

**NORTHUMBERLAND COUNTY PUBLIC SCHOOLS  
REQUEST FOR PROPOSALS (RFP) #2022-002  
NORTHUMBERLAND JROTC/STEM/Athletic Building**

**Request for Proposals for JROTC/STEM/Athletic Building or Addition – RFP 2022-002**

Northumberland County Public Schools is looking for a team to provide a design-build approach to delivering the new **JROTC/STEM/Athletic Building or addition** located near or on Academic Lane, Heathsville, VA 22473.

**INSTRUCTIONS**

The Northumberland County Public School Division desires to contract with an experienced firm for the design and construction of a New **JROTC/STEM/Athletic Building or Addition**.

Interested contractors are invited to submit one signed original proposal, one copy, and one digital copy (individual CD or flash drive) in PDF format. The proposal shall be made in the format “Contents for Proposals” provided and the complete proposal, together with any and all additional materials, shall be enclosed in a sealed envelope addressed and delivered no later than **2PM on November 1, 2021** to Northumberland County School Board Office, 2172 Northumberland Highway, Lottsburg, Virginia 22511.

Any proposals received after the specified time will be rejected. The School Board is not responsible for delays in the delivery of mail by the U.S. Postal Service or private couriers. It has been the experience of the School Board that private couriers do not make special morning deliveries in Northumberland County. It is the sole responsibility of the Offeror to ensure that its proposal reaches the School Board Office by the designated date and hour. Proposals will not be accepted over the facsimile machine.

Proposals received in response to this RFP will be opened at the time and place stated and will be made public only as provided by the Virginia Public Procurement Act and the Virginia Freedom of Information Act.

All proposals must be signed by an authorized representative of the company submitting the proposal.

**RFP Number: 2022-002**

**Request for Proposals for JROTC/STEM/Athletic Building or Addition.**

**Name of Offeror** \_\_\_\_\_

**Address** \_\_\_\_\_

**Due Date of November 1, 2021 at 2 PM**

No responsibility will be attached to any officer or agent for the premature opening of a proposal not properly addressed and identified.

This RFP does not commit Northumberland County Public Schools Division to award a contract or pay any costs incurred in the preparation of a proposal responsive to this request. The Division reserves the right to accept all or part of a proposal or to cancel in part or in its entirety this RFP.

All requirements must be addressed in your proposal. Non-responsive proposals will not be considered. All proposals, whether selected or rejected, shall become the property of the Division. Contractors are responsible for checking the school division website for any updates or revisions to the RFP.

The Northumberland County School Board reserves the right to reject any and all proposals (or any part thereof) and to waive any informalities or irregularities when the School Board, in its sole discretion, deems it to be in the best interests of the school division. The School Board will not be liable for any cost incurred in connection with the preparation and submittal for this Request for Proposals

#### REQUESTS FOR INFORMATION

General and special terms and conditions, specifications and proposal forms are open for inspection and available to prospective offerors at the Northumberland School Board Office, 6958 Northumberland Highway, Heathsville, Virginia 22473. Questions related to this RFP should be submitted in writing (email is sufficient) to Jeff Brann, Director of Maintenance & Facilities, Northumberland County School Board, 6958 Northumberland Highway, Heathsville, Virginia 22473, email: [jbrann@nucps.net](mailto:jbrann@nucps.net). All questions must be received no later than **October 8, 2021**. Any revisions to the RFP will be made only by addendum issued by Northumberland County Public Schools.

Attachments:

1. Proposal Form.
2. Certification of No Crimes Against Children.

#### SCOPE OF WORK

NCPS is looking for a team to provide a design-build approach to delivering a new JROTC/STEM/Athletic Building or attached wing addition to the current structure. The team is anticipated to include, but not limited to, a contractor and design team of architect and engineers (civil, structural, mechanical, electrical, plumbing and fire protections). The building or addition needs to meet a minimum of **4000-4500** square feet. The scope of the new ROTC/STEM/Athletic Building or addition should comply with county regulations and include all associated site work, utilities and/or utility relocations which will be determined upon selection of site. It is the intent of NCPS to identify the location for which the ROTC/STEM/Athletic Building or addition will be located.

Proposals must provide a conceptual design that meet the specifications, floor plans, elevations, anticipated schedule for design and constructions and an estimate of building cost and design fees.

**Time Restricted:**

All work must be completed by September 30, 2025, funding is dependent on ESSER III (Elementary and Secondary Emergency Relief Fund) and construction approval by the Virginia Department of Education.

**SPECIFICATIONS**

Location on/ near Academic Lane:

- Off of 360 back bus parking lot; adjacent to Northumberland Middle School
- Near wind turbine
- Old Middle School area (access to parking lot)

1. Wrestling Space/Athletic Space
2. Condition/Fitness Room
3. Classroom spaces
  - a. Flexible/Divided
4. Bathrooms
5. Secure Entry Space
6. Storage Space
  - a. Athletic
  - b. JROTC
7. Mechanical room
8. Custodian closet/ storage custodial supplies

**CONTENTS FOR PROPOSALS**

In order for proposals to be considered, said proposal must be clear, concise, complete, well organized and demonstrate both respondent's qualifications and its ability to follow instructions. The quality of answers, not length of responses or visual exhibits, is important in the proposals. Failure to provide all requested information or deviation from the required format may result in disqualification.

A. Proposal Form

Include the RFP's Title, Proposal Number (2022-002), and submittal due date, the name, address, fax number, and telephone number of the responding offeror. Include a contact person and corresponding email address. The letter shall state that the proposal shall be valid for ninety (90) days and that the staff proposed is available immediately to work on this project and meet the terms, conditions and specifications provided in the Request for Proposals. The person authorized by the contractor to negotiate a contract with the Division shall sign the proposal form.

B. Description of Company

This section shall provide information regarding the size, location, nature of work performed, years in business and the approach that will be used in meeting the scope of this proposal. This section shall also describe the level of knowledge and expertise with regard to the systems and equipment noted within the RFP.

C. Organizational Structure

Describe your firm's organizational structure. Supply the names of the professionals who will be responsible for this project. Provide documentation of licenses and certifications as may be required during the completion of the requirements contained in this RFP. Provide a statement of liability claims and insurance that includes a copy of your Certificate of Insurance Coverage, along with a description of the disposition of any liability claims over the past 10 days.

D. References and Description of Experience

This section should identify similar projects that the offeror has completed as outlined in the RFP. Use this section to indicate the areas of expertise of your company and how the company's expertise will enable the Division to benefit from that expertise.

E. Project Overview/Work Plan

This section should include, but not be limited to, a discussion of the organization of the project and a summary of the proposed approach. A timeline of the work plan should be included.

F. Cost Proposal

This section must provide a full description of the expected expenditures for the work described in the Scope of Work section of this RFP.

## SELECTION CRITERIA

Companies submitting proposals are advised that all proposals will be evaluated to determine the company deemed most qualified to meet the needs of the Division. The selection criteria will include, but not be limited to, the items listed below:

- A. Demonstrated understanding and responsiveness to the RFP.
- B. Proposals and experience of company personnel named in the proposal.
- C. Past experience and association with Northumberland County Public Schools.
- D. Project understanding and approach including an understanding of the Division.
- E. Satisfaction of previous clients.
- F. Completeness and quality of the proposal
- G. Cost proposal.

#### AWARD OF CONTRACT

The School Board intends to award a Contract for the services solicited under this RFP with a competent, responsive, responsible offeror after using the competitive negotiation procedures as authorized by the Virginia Public Procurement Act, specifically including Virginia Code Sections 2.2-4302.2 and 2.2- 4303. The School Board reserves the right to make single or multiple awards, whatever is in the best interest of the School Board. The Contract will incorporate by reference the School Board's Standard Terms and Conditions set forth below, and be subject to all other requirements of this RFP.

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors listed above. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but may not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the School Board shall select the offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. Should the School Board determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

**ANNOUNCEMENT OF AWARD:** Upon the award or announcement of the decision to award a contract as a result of this solicitation, the School Board will publicly post such notice at the Northumberland County School Board Office 6958 Northumberland Highway, Heathsville, Virginia 22473 and also on the County Public Schools Website at: [www.nucps.net](http://www.nucps.net).

#### TIMELINE OF WORK

Start time to begin the work shall be determined by the Division with the consideration of instructional time lost, weather, as well as other factors as determined.

## **Proposal Deadline**

All proposals must be received at the Northumberland County School Board Office, 6958 Northumberland Highway, Heathsville, Virginia 22473 by **2 PM on November 1, 2021**. One original, one copy and one electronic copy of each proposal must be provided.

Please Note: Contractors that are considering submitting a proposal should not make contact with members of the Northumberland County School Board.

### **SCHOOL BOARD OF NORTHUMBERLAND COUNTY, VIRGINIA STANDARD TERMS AND CONDITIONS**

#### **1. General Provisions**

1.1 Unless otherwise agreed to in a writing signed by the Superintendent for Northumberland County Public Schools (NCPS), and approved as to form by the attorney for Northumberland County Public Schools, these Standard Terms and Conditions apply to and govern all purchases, regardless of the type of goods or services purchased, between the School Board for Northumberland County, Virginia (the "Board") and (the "Contractor").

#### **2. Definitions**

2.1 "Solicitation" means the vehicle by which the Board solicited pricing, and if applicable other terms, by which it could acquire goods or services from Contractor, regardless of whether the vehicle was an Invitation for Bids, Request for Proposals, Request for Quotes, telephone quotes or any other means permissible under the Northumberland County Code, Board policy, or Virginia law.

2.2 "Contract Documents" means all documents that constitute any legal and binding agreement between the Contractor/Offeror and the Board, including these Standard Terms and Conditions.

2.3 "Contract Period" means the time period from the time that Contractor first becomes legally bound to provide goods or services to the Board in response to a Solicitation until all of

Contractor's contractual obligations to the Board, arising out of the Solicitation, cease.

2.4 "Obligations" means any and all legal obligations of Contractor under any Contract Documents.

**3. Laws of the Commonwealth**

3.1 The Contract Documents shall be governed in all respects whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia and the Northumberland County Code. Contractor represents and warrants to the Board that:

- a.) During the Contract Period, it will comply and conform with the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
- b.) It does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in, or otherwise violate the provisions of, the Immigration Reform and Control Act of 1986; and,
- c.) Will comply with all federal, state and local laws and regulations applicable to the performance of the services procured.

**4. School Board Policies**

4.1 In every contract of over \$10,000, the Contractor agrees during the Contract Period that Contractor:

- a.) Will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or 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 Contractor;
- b.) Will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and
- c.) Will state that the Contractor is an equal opportunity employer in all solicitations or advertisements for employees placed by or on behalf of the Contractor to perform under the Contract Documents. All 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; and,

d.) Will include the provisions of the foregoing subparagraphs in every subcontract or purchase order exceeding \$10,000 issued by Contractor in order to fulfill its obligations, so that the provisions will be binding upon each subcontractor or vendor employed by Contractor.

4.2 In every contract of over \$10,000, the Contractor agrees during the Contract Period the Contractor shall:

- a.) Provide a drug-free workplace for its employees;
- b.) 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 its workplace and specify the actions which will be taken against any employee for a violation;
- c.) State in all of its solicitations or advertisements for employees that the Contractor maintains a drug-free workplace; and
- d.) Include the provisions of this sub-paragraph in every subcontract or purchase order of over \$10,000, so that said provisions shall be binding upon each subcontractor or sub-vendor.
- e.) For purposes of this sub-paragraph, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor under a solicitation and in accordance with the Virginia Public Procurement Act and/or the Northumberland County Code.
- f.) In addition to the provisions contained in sub-paragraph c pertaining to drug-free workplaces, the Contractor shall comply with the federal Drug Free Workplace Act.

4.3 Pursuant to Section 2.2-4343.1 of the Code of Virginia and applicable Board policy, in all solicitations, contracts, and purchase orders, the Board does not discriminate against faith-based organizations.

- a.) "Faith-based Organization" means a religious organization that is or applies to be a Contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104- 193.



- b.) If Contractor is a faith-based organization, then Contractor shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice in bold-face type:

**NOTICE**

**Neither the Board's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form.**

4.4 Pursuant to Section 2.2-4311.2 of the Code of Virginia, if Contractor/Offeror is authorized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, Contractor/Offeror shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law.

**5. Certifications**

5.1 The Contractor certifies that Contractor's response to the Solicitation:

- a. Has been prepared without prior participation, understanding, agreement, or connection with any corporation, firm or other person that is also submitting a proposal in response to the same solicitation;
- b. Is in all respects fair, without misrepresentations of fact, and free from collusion or fraud;
- c. Is in full compliance with the Virginia Conflicts of Interest Act;
- d. Is or is intended to be competitive and free from any collusion with any person, firm or corporation; and,
- e. Has been prepared without the benefit of being provided information not available to the general public, or other potential offerors, such as insider information known to Board employees or other sources which may have gained such information from interaction with Board employees;

5.2 The Contractor has not offered or received any kickback from any other offeror or contractor, supplier, manufacturer, or subcontractor in connection with the proposal on this Solicitation. A kickback is defined as an inducement for the award of a contract, subcontract, or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;

5.3 The Contractor is not a party to nor has he participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or conditions upon which the contract resulting from the acceptance of his bid proposal is to be performed;

5.4 The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this Request for Proposals; and

5.5 Neither Contractor, Contractor's subcontractors, nor any person acting on Contractor's behalf, have conferred, or will confer, on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

## 6. Warranties

6.1 The Contractor represents and warrants that it has the requisite experience, skills, capabilities, and manpower to perform the Obligations in a good and workmanlike fashion, that it is a legal business entity chartered or authorized to do business in Virginia having all necessary licenses required by law, that the person signing any of the Contract Documents has been fully authorized to do so, and his signature will legally bind the Contractor to perform its Obligations. Any goods or services furnished by the Contractor under the Contract Documents shall be covered by the most favorable warranties provided by the Contractor to any customer.

6.2 Contractor warrants to the Board that all materials and equipment furnished shall be new, unless otherwise specified, and that Contractor's Work shall be of good quality, free from faults and defects and in strict conformance with the Contract Documents. All materials and work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. This warranty shall be in addition to, and not in limitation of, any other warranty or remedy required by law or by the Contract Documents. If the Contract does not state a specific warranty period, the Contractor warrants Contractor's Work for a period of one (1) year from the date of Substantial Completion of the entire

Project. In no event shall Contractor's warranty period be less than or terminate earlier than any warranty provision specified in the Contract.

6.3 The Contractor agrees that if warranties set forth in the Contract Documents are in any respect breached, the Contractor will pay to the Board the full contract price agreed to by the Board to be paid for the supplies, materials, equipment or services furnished under the bid or proposal. These rights and remedies are in addition to and do not limit those rights and remedies otherwise available to the Board.

**7. Modifications, Additions or Changes**

7.1 Modifications, additions or changes to these terms and conditions may not be made except in writing and agreed to by the Board.

**8. Procurement Code**

8.1 Solicitations are subject to applicable School Board policy, which is hereby incorporated into this Contract in its entirety. ANY SOLICITATION OR CONTRACT DOCUMENTS THAT ARE ISSUED, REQUESTED OR EXECUTED IN VIOLATION OF NORTHUMBERLAND COUNTY SCHOOL BOARD POLICY, OR VIRGINIA LAW ARE VOID AB INTIO, AND OF NO EFFECT, REGARDLESS OF WHETHER ANY PURCHASE HAS BEEN MADE UNDER THE CONTRACT DOCUMENTS AND IRRESPECTIVE OF THE AMOUNT OR LENGTH OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT DOCUMENTS.

**9. Bid Acceptance Period**

9.1 Any bid in response to a solicitation shall be valid for 90 days. At the end of the 90 days, the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time, it remains in effect until an award is made or the solicitation is cancelled.

**10. Indemnification**

10.1 The Contractor agrees to indemnify, defend and hold harmless the Board and its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by (i) the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor (ii) any services of any kind or nature provided by the Contractor or (iii) Contractor's performance of its Obligations, provided that such liability is not attributable to the sole negligence on the part of the Board.

**11. Assignment**

11.1 Neither the Obligations nor the Contract Documents may be assigned, sublet, or transferred, in whole or in part, without the written consent of the Board.

**12. Audit**

12.1 The Contractor hereby agrees to retain all books, records, and other documents relative to Contractor's Obligations and the Contract Documents for five (5) years after final payment or after all other pending matters are closed, whichever is longer. The Board and its authorized agents, state auditors, the grantor of the funds to the Board, the Comptroller of Virginia or of the United States, or any of their duly authorized representatives shall have access to any such books, documents, papers and records of the Contractor for the purpose of making audits, examinations, excerpts or transcriptions.

**13. Ownership of Documents**

13.1 Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its Obligations shall be remitted to the Board by the Contractor, without demand therefore, upon the earliest of (i) completion of its Obligations (ii) completion of the Contract Period or (iii) termination, cancellation or expiration of the Contract Documents. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of the Obligations without the prior written consent of the Board. The Board shall own the intellectual property rights to all materials produced under this Agreement.

**14. Payment and Performance Bond**

14.1 If Contractor's Obligations include construction, the amount of which exceeds \$500,000, the Contractor shall furnish to the Board the bonds required under applicable Virginia law and Board policy, and shall otherwise fully comply with the requirements of such sections of the Virginia Code and policy. The Board reserves the right to require payment and/or performance bonds in the amount of the Obligations for any other projects, goods or services, whether or not required by such sections of the Virginia Code or policy.

**15. Required Payment**

15.1 The Contractor covenants and agrees that it shall take one of the two following actions within seven (7) days after receipt of any amounts paid to the Contractor by the School Board for work performed by a subcontractor under the Contract:

- a) pay any subcontractor for its proportionate share of the total payment received from the

Board attributable to the work under the Contract performed by such subcontractor, or

- b) notify the Board and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason therefore.

15.2 Contractor agrees to provide its federal employer identification number or social security number, as applicable, as a condition precedent to the Board being required to make any payment to the Contractor under the Contract Documents.

15.3. Contractor agrees to pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Contractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the Board for work performed by the subcontractor in furtherance of Contractor meeting its Obligations to the Board, except for amounts withheld pursuant to subparagraph 15.1(b) above.

15.4 Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

15.5 Contractor agrees to include in its contracts with any and all subcontractors the requirements of 15.1(a) and 15.1(b) above and 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.

15.6 Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause above shall not be construed to be an obligation of the Board. No contract modification shall be made for the purpose of providing reimbursement for the interest charge. Any cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

## **16. Liability Coverage**

16.1 Unless otherwise expressly excepted in the Solicitation documents prepared by the Board, the Contractor shall take out and maintain during the Contract Period such bodily injury, liability and property damage liability insurance as shall protect it and the Board from claims for damages for personal injury, including death, as well as from claims for property damage, which could arise from Contractor's performance of its Obligations. Such insurance shall at least have the coverages and be in the amounts set forth in section 19 "Insurance and Bond Requirements" set forth below and shall name the "School Board of Northumberland County, Virginia" and as an additional insured. Such insurance must be issued by a company admitted to do business within the Commonwealth of Virginia and with at least an AM Best rating of A-. Within 10 days after Contractor is awarded a contract in response to a Solicitation, and in no event later than the first day on which Contractor provides goods or services to the Board, the Contractor shall provide the Board with a certificate of insurance showing such insurance to be in force and providing that the insurer shall give the Board at least 30 days' notice prior to cancellation or other termination of such insurance.

**17. Loss or Damage in Transit**

17.1 Delivery by a Contractor to a common carrier does not constitute delivery to the Board. Any claim for loss or damage incurred during delivery shall be between the Contractor and the carrier. The Board accepts title only when goods are received regardless of the F.O.B. point noted in the Solicitation or the Contract Documents. NCPS will note all apparent damages in transit on the freight bill and notify the Contractor. Discovery of concealed damages or loss will be reported by NCPS to the carrier and the Contractor within 15 days of receipt and prior to removal from the point of delivery if possible. The Contractor shall make immediate replacement of the damaged or lost merchandise or be in default of the Contract Documents. It shall be the Contractor's responsibility to file a claim against the carrier. If damage is to a small quantity, with the approval of NCPS, the Contractor may deduct the amount of damage or loss from his or her invoice to NCPS in lieu of replacement.

**18. Freight**

18.1 By signing any response to a Solicitation the bidder certifies that the bid price(s) offered for F.O.B. destination include only the actual freight charges at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Freight charges are, therefore, established for each

individual purchase. If a requirement is bid F.O.B. origin, the Contractor shall prepay the charges and add the amount to the invoice. A copy of the freight bill should be attached to all invoices that include freight charges. In a solicitation specifying F.O.B. origin the Board will consider freight cost in the evaluation of bids.

**19. Insurance and Bond Requirements**

19.1 The Contractor shall maintain the following insurance to protect it from claims that could arise from performance of the Obligations, including claims (i) under the Workmen's Compensation Act (ii) for personal injury, including death, and (iii) for damage to property, regardless of whether such claims arise out of Contractor's actions or inactions, or those of Contractor's subcontractor or other persons directly or indirectly employed by either of them:

- a) Worker's Compensation and Employer's Liability. Contractor shall procure and maintain Worker's Compensation and Employer's Liability Insurance covering all of its employees in conformance with the laws of any state, district or territory

of the United States of America in which work towards meeting Contractor's Obligations are to be performed. Such insurance shall not have a limit of liability less than the following:

- a) Bodily Injury by accident, \$500,000 for each accident;
- b) Bodily Injury by disease, \$500,000 policy limit;
- c) Bodily Injury by disease, \$500,000 for each employee.

b) Commercial General Liability Insurance. This coverage shall include contractual liability, underground hazard, explosion and collapse, hazard, property damage, independent Contractor, and personal injury insurance in support of section 10 of this Agreement entitled "Indemnification". This policy shall be endorsed to include the Board as an additional insured during the Contract Period and shall state that this insurance is primary insurance as regards any other insurance carried by the Board. Contractor shall procure and maintain Public Liability Insurance in an amount not less than:

- a) \$1,000,000 for each occurrence involving bodily injury;
- b) \$1,000,000 for each occurrence involving property damage;
- c) \$2,000,000 aggregate limits.

c) Comprehensive Automobile Liability. Contractor shall procure and maintain Comprehensive Automobile Liability Insurance covering all automobiles, trucks, tractors, trailers, or other automobile equipment, whether owned, not owned, or hired by the Contractor, with the following limits:

- a) \$1,000,000 for each occurrence involving personal injury;
- b) \$1,000,000 for each occurrence involving property damage;
- c) \$2,000,000 aggregate limits.

19.2 The Contractor shall purchase and maintain insurance coverage in a sufficient amount to cover all potential claims on his tools, equipment and machine

19.3 The Board reserves the right to require insurance of any Contractor in greater amounts provided notice of such requirements is stated in the Solicitation.

19.4 All insurance policies required under this paragraph, or otherwise required by the Solicitation or Contract Documents, shall include a clause waiving any and all subrogation rights against the Board.

19.5 Insurance policies shall provide for notification to the Board of non-payment of any premium and shall give the Board the right to make the premium payment thereunder within a reasonable time, if the insurance policy is in danger of lapsing during the Contract Period. Any premium payments made by the Board shall be deducted from amounts due Contractor under the Contract.

**20.** Compliance With Laws

20.1 All work performed shall be in accordance with all local, state and federal codes, laws and regulations, including but not limited to: Virginia Conflict of Interest Act, Virginia Fair Employment Contracting Act, Virginia Freedom of Information Act, Virginia Prompt Payment Act, the Virginia Public Procurement Act, and Board policies.

**21. No Waiver**

21.1 Any failure of the Board to demand rigid adherence to one or more of the terms of the Contract Documents, on one or more occasions, shall not be construed as a waiver nor deprive the Board of the right to insist upon strict compliance with the terms of the Contract Documents. Moreover, it is the Board's position and Contractor hereby agrees that the legal theories of Implied Waiver, Statute of Limitation, Estoppel, and Laches do not apply as defenses that the Contractor may assert in any action by the Board. Any waiver of a term of this Agreement, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

**22. Termination and Cancellation**

22.1 The Board shall have the unilateral right to terminate any contract with Contractor for default on the terms of that contract, or any other contract between the Contractor and the Board.

22.2 The Board has the unilateral right to cancel and terminate any contract with Contractor, in whole or in part, without penalty, merely out of convenience, and shall require no breach of contract by Contractor as a condition of termination. This right of termination for convenience may be exercised at the sole unconditional discretion of the Board. If a contract is terminated in whole or in part for the convenience of the Board, the Contractor shall be paid the contracted price for the service or goods actually provided or rendered up to the date of the termination of the respective contract, but shall not be paid any other fees or lost profits.

22.3 Any contract cancellation notice shall not relieve the Contractor of the obligation to perform on all outstanding orders issued prior to the effective date of cancellation.

**23. Availability of Funds**

23.1 It is understood and agreed between the parties herein that the Board shall be bound hereunder only to the extent of the funds available and duly appropriated or which may hereafter become available and duly appropriated for the purpose of fulfilling the Board's Obligations with respect to the Contract Documents.

**24. Billing, Method of Payment and Offset Rights**



24.1 Billing shall be done monthly based on the contracted rate bid by the Contractor and submitted to the Northumberland County School Board Office. The County will remit payment within 30 days of receipt of a correct invoice. Incorrect invoices shall be subject to correction and/or rejection by the Northumberland County Public School Administration.

24.2 Contractor agrees that the Board has the unilateral right to offset any bill submitted to Board by Contractor, or any payment owed to Contractor by the Board, by any amount due to the Board from Contractor pursuant to the Contract Documents, or any other agreement, contract or transaction between Board and Contractor.

**25. Tax Exemption**

25.1 The School Board of Northumberland County Public Schools, as a political subdivision of the Commonwealth of Virginia, is exempt from any Federal excise tax and Virginia sales and use tax. Tax exemption certificates will be furnished upon request.

**26. Work Site Damages**

26.1 Any damages, including damage to finished surfaces, resulting from Contractor's performance of its Obligations shall be repaired to the satisfaction of the Board at the Contractor's expense.

**27. Choice of Law**

27.1 To ensure uniformity of the enforcement of the Contract Documents, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to their principles of conflicts of law.

**28. Forum Selection**

28.1 The parties hereby submit to the personal jurisdiction of, and venue in, the General District or Circuit Court of Northumberland County, Virginia for resolution of any and all claims, causes of action or disputes between Contractor and the Board. Contractor agrees that service by registered mail to the address set forth in Paragraph 31.1 of these Standard Terms and Conditions shall constitute sufficient service of process for any such action.

**29. Severability**

29.1 If any provision of any one, or all of the Contract Documents is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reason, such

provision shall be fully severable and the remainder of the Contract Documents shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of the Contract Documents, and the remaining provisions of the Contract Documents shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance.

**30. Attorneys' Fees**

30.1 Should the Board employ an attorney to either (i) institute and maintain a suit against Contractor arising out of the Contract Documents or Contractor's Obligations (ii) assist in enforcing or defending any of the Board's rights under the Contract Documents (iii) protect the Board's interest in any matter arising under a contract with Contractor (iv) collect damages for the breach of a contract or any other amounts owed to the Board; or (v) recover on a surety bond given by the Contractor, then the Board shall be entitled to recover its attorneys' fees, costs, charges, and expenses expended or incurred therein from the Contractor if the Board prevails in court.

**31. Notices**

31.1 All requests, notices and other communications required or permitted to be given under the Contract Documents shall be in writing. Delivery of a notice shall be deemed to have been made when such notice is either:

a.) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect; or

b.) transmitted by hand delivery, telegram, telex, telecopy or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the Board shall be sent to:

Superintendent of Schools  
Northumberland County Public Schools  
2172 Northumberland Highway  
Lottsburg, VA 22511

With a copy to:  
Bradford A. King, Esq.  
Sands Anderson, P.C.  
P.O. Box 1998  
Richmond, VA 23218-1998

### **32. Contractual Claims Procedure**

32.1 Contractual claims or disputes by Contractor against the Board, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that Contractor shall give the Board written notice of its intention to file a claim or dispute within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Contractor files such written notice, Contractor shall proceed with the work as directed. If Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.

32.2 The Board, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice.

32.3 If the Contractor disagrees with the decision of the Board concerning any pending claim, the Contractor shall promptly notify the Board by written notice that the Contractor is proceeding with the work under protest. Any claim not resolved, whether by failure of the Contractor to accept the decision of the Board or under a written notice of Contractor's intention to file a claim or a detailed claim not acted upon by the Board, shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

32.4 The Board's decision on contractual claims shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate court.

### 33. Correction of Defective Work

33.1 Contractor shall promptly replace or correct any work or materials which Board rejects as failing to conform to the requirements of the Contract Documents. If Contractor does not do so within a reasonable time, Board shall have the right to replace or correct the defective work or materials and Contractor shall be liable to the Board for the cost thereof. If, in the opinion of Board, it is not expedient to correct or replace all or any part of rejected work or materials, then Board, at its option, may deduct from the payment due, or to become due, to Contractor such amounts as, in Board's judgment, will represent the higher of: (i) the difference between the fair value of the rejected work and materials and the value thereof, if the work had complied with the Contract Documents; or (ii) the cost of correction.

### 34. No Crimes Against Children

**34.1** Contractor acknowledges that the implementation of the Contract Documents requires Contractor, Contractor's employees or other persons that will provide services under this Contract to have direct contact with **Northumberland County Public Schools** students. Therefore, Contractor hereby certifies that neither Contractor, Contractor's employees nor any person that will provide services under the Contract Documents who will have direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

34.2 Contractor understands that, pursuant to Code of Virginia § 22.1-296.1 making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. **Northumberland County Public Schools** shall not be liable for materially false statements regarding the certifications required under the Contract Documents.

34.3 The Contractor shall execute and deliver to the Board upon execution of the Contract documents the CERTIFICATION OF NO CRIMES AGAINST CHILDREN attached hereto as Attachment #2.

34.4 Tobacco and Tobacco Products: The Northumberland County School Board has designated all of its buildings and grounds tobacco free areas. Smoking or use of tobacco products is forbidden at all times.

ATTACHMENT 1

**CERTIFICATION OF NO CRIMES AGAINST CHILDREN**

Contractor acknowledges that the implementation of this Contract requires Contractor, Contractor's employees or other persons that will provide services under this Contract to have direct contact with **Northumberland County Public Schools** students. Therefore, Contractor hereby certifies that neither Contractor, Contractor's employees nor any person that will provide services under this Contract who will have direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

Contractor understands that, pursuant to Code of Virginia § 22.1-296.1. making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. **Northumberland County Public Schools** shall not be liable for materially false statements regarding the certifications required under this Contract.

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Have you, your employees, or any person who will have direct contact with students under this contract been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child?

NO

YES (please explain) \_\_\_\_\_

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

\_\_\_\_\_  
**Contractor**

\_\_\_\_\_  
**Date**

**By:** \_\_\_\_\_

**Print:** \_\_\_\_\_

**Title:** \_\_\_\_\_

