested data or information.

If Contractor experiences a security breach concerning any education records covered by this Agreement, then Contractor will immediately notify the School Board and take immediate steps to limit and mitigate such security breach to the extent possible. The parties agree that any breach of the confidentiality obligation set forth in the Agreement may, at the School Board's discretion, result in cancellation of further consideration for Agreement award. In addition, Contractor agrees to indemnify and hold the School Board harmless for any loss, cost, damage, or expense suffered by the School Board, including but not limited to the cost of notification of affected persons, as a direct result of the unauthorized disclosure of education records.

Upon termination of Agreement, Contractor shall return and/or destroy all education records and other data or information received from the School Board upon, and in accordance with, direction from the School Board. The contractor shall not retain copies of any education records or data, or information received from the School Board once the School Board has directed the Contractor as to how such information shall be returned to the School Board and/or destroyed. Furthermore, Contractor shall ensure that it disposes of all education records and data, or information received from the School Board in a School Board-approved manner and in a manner that maintains the confidentiality of the contents of such records (e.g., shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).

#### **NN. Maintenance of Personally Identifiable Information**

Contractor agrees to protect any personally identifiable information of students, including education records, of the School Board provided to Contractor under the Agreement ("Student PII") in a manner that allows only those individuals and entities, who are authorized by Contractor to access the information, the ability to do so. Student PII will be protected by appropriate security measures, including, but not limited to, the use of usernames, secure passwords, encryption, security questions, etc. The contractor's network must maintain a high level of electronic protection to maintain the integrity of, and to prevent unauthorized access to, Student PII. Contractor agrees to perform regular reviews of its protection methods and perform system auditing to maintain protection of its systems. For systems intended to process or store Student PII, Contractor will maintain secure systems that are patched, up to date, and have all appropriate security updates installed.

To ensure that the only individuals and entities who can access Student PII are those that have been specifically authorized by Contractor to access Student PII, Contractor shall implement appropriate forms of authentication to identify the specific individual or entity who is accessing the information. The contractor must individually determine the appropriate level of security that will provide the necessary level of protection for the Student PII it maintains. Contractor shall not allow any individual or entity unauthenticated access to confidential Student PII at any time.

Contractor shall implement appropriate measures to ensure the confidentiality and security of Student PII, protect against any unauthorized access or disclosure of information, and prevent any other unauthorized action within Contractor's control regarding the access, disclosure, or use of Student PII that could result in substantial harm to the School Board, or any individual identified by the data.

Contractor agrees that all Student PII will be stored, processed, and maintained in a secure location and solely on servers and systems owned by Contractor or operated by Contractor through use of third-party services (collectively, “Contractor Systems”). No Student PII, at any time, will be processed on or transferred to any portable computing device or any portable storage medium, unless that storage medium is in use as part of Contractor’s designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the product(s) and/or service(s) called for under the Agreement shall be contained within the United States unless specifically agreed to in writing by the School Board.

Contractor agrees that all Student PII shall be used expressly and solely for the purposes enumerated in the Agreement, as supplemented hereby. Student PII shall not be distributed, used, or shared for any other purpose. As required by Federal and State law, Contractor further agrees that no Student PII of any kind shall be revealed, transmitted, exchanged, or otherwise passed outside the Contractor Systems to other Contractors or interested parties unless specifically requested or authorized in writing by the School Board or the student. Contractor shall not sell, transfer, share or process any student data for any purposes other than those listed in the Agreement, including commercial advertising, marketing, or any other commercial purpose. The foregoing does not, however, preclude Contractor from using de-identified data derived from the operations of Contractor Systems to improve Contractor’s own products and services.

Contractor shall establish and implement a clear data breach response plan outlining organizational policies and procedures for addressing a potential breach. The contractor’s response plan shall require prompt response for minimizing the risk of any further data loss and any negative consequences of the breach, including potential harm to affected individuals. A data breach is any instance in which there is an unauthorized release or access of personally identifiable information or other legally or contractually protected information not suitable for public release. This definition applies regardless of whether Contractor stores and manages the data directly or through a contractor, such as a cloud service provider.

Contractor shall develop a policy for the protection and storage of audit logs. The policy shall require the storing of audit logs and records on a server separate from the system that generates the audit trail. Contractor must restrict access to audit logs to prevent tampering or altering of audit data. Retention of audit trails shall be based on a schedule determined after consultation with operational, technical, risk management, and legal staff.

Contractor is permitted to disclose Student PII to its employees, authorized subcontractors, agents, consultants, service providers and auditors on a need-to-know basis only, provided that all such subcontractors, agents, consultants, service providers and auditors have written confidentiality obligations to Contractor consistent with, and at least as protective as, the terms of the Agreement, as supplemented hereby. The confidentiality obligations shall survive termination of any Agreement with Contractor for so long as the information remains confidential. Contractor shall be responsible to the School Board for any prohibited or unauthorized disclosure or use of Student PII by any of its employees, subcontractors, agents, consultants, service providers and auditors.

The contractor acknowledges and agrees that unauthorized disclosure or use of Student PII may damage the School Board in such a way that adequate compensation could not be obtained solely in monetary damages. Accordingly, the School Board shall have the right to seek injunctive relief restraining the



actual or threatened unauthorized disclosure or use of any Student PII, in addition to any other remedy otherwise available (including reasonable attorney fees).

In the event of a breach of any of the Contractor's security obligations or other event requiring notification by Contractor under applicable law, Contractor agrees to notify the School Board promptly and assume responsibility for informing all such individuals in accordance with applicable law.

#### **OO. Contractor Certification**

By submitting a proposal and entering any resulting contract, Contractor certifies, as required by Section 22.1-296.1 of the Code of Virginia, that none of the persons who will provide services requiring direct contact with students on school property during school hours or during school-sponsored activities has been convicted of a felony or any offense involving the sexual molestation, physical, or sexual abuse or rape of a child. The contractor shall promptly report to the School Board any change that would make this certification no longer accurate.

Contractor further understands and acknowledges (1) that if Contractor makes a materially false statement regarding any of the above offenses, Contractor will be guilty of a Class 1 misdemeanor and (2) that before any person is permitted to provide such services after this certification, Contractor must complete a new certification regarding such person.

Contractor shall require its employees, contractors, or subcontractors who will have direct contact with students to execute the certification attached hereto as Attachment F and submit the certification before performance any services under the Agreement.

#### **FOREIGN AND DOMESTIC BUSINESSES-AUTHORITY TO TRANSACT BUSINESS IN THE COMMONWEALTH**

Contractor whether 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 and shall provide proof thereof. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the Agreement. Failure by the Contractor to remain in compliance with the provisions of this section shall be deemed a material breach of this Agreement.

Charles City County Public Schools does not discriminate on the basis of race, color, national origin, sex, disability, age or other protected classes in its programs, activities and employment practices and provides equal access to the Boy Scouts and other designated youth groups.

## Appendix A

This information is to assist the contractor to understand the insurance requirements of the Charles City County Public Schools (CCPS). Contractors are encouraged to share this information with insurance agents and brokers. **In all cases the Request for Proposal (RFP) or Invitation to Bid (ITB) requirements override statements in this document.**

1. **Agreement/Reference.** All evidence of insurance must identify the nature of your business with the CCPS. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your insurance is properly assigned to the correct project. It is important that you **provide the types of coverage and minimum dollar amounts specified in the RFP or ITB document. Failure to provide the requested amounts may lead to disqualification and increase processing time.**
2. **When to submit.** Normally no work may begin until the certificate of insurance (COI) with proper endorsement has been received. It is important that the certificate and endorsement be provided as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded.
3. **Acceptable Evidence and Approval.** Proof of insurance is normally provided on an industry form known as the ACORD Certificate of Insurance. Insurance industry certificates other than the ACORD may be accepted after review. In addition to the ACORD form, an Insured Endorsement naming the CCPS as an additional insured that has been completed by your insurance company or its designee must be attached to the COI. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state CCPS is an automatic or blanket additional insured, and the substantiating endorsement must be attached. Attaching the section of the insurance policy covering contractual additional insureds may be used until the actual endorsement is received.

All evidence of insurance must be authorized by the insurance provider by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter.

### Acceptable Alternatives to ACORD Certificates and other Insurance Certificates:

- **A copy of the full insurance policy.**
- **Binders and Cover Notes** are also acceptable as interim evidence for up to 90 days from date of approval.
- **Self-Insured** contractors or vendors must submit for review to the Risk Manager documentation of its financial ability to self-insure for each coverage required. (See Para 6 below.)

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law

- Professional Liability insurance

#### 4. **Renewal.**

5. **Cancellation.** The contractor/vendor must inform CCPS 30 days before insurance is cancelled or not renewed. The requirement for the insurance company to inform the additional insureds is not enforceable. Failure to inform must be considered a substantive violation of the contract and could result in the contract being cancelled.

6. **Alternative Programs/Self-Insurance.** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, offshore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CCPS Risk Manager has reviewed the relevant documents. Any contractor or vendor that wishes to satisfy insurance requirements as a self-insured party must receive permission from the Risk manager by submitting a request to the Risk Management Department.

7. **General Liability.** General liability insurance covering your operations (and products, where applicable) is required whenever CCPS is at risk of:

- **Third-party claims** which may arise out of your work or your presence or special event on city premises.
- **Sexual misconduct claims coverage** is a required coverage when the work performed involves minors.
- **Fire legal liability insurance** is required for persons occupying a portion of CCPS premises.

8. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CCPS premises; it is not required for simple commuting unless CCPS is paying mileage. However, compliance with Virginia law requiring auto liability insurance is a contractual requirement.

9. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claim's discovery period required will vary with the circumstances of the individual job.

10. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law the minimum coverages (or a copy of the state's Consent to Self-Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement that can be obtained from Risk Management.

**A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CCPS premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

11. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CCPS.

12. **Builder's Risk/Course of Construction** is insurance coverage that protects the owner's interests in the structure as well as materials, fixtures and/or equipment being used in the construction or renovation of a building or structure should those items sustain physical loss or damage from a covered cause. It is required during construction projects and must include building materials in transit and stored at or away from the project site. This would also include materials purchased by the CCPS for installation or erection by the contractor.
13. **Surety or Bond** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A Fidelity Bond may be required to handle CCPS funds or securities, and under certain other conditions. Specialty coverages may be needed for certain operations as outlined in the RFP or ITB.