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# Network Equipment – E-rate and Non-E-rate

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## RFP1811447 Request For Proposal

Issue Date: 12/13/2018  
Pre-submittal Conference: 12/19/2018 at 9:00 am EST  
Clarification Cut-off: 12/20/2018 at 2:00 pm EST  
Due Date/Time: 01/17/2019 at 2:00 pm EST



**Procurement Services**  
**Orange County Public Schools**

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# Orange County Public Schools

Procurement Services Department • 445 W. Amelia St. • Orlando, FL 32801 • Phone 407.317.2876 • Fax 407.317.3414

**REQUEST FOR PROPOSAL (RFP)**  
**PROPOSAL ACKNOWLEDGEMENT FORM**  
**NETWORK EQUIPMENT – E-RATE AND NON-E-RATE**

Direct all inquiries in writing to: OCPS Procurement Services  
TINA LEGER  
E-mail Address: [Christina.Leger@ocps.net](mailto:Christina.Leger@ocps.net)

Proposals must be received by Orange County Public Schools, Procurement Services Department, located at 445 West Amelia Street, Orlando, FL 32801 by the due date and time as indicated above. All proposals shall be submitted electronically through VendorLink at [www.vendorlink.ocps.net](http://www.vendorlink.ocps.net).

The submission of proposals prior to the specified date and time is solely the responsibility of Respondent. Proposals received after the due date and time will not be considered.

Respondent acknowledges and certifies that it is in receipt of, has reviewed and is in agreement with, all provisions of the Ethics and Lobbying Board Policy KCE, including without limitation, all penalties for violation of said policy.  
[www.ocps.net/sb/Superintendent%20Documents/KCE%20Ethics%20and%20Lobbying%20Policy%206\\_26\\_12.pdf](http://www.ocps.net/sb/Superintendent%20Documents/KCE%20Ethics%20and%20Lobbying%20Policy%206_26_12.pdf)

**Certification**

The Respondent hereby certifies by submission and signature of this proposal that Respondent complies fully with this RFP. In addition the representative below is duly authorized to sign this proposal on behalf of Respondent, company, or corporation and fully understands that by virtue of executing and returning this Proposal Acknowledgement Form represents complete and unconditional acceptance of the requirements, terms and conditions of this RFP and all appendices and any addendums released hereto.

Respondent hereby agrees to provide the services and/or items specified in the RFP at the prices quoted pursuant to the requirements of this document.	
Authorized Signature	Name & Title
Respondent Name	Federal I.D.
Mailing Address	City
City	State <span style="float: right;">Zip</span>
Telephone <span style="float: right;">Fax</span>	E-Mail Address
Date of Proposal	Contact Person, Number

**This form must be completed and returned with your proposal. All proposals must be signed by an officer or employee having authority to legally bind Respondent(s).**

**NO SUBMITTAL RESPONSE FORM**

If your company will not be submitting a proposal in response to this Request for Proposal, please complete this form and submit via VendorLink, prior to the RFP due date established within, to:

Orange County Public Schools  
Procurement Services  
**Attn: TINA LEGER**  
445 West Amelia Street, 4<sup>th</sup> Floor  
Orlando, FL 32801

This information will assist Procurement Services in the preparation of future RFPs.

RFP #: **RFP1811447** Title: **NETWORK EQUIPMENT – E-RATE AND NON-E-RATE**

Company Name: \_\_\_\_\_

Contact Person Name & Title: \_\_\_\_\_

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Please check reason for a “no response”.

- Specifications “too tight”, geared toward one brand or manufacturer (explain below)
- Insufficient time to respond
- Specifications unclear (explain below)
- We do not offer this product/service or an equivalent
- Our product schedule does not permit us to perform
- Unable to meet specifications
- Unable to meet bond requirements
- Unable to hold prices firm throughout the term of the contract period
- Unable to meet insurance requirements
- Other: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

If submitting this form, only this form needs to be returned. It is not necessary to return the entire RFP package.

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**SECTION 1**  
**INTRODUCTION**

**PURPOSE**

The School Board of Orange County, Florida, hereafter referred to as the "District" or "OCPS", is seeking a qualified vendor or vendors to provide E-rate and Non-E-rate network equipment, including modules, switches (and licenses if applicable), cabling/connectors, WAPs (and licenses if applicable), and WAP antennas. All quantities are approximate.

**BACKGROUND**

Currently, there are approximately 87 Elementary Schools requiring network equipment. OCPS currently has a Meraki strategy, which allows all Middle and Elementary Schools to have consistent installation with a single console controlling, managing and reporting all network equipment and traffic for all those schools. This single platform enables OCPS to maintain a sustainable level of support personnel and helped to control training costs when compared to maintaining multiple management systems.

**OCPS ORGANIZATION**

OCPS is the 9th largest district in the nation and is the fourth largest in Florida. The district is the second largest employer in Orange County, Florida with over 24,000 full and part-time employees with an annual operating budget of \$2.0 billion. The total full time enrollment of public school students is over 207,253 students from 194 countries speaking 170 different languages. Currently the total number of schools equal 191.

OCPS Vision: To be the top producer of successful students in the nation.

OCPS Mission: To lead our students to success with the support and involvement of families and the community.

**SECTION 2**  
**SCOPE OF WORK/SERVICES**

**MINIMUM REQUIREMENTS**

**1. E-RATE REQUIREMENTS**

Providers must participate in the Universal Service Support Mechanism for Schools and Libraries (commonly known as "E-rate"), as provided for and authorized under the federal Telecommunications Act of 1996 (Reference 47 U.S.C. § 254, "Universal Service"). Bidders acknowledge that any contractual relationship resulting from this ITB may be partially or entirely dependent upon OCPS' successful receipt of Universal Service Fund ("USF") subsidies. Bidder(s) must comply with all applicable USF regulations, program mandates and auditing requirements.

**2. USF KNOWLEDGE**

Providers shall have, at a minimum, working knowledge of the federal Universal Service Support Mechanism for Schools and Libraries (commonly known as "E-rate").

**3. USF REGISTRATION**

Providers shall submit a valid Service Provider Identification Number ("SPIN") and Federal Communications Commission Registration Number ("FCCRN").

**4. USF PARTICIPATION**

Providers must cooperate fully, and in all respects, with OCPS, the Universal Service Administrative Company ("USAC"), and any agency or organization administering the E-rate Program in OCPS's endeavor to receive applicable E-rate funding in connection with Bidder(s) services and/or products.

**5. LOWEST CORRESPONDING PRICE**

The lowest corresponding price is the lowest price, meeting specifications, which a service provider charges to non-residential customers, who are similarly situated to a particular school, library, or library consortium for similar services. As such, the following are applicable:

- 5.1. Providers are obligated to provide, OCPS is not obligated to ask for the lowest corresponding price without inquiring from OCPS.
- 5.2. Providers of eligible services shall not charge OCPS a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the State Commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory, that is Bidder(s) will face demonstrably and significantly higher costs to provide its goods and/or services to OCPS than it would to provide similar goods and/or services to similarly situated non-residential customers.
- 5.3. If, at the time of delivery, the lowest corresponding price is lower than the agreed-upon price, Providers must charge the lowest corresponding price.
- 5.4. Promotional rates offered by a service provider for a period of more than ninety (90) days must be included among the comparable rates upon which the lowest corresponding price is determined.
- 5.5. There is a rebuttable presumption that rates offered within the previous three (3) years are still compensatory.
- 5.6. Providers may not avoid the lowest corresponding price requirements by arguing that none of its non-residential customers are identically situated to OCPS or that none of its contracts cover goods or services identical to those sought by OCPS.

## **6. USF DOCUMENTATION**

Bidder(s) shall provide OCPS staff and/or OCPS's E-rate consultant within a commercially reasonable period of time, all of the information and documentation that the Bidder(s) has or that Bidder(s) reasonably can acquire that OCPS may need to prepare its E-rate applications and/or to document transactions eligible for E-rate support.

## **7. INVOICING PROCEDURES**

Providers shall itemize, price, and invoice separately any materials or services that are ineligible for E-rate funding. Providers must include the following information on all invoices to OCPS for E-rate eligible equipment and/or services:

- 7.1. Date of invoice;
- 7.2. Date(s) of service;
- 7.3. Funding Request Number ("FRN");
- 7.4. Bidder(s) signature on invoice attesting to the accuracy and completeness of all charges;
- 7.5. Detailed description of services performed and materials supplied that matches District's contract specifications, Form 470 and Form 471 descriptions of same;
- 7.6. Clear, concise breakdown of amount(s) to be billed to USAC (discounted portion of eligible charges) and amount(s) to be billed to OCPS (non-discounted amount of eligible charges);
- 7.7. Invoice on Vendor's letterhead or on a Vendor-generated form;
- 7.8. OCPS' Billed Entity Number;
- 7.9. OCPS' Federal Communications Commission Registration Number; and
- 7.10. Proper E-rate discount percentage as set forth by the applicable FRN and USAC funding commitment decision letter.

## **8. REIMBURSEMENT PROCESS AND SERVICE PROVIDER ANNUAL CERTIFICATION**

Providers are required to file a Service Provider Annual Certification Form (Form 473) for the relevant funding year. In the event that Bidder(s) failure to file the Form 473 in a timely manner results in OCPS being unable to collect reimbursements from the USF program, Providers will be liable to OCPS for any loss of monies due to such failure.

## **9. DELAYED USF FUNDING COMMITMENT**

Providers understands that, due to circumstances beyond OCPS' control, OCPS may not receive an E-rate funding commitment by the beginning of the E-rate funding year, July 1, for the products and services it intends to purchase from Providers during that funding year.

## **10. RETROACTIVE INVOICING**

When E-rate funding is approved, Bidder(s) shall invoice USAC for the discounted amount OCPS is owed retroactive to July 1st of the funding year or to whenever approved service to OCPS began, whichever date is later.

## **11. USF AUDIT AND DOCUMENT RETENTION REQUIREMENT**

Providers shall maintain all bids, quotes, records, correspondence, receipts, vouchers, delivery information, memoranda and other data relating to Vendor's services to OCPS. All such records shall be retained for ten (10) years following completion of services and shall be subject to inspection and audit by OCPS. Bidder(s) shall include in all subcontractor agreements for services, provisions requiring subcontractors to maintain the same records and allowing OCPS the same right to inspect and audit those records as set forth herein.

## **12. E-RATE AUDIT PROCESS**

Bidder(s) will create, implement, and enforce an internal E-rate audit process in compliance with E-rate rules and regulations. As such, Bidder(s) must do the following:

- 12.1. Separate ineligible project management and other professional services costs, if any, from other charges;
- 12.2. Maintain detailed, signed individual timesheets for labor charges;
- 12.3. Refrain from submitting ineligible charges to USAC;
- 12.4. Invoice USAC in accordance with this ITB, Form 470, and Form 471;
- 12.5. Receive written authorization to provide products and services to OCPS;
- 12.6. Document substitute services or products on invoices submitted to USAC and OCPS; and
- 12.7. Provide non-recurring services prior to September 30th and recurring services prior to June 30th of the relevant E-rate funding year.

## **SECTION 3 INSTRUCTIONS TO RESPONDENTS**

### **1. PROPOSAL INSTRUCTIONS**

Providers shall submit Proposals in accordance with the instructions and schedule included in the solicitation containing these specifications and documents. Providers may only submit one (1) proposal in total. Multiple proposals will not be accepted.

#### **1.1 ELECTRONIC SUBMISSION**

- 1.1.1. Submit Proposals electronically through VendorLink.
- 1.1.2. Upload files only in MS Word (.doc or .docx), Excel (.xls or .xlsx); Adobe Portable Document Format (.pdf); Compressed File (ZIP) formats. Price proposal must be submitted in the original Excel format.
- 1.1.3. Enable printing on files submitted.
- 1.1.4. Clearly identify the RFP Number, Name, Submission Date, and Bidder Name on the Proposal Cover Sheet (Introduction Letter).
- 1.1.5. Compose the Proposal cover page on their organization's letterhead and include the following information:
  - Firm Name;
  - Complete Business Address; and
  - Name(s) and contact information of key personnel
- 1.1.6. Separate and identify each part of the submission
- 1.1.7. Contact VendorLink technical support at [support@evendorlink.com](mailto:support@evendorlink.com), if technical difficulties arise during proposal submission.
- 1.1.8. Allow for adequate time to post bid prior to the designated deadline. The online portal for proposal submission will close at the time designated and any proposals not completely submitted will not be considered.
- 1.1.9. Follow all instructions outlined in this RFP and provide all requested information.

## **1.2. WITHDRAWAL**

Bidders may withdraw, alter, and resubmit their Proposals through VendorLink at any time prior to the Proposal due date and time. Proposals may not be withdrawn, altered, or resubmitted after the Proposal due date and time. OCPS may request clarifications and additional information after proposal submission.

Any proposal may be withdrawn prior to the date and time the proposals are due. Any proposal not withdrawn will constitute an irrevocable offer, for a period of 90 days, to provide the district with the services specified in the proposal.

## **1.3 SIGNATURE**

All proposals must be signed by an officer or employee having authority to legally bind Respondent. Any corrections of unit prices must be initialed. This includes corrections made using correction fluid (white out) or any other method of correction. Respondents should become familiar with any local conditions which may, in any manner, affect the services required. Respondent is required to carefully examine the RFP terms and to become thoroughly familiar with any and all conditions and requirements that may in any manner affect the work to be performed under the resulting contract. No additional allowance will be made due to lack of knowledge of these conditions.

Proposals not conforming to the instructions provided herein may be subject to disqualification at the sole option of the district.

## **2. SIGNATURE**

All proposals must be signed by an officer or employee having authority to legally bind Respondent. Any corrections of unit prices must be initialed. This includes corrections made using correction fluid (white out) or any other method of correction. Respondents should become familiar with any local conditions which may, in any manner, affect the services required. Respondent is required to carefully examine the RFP terms and to become thoroughly familiar with any and all conditions and requirements that may in any manner affect the work to be performed under the resulting contract. No additional allowance will be made due to lack of knowledge of these conditions. Proposals not conforming to the instructions provided herein may be subject to disqualification at the sole option of the district.

## **3. FLORIDA DEPARTMENT OF STATE, DIVISION OF CORPORATIONS REGISTRATION REQUIREMENTS**

Bidders that are required to be registered with the Florida Department of State, Division of Corporations or who are incorporated within the State of Florida must furnish their Florida document number, and written documentation of "active" status. All registered Bidders must have an active status in order to be eligible to do business with OCPS. Bidder(s) doing business under a fictitious name must submit the Bid Submittal using the company's complete registered legal name, i.e. ABC, Inc. d/b/a XYZ Company. To register with the State of Florida, visit: [www.Sunbiz.org](http://www.Sunbiz.org).

## **4. FINGERPRINTING, BADGES, AND THE JESSICA LUNSFORD ACT**

The Jessica Lunsford Act was enacted on September 1, 2005 in response to the tragic abduction and death of Jessica Lunsford. This law affects a Bidder's business operations and employees if they are under Contract with Orange County Public Schools.

4.1. The Awarded Bidder and any of its employees performing services hereunder shall comply with the Jessica Lunsford Act, effective September 1, 2005. "Non-instructional school district employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in s.1012.32. Contractual personnel shall include any vendor, individual, or entity under Contract with a school or the school board." See Section 1012.465, F.S.

4.2. Florida statute requires all vendors, contractors and subcontractors of OCPS to undergo a FDLE/FBI Level II background screening and be fingerprinted in any one of the following conditions apply:

- 4.2.1. Bidder(s) employees will be on school grounds when students are present;
- 4.2.2. Bidder(s) employees will have direct contact with students; or
- 4.2.3. Bidder(s) employees will have access to or control of school funds.



5. Vendors meeting the above conditions shall carry an OCPS badge. Vendors that currently have a badge with another school district in the state of Florida, need to renew a current OCPS badge, have never applied for a badge with OCPS Schools or are uncertain whether a badge is required shall follow the instructions at <https://www.ocps.net/cms/one.aspx?pageId=99924>.

**6. TIME SCHEDULE**

The district will attempt to use the time schedule as indicated below. (Note: References to Ronald Blocker Education Leadership Center (RB-ELC) address is: 445 West Amelia Street, Orlando, FL 32801.) The below dates and times are subject to change. All changes will be posted to VendorLink as they become available.

<b>DECEMBER 13, 2018</b>	Solicitation Date
<b>DECEMBER 19, 2018</b>	Pre-submittal conference at <b>9:00AM</b> , in RB-ELC, Procurement Conference Room
<b>DECEMBER 20, 2018</b>	Request for Information cut-off
<b>JANUARY 17, 2019</b>	Proposal opening at <b>2:00PM ELECTRONIC OPENING ONLY</b>
<b>JANUARY 22, 2019</b>	Evaluation Meeting Date (Tentative Date) ( <b>9:00 AM</b> )
<b>JANUARY 23, 2019</b>	Notice of Intended Decision (Tentative Date)
<b>FEBRUARY 12, 2019</b>	Board Recommendation (Tentative Date)

**7. PRE-SUBMITTAL CONFERENCE**

A pre-submittal conference is intended to be scheduled as noted above. The meeting will be Ronald Blocker Education Leadership Center (RB-ELC).

The pre-submittal conference will allow for Respondents to gain clarification regarding the solicitation.

**8. REQUEST FOR INFORMATION**

Questions: Any questions concerning the RFP should be directed via VendorLink to **Tina Leger** of Procurement Services, Orange County Public Schools. All questions must be submitted by information cut-off date listed above, questions received after said date will not be considered. Inquiries must reference the RFP number and the proposal opening date. Those interpretations which may affect the eventual outcome of this solicitation will be posted on the OCPS Procurement website for all prospective Respondents to view. Only the interpretation or correction so given by the Procurement Services representative, in writing, shall be binding and prospective Respondents are advised that no other source is authorized to give information concerning, or to explain or interpret the RFP and the selection process. All such interpretations and supplemental instructions will be in the form of written Addenda to the RFP.

Selection committee members, school board members, and school board personnel (except the Procurement Services representative) are ***not to be contacted*** prior to the School Board's decision to approve or reject the final recommendation presented to it by the Superintendent. At the discretion of OCPS, failure to comply with this requirement will be grounds for disqualification.

Specifically, this **NO-CONTACT PERIOD** shall commence on the initial date of the advertisement for Request for Proposals and continue through and include the date the Orange County School Board makes its determination to approve or reject the final recommendations.

Failure to meet any of these requirements may disqualify a Respondent from consideration.

By submission of a proposal, Respondent understands that award of the solicitation by Orange County Public Schools, and any subsequent purchase orders and agreements, shall constitute a binding and enforceable contract.

**SECTION 4**  
**PREPARATION OF PROPOSALS AND REQUIRED CONTENT**

**1. PROPOSAL PREPARATION**

In order to ease comparability and enhance the review process, it is requested that proposals be organized in the manner specified below. Failure to provide the required information will affect the evaluation of the proposal and may be grounds for disqualification. Responsive proposals should provide straightforward, concise information that satisfies the requirements noted above. Emphasis should be placed on skills and experience that respond to the needs of the School Board, the requirements of this RFP, and completeness and clarity of content.

**2. REQUIRED INFORMATION AND FORMAT**

Proposals must provide the required information in the following order and format. Failure to provide the required information will affect the evaluation of the proposal and may be grounds for disqualification.

**3. COMPLIANCE REQUIREMENTS**

Respondents must meet minimum criteria as specified to receive further consideration. No evaluation points will be calculated. Proposals shall include the following:

3.1. Proposal Acknowledgement Form. Complete and sign the Proposal Acknowledgement Form (**Page 2**) and include it with Respondent's proposal. Any modifications or alterations to Proposal Acknowledgement Form will not be accepted and will result in the proposal being rejected. The enclosed original Proposal Acknowledgment Form is the only acceptable form.

3.2. Respondent must provide evidence of authority to do business in Florida:

3.2.1. Acknowledgement of Business (**Appendix A**): Respondent shall identify its specific type of business entity (e.g.; sole proprietorship, partnership, corporation, joint venture, etc.). Respondent shall identify whether it is incorporated in Florida, another state, or a foreign country, and indicate its number of years in business, changes in ownership, bank reference, and other information to verify financial responsibility.

3.2.2. If Respondent is a corporation, provide a copy of the certification from the Florida Secretary of State verifying Respondent's corporate status and good standing, and, in the case of an out-of-state corporation, evidence of authority to do business in Florida.

3.2.3. Respondent must demonstrate financial stability to OCPS. Respondent must provide, at a minimum, one of the following financial information:

3.2.4. A statement regarding Respondent's financial stability including information as to current or prior bankruptcy proceedings.

3.2.5. Certified Financial Statements – Copy of Respondent's most current audited financial statement. All costs associated with this report shall be borne by Respondent.

3.2.6. Statement of Qualifications (**Appendix B**)

4. Conflict of Interest Statement: See "Statement of Affirmation and Intent" (**Appendix C**) included in this package.

5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (**Appendix E**).

6. Drug Free Work Place Certification Form (**Appendix F**).

## 7. QUALIFICATION AND EXPERIENCE

- A. Organizational History, Structure, and Authoritative Direction of Control: Describe the history, structure, and authoritative direction of control of Respondent's organization with particular emphasis on its experience.
- B. Respondent must maintain a current business license. Respondent must keep current all licenses and permits, whether municipal, county, state, or federal, required for the performance of its obligations and functions hereunder, and shall pay promptly when due all such fees. Respondents must provide documentation of applicable license, certification, and/or commercial experience involving the services described herein. OCPS reserves the right to request documentation at any time during the contract period.
- C. Respondent shall include a copy of all applicable licenses with its proposal.
- D. Respondent shall provide an organizational chart of its administrative staff.
- E. Respondent must demonstrate a record of company stability for the last five (5) years and provide information supporting evidence as follows:
  - 1. State number of years in business.
  - 2. State the location, address, and telephone number of Respondent's offices.
  - 3. Discuss any name changes, changes in ownership, reorganizations, etc.
- F. Administration and Staff Qualifications: Respondent shall describe the qualifications and experience of the partners, managers, supervisors, senior staff, customer service, and all staff that will provide the services to OCPS. Respondent shall ensure that staff has all required licenses, certifications, and training appropriate for such persons' role and function within the firm. Documentation that describes job qualifications and experience will be acceptable. Provide the name and contact information for the point of contact for these services.
- G. Respondent shall provide a customer list and/or a list of current or recently completed projects which best illustrate the experience of Respondent in the following areas:
  - 1. Name and location of the engagement.
  - 2. The nature of Respondent's responsibility on the engagement.
  - 3. Name, address, telephone, and fax number for each project contact who may be contacted as a reference.
  - 4. Date engagement was completed or is anticipated to be completed.
  - 5. Size of engagement (project dollar value).
  - 6. Services for which Respondent's staff was responsible.
  - 7. Present status of the engagement.
  - 8. Respondent's key professionals involved on the engagement and who, of that staff, would be assigned to the services covered by this RFP
- H. References: The district may check references (**Appendix G**) listed by Respondent. Please provide at least three (3) Florida School District References or (3) most comparable municipal references that OCPS may contact as references. Please include the following for each reference:
  - 1. District, key contact person(s); and
  - 2. Job title(s) address, phone number, email address for key contacts of the district/municipality.

- I. License Sanctions: List any regulatory or license agency sanctions. The School Board may perform a background check on respondent with all state and regulatory agencies. Add to **Appendix C**.
- J. Litigation: Provide a statement and detailed description of any litigation or regulatory action that has been filed against your firm(s) in the last three years. If an action has been filed, state and describe the litigation or regulatory action filed, and identify the court or agency before which the action was instituted, the applicable case or file number, and the status or disposition for such reported action. If no litigation or regulatory action has been filed against your firm(s), provide a statement to that effect. For joint venture or team proposers, submit the requested information for each member of the joint venture or team. Add to Appendix C.
- K. Respondent shall disclose number of partners, managers, and other key staff used to perform the scope of the RFP. If applicable, identify all subcontractors necessary to conduct the project. Describe the range and scope of activities performed by the contracting organization, including capability to fulfill the specifics of the project (e.g., staff, equipment, workload, etc.).

**8. SCOPE OF SERVICES**

Describe Respondent's understanding of the scope of services as described in Section 2 of this RFP. Describe any unique approaches or methodologies used by Respondent as appropriate. Describe the outcomes noted from similar projects.

**9. MWBE/LDB/VBE**

Respondents who are certified MWBE or LDB will be eligible for allocated weighted points. Respondents who subcontract with an MWBE or LDB will be eligible for weighted points.

**MWBE/LDB/VBE Shortlist Scoring Matrix**

**OBO Scoring Matrix**

Description of information submitted	Weighted Points=% Ex: 10 pts = 100%
<ul style="list-style-type: none"> <li>• <b>Certified</b> MWBE and/or VBE and/or LDB proposing to subcontract <b>12% MWBE AND 10% LDB AND 3% VBE</b> subcontractor(s) <b>identified</b>; letters of intent signed by <b>both</b> parties and current acceptable certificate(s) from the City of Orlando, Orange County Government, State of Florida, GOAA, cnFMSDC, NMSDC, WBENC or CVE for certified MWBEs/VBEs/LDBs and for <b>all Sub(s) included</b></li> <li>• Non-MWBE/VBE/LDB in a <b>joint venture</b> with an MWBE and/or VBE and/or LDB proposing to subcontract <b>12% MWBE AND 10% LDB AND 3% VBE</b>; subcontractors <b>identified</b>; and letters of intent signed by both parties and current acceptable <b>certificates included</b></li> </ul>	10
<ul style="list-style-type: none"> <li>• <b>Certified</b> MWBE and/or VBE and/or LDB proposing to subcontract <b>12% MWBE</b>; subcontractor(s) <b>identified</b>, letters of intent signed by <b>both</b> parties and current acceptable certificate(s) included.</li> <li>• Non-MWBE/VBE/LDB in a <b>joint venture</b> with an MWBE and/or VBE and/or LDB proposing to subcontract <b>12% MWBE</b>, subcontractor(s) <b>identified</b> and letters of intent signed by <b>both</b> parties and current acceptable certificate(s) included.</li> </ul>	9
<ul style="list-style-type: none"> <li>• <b>Certified</b> MWBE and/or LDB and/or VBE proposing to subcontract <b>10% LDB</b>; subcontractors <b>identified</b>; letters of intent signed by both parties and current acceptable certificate(s) included.</li> <li>• Non-MWBE/LDB/VBE in an MWBE and/or LDB and/or VBE <b>Joint Venture</b> proposing to subcontract <b>10% LDB</b>; subcontractors identified; letters of intent signed by both parties and current acceptable certificate(s) included</li> </ul>	8
<ul style="list-style-type: none"> <li>• <b>Certified</b> MWBE and/or VBE and/or LDB proposing to subcontract <b>3% VBE</b>, subcontractor(s) <b>identified</b>, letters of intent signed by <b>both</b> parties and current acceptable certificate(s) included.</li> </ul>	7

<ul style="list-style-type: none"> <li>Non-MWBE/LDB/VBE in an MWBE or VBE or LDB <b>Joint Venture</b> proposing to subcontract 3% VBE; subcontractor(s) <b>identified</b>; letters of intent signed by both parties and current acceptable certificate(s) included.</li> </ul>	
<ul style="list-style-type: none"> <li><b>Certified</b> MWBE and/or LDB and/or VBE <b>NOT</b> proposing to subcontract.</li> <li>Non-MWBE proposing to subcontract 12% MWBE <b>AND</b> 10% LDB <b>AND</b> 3% VBE; subcontractor(s) identified; letters of intent signed by both parties and current acceptable certificate included</li> </ul>	6
<ul style="list-style-type: none"> <li><b>Certified</b> MWBE/VBE/LDB, (<b>Certified by an agency other</b> than the City of Orlando, Orange County, State of FL, GOAA, cnFMSDC, NMSDC, WBENC or, CVE) proposing to subcontract 12% MWBE <b>or</b> 10% LDB <b>or</b> 3% VBE; subcontractor(s) identified; letters of intent signed by both parties and current acceptable certificate included</li> <li>Non-MWBE proposing to subcontract 12% MWBE subcontractor(s) identified; letters of intent signed by both parties and current acceptable certificate included</li> </ul>	5
<ul style="list-style-type: none"> <li><b>Certified</b> MWBE and/or LDB and/or VBE (<b>Certified by an agency other</b> than the City of Orlando, Orange County, State of FL, GOAA, cnFMSDC, NMSDC, WBENC or CVE) <b>NOT</b> proposing to subcontract.</li> <li>Non-MWBE proposing to subcontract 10% LDB subcontractor(s) identified; letters of intent signed by both parties and current acceptable certificate included</li> </ul>	4
<ul style="list-style-type: none"> <li>Non-MWBE proposing to subcontract 3% VBE subcontractor(s) identified; letters of intent signed by both parties and current acceptable certificate included</li> </ul>	3
<ul style="list-style-type: none"> <li>Non-MWBE Proposer <b>has</b> written statement stating will comply with MWBE/LDB/VBE policies and <b>has identified</b> subcontractor(s)</li> </ul>	2
<ul style="list-style-type: none"> <li>Non-MWBE Proposer <b>has</b> written statement stating will comply with MWBE/LDB/VBE policies; however has <b>not identified</b> subcontractor(s);</li> </ul>	1
<ul style="list-style-type: none"> <li>No participation indicated, no information submitted</li> </ul>	0

**\*\* If a proposed subcontracting falls between MWBE/LDB/VBE participation they may be eligible for partial points**

A. Respondent must be able to demonstrate compliance with the following:

1. Tier Participation – Respondents have included in their proposal a commitment to subcontract at least twelve percent (12%) of its business related to this RFP with one or more MWBE respondent and/or ten percent (10%) of its business related to this RFP with one or more LDB respondents and/or three percent (3%) of its business related to this RFP with one or more VBE respondent. (Refer to **Appendix H**)
2. For clarification regarding the district’s Local Developing Business certification please contact The Office of Business Opportunity (407) 317-3739 or visit the website at: <http://www.obo.OCPS.net>.
3. Respondents must submit a signed Letter of Intent signed by both parties with their proposal for all MWBE, LDB, and/or VBE sub-contractors identified on the Schedule of Sub-contracting. These Letters of Intent must indicate the scope of work to be performed by every MWBE, LDB and VBE, plus the percentage of the contract fees to be contracted to the listed sub-contractor. **Please include contact information for each sub-contractor.**

B. The awarded contractor’s responsibilities and requirements are itemized below:

1. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the prime and sub-contractors.

2. File copies of all executed sub-contractor agreement/contracts between the contractor and all MWBE, LDB, VBE sub-contractors on the project to OCPS Office of Business Opportunity.
3. The prime contractor shall submit an updated quarterly MWBE, LDB, VBE utilization report for all contracts. The required reports are to be submitted to the Office of Business Opportunity on a date agreed upon by both parties.
4. The awarded prime contractor shall not substitute, replace or terminate any MWBE, LDB or VBE respondent without prior written authorization of OCPS, nor shall the prime reduce the scope of work or monetary value of a sub-contractor without written authorization of OCPS. The prime contractor shall notify the Office of Business Opportunity of any additional awards to the MWBE, LDB or VBE respondents on the prime contractor's team and the addition of any new MWBE, LDB or VBE respondent to the prime contractor's team on that project.
5. Execution of the contract between OCPS and the Respondent shall be contingent upon the filing of executed contracts between the Respondent and the MWBE, LDB or VBE subs listed on the Schedule of Sub-contracting.
6. Please note that failure to comply with the above special conditions may be cause for contract termination.

**10. PROPOSAL PRICING**

The proposal shall include Respondent's proposed pricing as requested on the Proposal Price Sheet. The School Board reserves the right to accept or reject proposed pricing.

**11. ADDITIONAL INFORMATION**

Any additional information or data which Respondent deems essential to the proposal and for consideration should be included in a separate section of the submittal titled "Additional Information". Additional information presented for consideration should include additional costs to the district. If there is no additional information to present, state in this section: "There is no additional information that Respondent wishes to present."

**SECTION 5  
EVALUATION OF PROPOSALS**

**1. EVALUATION OF PROPOSALS**

Proposals will be reviewed and evaluated by the Proposal Evaluation Committee (PEC) as described herein.

**2. PROPOSAL OPENING**

Proposals will be received and publicly opened. Only the names of Respondents will be read at this time.

**3. PROPOSAL EVALUATION COMMITTEE**

A Proposal Evaluation Committee will convene, review, evaluate, and rank all valid proposals submitted based on the evaluation criteria. The Office of Business Opportunity shall provide scoring for the MWBE, LDB, and VBE section.

The Price Proposal shall be determined by mathematical calculation with distribution of points calculated as a percentage compared to the lowest cost proposal received. For example, if Proposer A submits a price of \$100,000, Proposer B submits a price of \$120,000, and Proposer C submits a price of \$150,000, Proposer A would receive 100% of the possible points for costs because Proposer A submitted the lowest rate. Proposer B would receive 83.33% ( $\$100,000 / \$120,000$ ) multiplied by the available points for a total of 25 points and Proposer C would receive 66.67% ( $\$100,000 / \$150,000$ ) multiplied by the available points for a total of 20 points.

The Proposal Evaluation Committee reserves the right to interview any, all, or none of the Respondents that responded to the RFP and to require formal presentations with the key personnel who will administer and be assigned to work on behalf of the contract before recommendation of award. Should formal presentations be required, the Evaluation Committee will utilize the same criteria below.

The Proposal Evaluation Committee reserves the right to conduct site visits of Respondent’s facilities and/or of a current project it is managing.

**4. EVALUATION PROCESS**

OCPS will not be under any requirement to complete the evaluation by any specific date and reserves the right to suspend or postpone the evaluation process should the need arise due to budget constraints, time constraints, or other factors as directed by the School Board. However, it is anticipated that the review/evaluation process will be completed in a timely manner. Procurement Services staff will participate in an advisory capacity only.

**5. EVALUATION CRITERIA**

Only proposals that meet the requirements contained in this RFP will be evaluated based on the following criteria.

Scored Requirement	Weighted Value	Possible Points
Qualifications and Experience with Proposed solution. (Tab 2)	20%	20
Ability to Meet Scope by Integrating with Existing Control Plane (Tab 3)	20%	20
MWBE/LDB/VBE (Tab 4)	10%	10
Prices for Eligible Services, products and fees (Tab 5)	50%	50
<b>TOTAL</b>	<b>100%</b>	<b>100</b>

The Procurement Services Representative shall calculate the total of all scores and determine a ranking of all Respondents. The Proposal Evaluation Committee shall determine if presentations/interviews are necessary.

**Note:** The district will post an intended decision recommending Respondents to move to the next phase to be reviewed by interested parties on the OCPS VendorLink website at [www.vendorlink.ocps.net](http://www.vendorlink.ocps.net). Failure to file a protest within the time prescribed in Section 120.57(3) b, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. Once the allowed time period has passed this phase of the process will be completed.

**6. RIGHT TO NEGOTIATE**

OCPS reserves the right to negotiate price and contract terms and conditions with the most qualified firm(s) to provide the requested service. If a mutually beneficial agreement with the highest ranked firm is not reached, the district reserves the right to enter into contract negotiations with the next highest ranked firm and continue this process until agreement is reached. Respondents are cautioned to provide their best offer initially.

**7. AWARD AND CONTRACT**

Award shall be made to the most responsive and responsible Respondents whose proposal is determined, in writing, to be the most advantageous, bringing “best value” to meet the criteria of OCPS. Following the selection and upon final negotiation of the contract terms and conditions with the top-ranked firm, recommendation(s) for contract award, as required, will be submitted to the Superintendent. The Superintendent will recommend to the School Board the award or rejection of any and/or all proposal(s).

**SECTION 6**  
**DEFINITION OF TERMS**

**Addenda** - Written or graphic instruments issued prior to the date for opening of proposals, which modify or interpret the solicitation documents by additions, deletions, corrections, or clarifications.

**Agreement** - The written Agreement between OCPS and the awarded vendor covering the scope of services to be performed; other contract documents are incorporated in or referenced in the Agreement and made a part thereof as provided therein.

**"And"/"Or"** - The word "and" shall also mean "or", and the word "or" shall also mean "and" whenever the contents or purpose so require.

**Contract** - The "Contract" shall mean the contract documents as defined and listed herein, advertisement, Request for Proposal, Scope of Work, Contract Agreement, Payment and Performance Bonds, General and Special Conditions, together with all Addenda and supplemental agreements concerning the project.

**Joint Venture** - New firm formed to achieve specific objectives of a partnership like temporary arrangement between two or more firms.

**Laws and Regulations** - Laws, Rules, Regulations, Ordinances, and/or court or administrative orders of the federal, state and school board.

**Lobbying** - Lobbying is defined as any action taken by an individual, respondent, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of a board member or district personnel after advertisement and prior to the posted recommendation on the award of this contract.

**Notice of Award** - The written notice of the acceptance of the proposal from OCPS to Respondent.

**Notice to Proceed** - The written notice issued by OCPS to the awarded vendor authorizing the vendor to proceed with the work and establishing the date of commencement of the contract time.

**OCPS** – For the purposes of this proposal, OCPS shall mean “Orange County Public Schools, “The District”, Customer” and “Authorized Purchaser”.

**Partnering** – Establishing a long term win-win relationship based on mutual trust and teamwork, and on sharing of both risks and rewards. The objective is to focus on what each party does best, by sharing financial and other resources, and establishing specific roles for each participant.

**Proposal** - An executed offer submitted by a Respondent in response to a request for proposals and intended to be used as a basis for negotiations for a contract.

**Request for Proposals (RFP)** - The solicitation for services, including all supporting documents and attachments, used to obtain statements of qualifications from Respondents and which provides for negotiation of all terms of the proposal, including price, prior to award.

**Respondent** - For the purposes of this proposal, any person, respondent, corporation or agency submitting a response to this Request for Proposal or their duly authorized representative. The word Respondent, respondent, or potential respondent may be used interchangeably within the Request for Proposal.

**Responsible Respondent** – Respondent who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.



**Responsive Respondent** – Respondent that has a submitted a proposal that conforms in all material respects to the solicitation.

**Scope of Work** - Includes the work, as the term is herein defined, as well as the responsibility for performing and complying with all incidental matters pertaining thereto, as set out in the Contract Documents.

**Vendor** - The “Vendor” shall mean the Respondent offering these goods and services, for which a contract has been executed, and which Respondent is legally obligated, responsible, and liable for providing and performing any and all of the goods, services, work, and materials, including services and/or work of sub-contractors, required under the covenants, terms, and provisions contained in the contract and any and all amendments thereto.

## **SECTION 7 GENERAL TERMS AND CONDITIONS**

### **1. AGREEMENT**

A contract or agreement will be released, after award, for any work to be performed as a result of this RFP. The proposal, negotiated terms, and the contract will constitute the complete agreement between Respondent and OCPS. If Respondent requires an additional contract, then Respondent should include their sample contract as an attachment to the proposal submitted for review.

### **2. ASSIGNMENT OF CONTRACT AND/OR PAYMENT**

This contract or agreement is personal to the parties herein and may not be assigned, in whole or in part, by Respondent without prior written consent of the School District.

Respondent herein shall not assign payments under this contract or agreement without the prior written consent of the School District.

### **3. SUSPENSION OF WORK**

The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Respondent written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Respondent shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Respondent, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Respondent to any additional compensation.

### **4. TERMINATION FOR CONVENIENCE**

OCPS, by written notice to Respondent, may terminate the Contract in whole or in part when OCPS determines in its sole discretion that it is in its best interest to do so. Respondent shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. Respondent shall not be entitled to recover any cancellation charges or lost profits.

### **5. TERMINATION FOR CAUSE**

OCPS may terminate the Contract if Respondent fails to: (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. Respondent shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, Respondent shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of Respondent. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Respondent and the subcontractor, and without the fault or negligence of either, Respondent shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for Respondent to meet the required

delivery schedule. If, after termination, it is determined that Respondent was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of OCPS. The rights and remedies of OCPS in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**6. CANCELANON OF AWARD/TERMINATION**

In the event any of the provisions of this solicitation are violated by Respondent(s), Procurement Services will give written notice to Respondent(s) stating the deficiencies and unless the deficiencies are corrected within ten (10) days, recommendation will be made to OCPS for immediate cancellation. Upon cancellation hereunder, OCPS may pursue any and all legal remedies as provided herein and by law.

OCPS reserves the right to terminate any contract resulting from this RFP, at any time, and for any reason, upon giving 30 days prior written notice to the other party. If said contract should be terminated for convenience as provided herein, OCPS will be relieved of all obligations under said contract. OCPS will be required to pay to Respondent(s) only that amount of the contract actually performed to the date of termination. Access to any and all work papers will be provided to OCPS after the termination of the contract. The awarded vendor will have the option to terminate the contract upon written notice to the Senior Director of Procurement Services. Such notice must be received at least 90 days prior to the effective date of termination. Cancellation of contract by the awarded vendor may result in removal from Respondents/Respondent list for a period of three years.

**7. CONFLICT OF INTEREST**

All Respondents must disclose the name of any officer, director, or agent who is also an employee of OCPS. All Respondents must disclose the name of any district employee who owns, directly or indirectly, any interest in the Respondents' business or any of its branches.

**8. CONTRACT TERM**

Respondent(s) shall serve at the pleasure of the district. Pricing, terms, and conditions of the base contract will remain for an initial five-year period. This stipulation shall be subject to a thirty (30) day written notice of cancellation by either party. Respondent agrees to this condition by signing its proposal.

**9. CONTRACT RENEWAL**

OCPS, at its sole discretion, may exercise options to extend the contract for up to five (5) additional one-year periods based upon funding availability and by mutual written consent of both parties. Respondent understands that any rate increases must be requested in writing with supporting documentation, approved by OCPS, and shall not exceed the average CPI for All Urban Consumers U.S. City Average for the first five (5) years of the contract

**10. PRICE INCREASE**

Prices offered shall remain firm through the first term of the contract. A request for price adjustment, with proper documentation justifying the adjustment, may be submitted, in writing, 30 days prior to the third anniversary date of the contract. Price adjustment requests shall be evaluated on an annual basis thereafter. Unit price adjustments must have written approval from OCPS prior to invoicing. Any unit price adjustment invoiced without written approval from OCPS shall not be paid and the invoice returned to the Awardee for correction. Requests for price adjustments shall not exceed the percentage of change in the Consumer Price Index (CPI) for the previous twelve months of the anniversary date, but shall not exceed 3% per adjustment. The CPI shall not be seasonally adjusted. OCPS reserves the right to request a reduction in contract prices equal to the percentage of change of the CPI in the event of a reduction. OCPS reserves the right to not renew any contract regardless of price considerations. Information on the CPI may be obtained from the Bureau of Labor Statistics at <http://www.bls.gov> or by contacting the Bureau directly.

**11. DEBRIEFING**

A debriefing may be held after contract award at the request of any Respondent for the purpose of receiving specific information concerning the evaluation. The discussion will be based primarily on the technical and business and cost evaluations of Respondent's proposal. A debriefing is not the forum to challenge the RFP specifications or requirements.

**12. DEFAULT**

In the event that the awarded Respondent(s) should breach this contract, OCPS reserves the right to seek remedies in law and/or in equity.

**13. DRUG-FREE WORKPLACE**

If applicable, Respondent shall provide a statement concerning its status as a Drug-Free Work Place. Proposals received which are equal with respect to price, quality, and service and that have provided proper certification that a business has implemented a drug-free workplace program, shall be given preference in the award process.

**14. FALSE OR MISLEADING STATEMENTS**

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by Respondent may be rejected. If in the opinion of the district such information was intended to mislead the district in its evaluation of the proposal, and the attribute, condition, or capability is a requirement of the RFP, it will be the basis for rejection of the proposal.

**15. FUNDING OUT / TERMINATION / CANCELLATION**

Section 237.161, Florida Statutes, et seq., prohibit school boards from creating obligations in anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the agreements. It is necessary that fiscal funding out provisions be included in all proposals in which the terms are for periods longer than one (1) year. Therefore, the following "Funding Out" provision is an integral part of this solicitation and must be agreed to by all Respondents:

- A. The district may, during the contract period, terminate or discontinue the services covered in this proposal at the end of the district's then current fiscal year upon ninety (90) days' prior written notice to the successful Respondent.
- B. Such prior written notice will state the following: "The lack of appropriated funds is the reason for termination. This includes an agreement not to replace the services being terminated with services similar to those covered in this proposal from another vendor in the succeeding funding period. This written notification will thereafter release the School Board of all further obligations in anyway related to the services covered herein."
- C. The Funding Out statement must be included as part of any agreement. No agreement will be considered that does not include this provision for "funding out."

**16. INDEMNIFICATION / HOLD HARMLESS AGREEMENT**

- A. Contractor shall indemnify, defend, and hold harmless OCPS, its board members, employees, representatives from and against all claims, suits, actions, damages, losses, expenses, and/or a cause of action, including but not limited to, economic loss, reasonable attorneys' fees, and expenses, arising out of or in connection with this Agreement, provided that any such claims, suits, actions, damages, losses, expenses, and/or a cause of action, (i) is attributable to any person(s) claiming personal injury, bodily injury, sickness, disease, or death; or damage to tangible property of a third party including the loss of use, (ii) loss of Contractor's tools and equipment used in connection with this Agreement, and (iii) is caused or incurred in whole or in part by Contractor or any of its subcontractors, agents, or anyone directly or indirectly employed by contractor, subcontractor, agents, regardless if caused in part by OCPS. This indemnification shall not apply to any claims, suits, actions, damages, losses, expenses, and/or a cause of action, arising from OCPS's sole gross negligence or intentional misconduct.
- B. Nothing in this Agreement shall be deemed to affect the rights, privileges, or be deemed a waiver of, or limitation of OCPS's sovereign immunity protection and limitations of liability pursuant to Section 768.28, Florida Statutes. Any indemnity or assumption of liability by OCPS hereunder shall be subject to OCPS's rights to sovereign immunity and any other limitations of liability provided OCPS pursuant to Florida law.

## 17. INSURANCE REQUIREMENTS

At its sole expense, Contractor shall maintain the following insurance during the term of this Agreement and such insurance will apply to Contractor, its employees, agents, and subcontractors:

- A. Workers Compensation insurance in statutory amounts and Employers Liability in an amount not less than One Million Dollars (\$1,000,000) each accident/disease. This insurance shall apply to all Contractor's employees who will be engaged in the performance of the Services in this Agreement.
- B. Commercial General Liability insurance, including products and completed operations and contractual liability, arising from any and all claims for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate. This policy must include The School Board of Orange County, Florida, its board members, employees, and representatives as additional insured.
- C. Automobile Liability insurance, including all owned, non-owned, and hired vehicles used in conjunction with providing Services outlined in this Agreement, for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each accident. This policy must include The School Board of Orange County, Florida, its board members, employees, and representatives as additional insured.

### 1. Insurance Capacity Verification

***It is a requirement of all bidders to prove their capacity to provide the required insurance as specified in this solicitation.*** Please provide a "Certificate of Liability" (Acord 25) matching the specified requirements. If selected, you will then be required to name the School Board of Orange County, Florida as an additional insured and provide a revised "Certificate of Liability" at the time of contract execution.

### D. Contractor agrees to the following as it relates to all above required insurance:

- 1. All insurance shall be written with an insurance company licensed to issue insurance in the State of Florida and shall maintain an A.M. Best financial strength rating of A (VI).
- 2. All insurance shall be primary and not contributory to any other insurance carried by The School Board of Orange County, Florida. This shall also apply to any self-insurance maintained by the School Board of Orange County, Florida.
- 3. Contractor shall notify OCPS's Risk Management Department within thirty (30) days of any material changes or notice of cancellation Contractor received from its insurer on above required insurance.
- 4. Contractor shall provide evidence of all insurance in the form of a Certificate of Insurance (Acord) and specify any deductible or retention applicable to above required insurance.
- 5. Contractor agrees that proof of insurance shall be provided prior to execution of this Agreement and that no Services shall begin until proof of insurance is received by OCPS. Receipt of proof of insurance shall not be construed as an approval of Contractor's insurance or a release or waiver of Contractor's obligation to provide insurance required in this Agreement.
- 6. To the extent permitted by law, Contractor's insurance shall contain a waive rights to recover from OCPS or its insurance.
- 7. Any required insurance that Contractor self-insures or carries retentions in excess of Ten Thousand Dollars (\$10,000) shall be pre-approved by OCPS's Risk Management Department and referenced in an addendum to this Agreement.

## 18. JOINT PROPOSALS

A joint proposal (2 or more Respondents proposing jointly on a single proposal) may be submitted. If a joint proposal

is submitted, each participating Respondent must sign the joint proposal. If the resulting contract is awarded to joint Respondents, it shall be one indivisible contract. Each joint Respondent will be jointly and severally responsible for the performance of the entire contract, and the joint Respondents must designate, in writing, one individual having authority to represent them in all matters relating to the contract. The district assumes no responsibility or obligation for the division of orders or purchases among the joint Respondents.

**19. LEGAL REQUIREMENTS**

It shall be the responsibility of Respondent to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein which may apply. Lack of knowledge by Respondent(s) will in no way be a cause for relief from responsibility. Respondents doing business with OCPS are prohibited from discriminating against any employee, applicant, or client because of race, creed, color, national origin, sex, or age with regard to, but not limited to, the following: employment practices, rates of pay or other compensation methods, and training selection.

**20. LOBBYING**

Proposal Evaluation Committee members, school board members, and school board personnel (except the Procurement Services representative) are not to be contacted prior to the School Board's decision to approve or reject the final recommendation presented to it by the Superintendent. At the discretion of OCPS, failure to comply with this requirement will be grounds for disqualification.

Specifically, this **No-Contact Period** shall commence on the initial date of the advertisement for Request for Proposal and continue through and include the date the Orange County School Board makes its determination to approve or reject the final recommendations. Failure to meet any of these requirements may disqualify a Respondent from consideration.

**21. MWBE/LDB/VBE PARTICIPATION PLAN**

OCPS encourages minority participation. The district assures that OCPS and private companies doing business with OCPS do not discriminate on district projects in the award of contracts for construction projects, procurement of goods and services, and professional services on the basis of race, color, sex, or national origin. Please refer to **Appendix G** for additional information.

**22. OTHER GOVERNMENTAL AGENCIES**

The intent of this solicitation is to obtain proposals to furnish the product(s)/service(s) specified herein to the School Board of Orange County, Florida. Other school boards, governmental agencies, or entities may purchase from this solicitation if permitted by the awarded vendor. Said product(s)/service(s) are to be furnished in accordance with the Contract resulting from this solicitation.

**23. PATENTS AND ROYALTIES**

Respondent, without exception, shall indemnify and save harmless the School Board of Orange County, Florida, Orange County Public Schools, and its employees from liability of any nature or kind including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by OCPS. If Respondent uses any design, device, or materials covered by letters, patent, or copyright, it is mutually agreed and understood, without exception, that the proposed prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

In addition, OCPS shall maintain all rights to the written documentation, electronic media, and other materials provided by Respondent in response to this proposal.

**24. PERMITS AND LICENSES**

Respondent will be responsible for obtaining any necessary permits and licenses and will comply with laws, rules, and regulations, whether state or federal and with all local codes and ordinances without additional cost to OCPS.

**25. PAYMENT TERMS AND CONDITIONS**

Respondent shall state on the Proposal Price Sheet the Terms and Conditions it will accept for a payment discount. (i.e.: 2% net 30 days, upon receipt of invoice). The district shall not pay Federal Excise and State taxes on direct purchases of tangible personal property. This exemption does not apply to purchases of tangible personal property made by vendors who use the tangible personal property in the performance of contracts for the improvement of School Board-owned real property as defined in Chapter 192 of the Florida Statutes. The tax exemption number is 85-801262264C-6.

**26. POSTING OF TABULATIONS/RECOMMENDATION**

RFP tabulations with recommended awards will be posted for review by interested parties on the OCPS VendorLink website at [www.vendorlink.ocps.net](http://www.vendorlink.ocps.net) and will remain posted for a period of 72 hours. Failure to file a protest within the time prescribed in Section 120.57(3) b, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

Any person who is adversely affected by a decision of the School Board of Orange County, Florida concerning this procurement shall file a Notice of Intent to Protest in writing within 72 hours after the notice of decision is posted, excluding Saturdays, Sundays, and legal holidays. A formal written protest shall be filed no later than ten (10) days after the notice of intent to protest is filed. The formal written protest must be accompanied by a protest bond in the amount of one percent (1%) of the total estimated contract value.

The Notice of Intent to Protest and formal written protest shall be filed with the, Senior Director, Contract Administration and Procurement Services, 445 W. Amelia St., Orlando, FL 32801. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a protest or failure to post the bond or other security within the time frames or in the manner described above shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

**27. PROPOSAL PREPARATION COST**

The costs of developing proposals are entirely the responsibility of Respondent and shall not be charged in any manner to OCPS. This includes, but is not limited to, the direct cost of personnel assigned to prepare Respondent's response to the RFP and any out-of-pocket expenses (including, but not limited to, travel, accommodation, supplies) incurred by Respondent in preparing the response to the RFP.

**28. PUBLIC ENTITY CRIMES**

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

Respondent certifies, by submission of this RFP, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

**29. PUBLIC RECORDS LAW**

All proposal documents or other materials submitted by Respondent in response to this RFP will be open for inspection by any person and in accord with Chapter 119, Florida Statutes.

**30. RESERVED RIGHTS OF OCPS**

OCPS reserves the right to accept or reject any or all proposals, to waive any irregularities and technicalities and may, at its sole discretion, request a clarification or other information to evaluate any or all proposals. OCPS reserves the right to reject any and and/or all items proposed or award to multiple Respondents. Prior to board approval, OCPS may cancel the RFP or portions thereof, without penalty.

OCPS reserves the right, before awarding the contract, to require Respondent to submit evidence of qualifications or any other information OCPS may deem necessary.

OCPS reserves the right to further negotiate any proposal, including price, with the highest rated Respondent. If an agreement cannot be reached with the highest rated Respondent, OCPS reserves the right to negotiate and recommend award to the next highest Respondent or subsequent Respondents until an agreement is reached.

The School Board, at its sole judgment, will award or reject any or all proposals as is in the best interest of OCPS and the decision shall be final.

### **31. REQUIREMENTS**

OCPS has established certain requirements with respect to proposals to be submitted by prospective Respondents. The use of "shall", "must" or "will" (except to indicate simple futurity) in the RFP indicates a requirement or condition, which must be met. OCPS may, at its sole discretion, waive these requirements or conditions if the conditions are determined to be not material. A deviation from a requirement is material if the deficient response is not in substantial accord with the RFP requirements, provides an advantage to one Respondent over other Respondents, or has a potentially significant effect on the delivery, quantity, or quality of items proposed amount paid to Respondent, or for the cost to OCPS. Material deviations cannot be waived.

### **32. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS**

Respondent may withdraw its proposal submittal prior to RFP Proposal submission due date and time specified in Section 4 by submitting an email notification of its withdrawal by Respondent or agent, sent to the Procurement Services official stated in Section 4. Thereafter, Respondent may submit a new proposal prior to such proposal submission time specified in Section 4. Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the designated time for receipt.

### **33. DISCLOSURE OF RESPONSE CONTENT**

A. All material submitted becomes the property of the School Board and may be returned only at the School Board's option. The School Board has the right to use any or all ideas presented in any reply to this solicitation. Selection or rejection of any response does not affect this right.

B. The School Board is governed by the Public Record Law, Chapter 119, Florida Statutes (F.S.). Only trade secrets as defined in Section 812.081(1)(c), Florida Statutes, or financial statements required by the School Board for road or public works projects as defined in 119.071(1)(c), Florida Statutes, (hereinafter "Confidential Materials"), may be exempt from disclosure. If a respondent submits Confidential Materials, the information must be segregated, accompanied by an executed Non-disclosure Agreement for Confidential Materials and each pertinent page must be clearly labeled "confidential" or "trade secret." The School Board will not disclose such Confidential Materials, subject to the conditions detailed within the Agreement, which is attached to this solicitation. When such segregated and labeled materials are received with an executed Agreement, the School Board shall execute the Agreement and send the respondent a "Receipt for Trade Secret Information." RETURN THE NON-DISCLOSURE AGREEMENT ONLY IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE SUBMITTAL. THE CONFIDENTIAL MATERIALS WILL ONLY REVIEWED BY PROCUREMENT STAFF OR THE EVALUATION COMMITTEE DURING EVALUATION PHASES.

### **34. COMPLIANCE WITH FEDERAL REGULATIONS**

All contracts involving Federal funds will contain certain provisions required by applicable sections of Title 34, Section 80.36(I) and Section 85.510 Code of Federal Regulations. The consultant certifies by signing the proposal that the consultant and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in Federally-funded transactions and may, in certain instances, be required to provide a separate written certification to this effect. During the term of any contract with the District, in the event of debarment, suspension, proposed debarment, declared ineligible or voluntarily excluded from participation in Federally-funded transactions, the Consultant shall immediately notify Procurement Services, in writing. Respondent will also be required to provide access to records which are directly pertinent to the contract and retain all required records for seven years after final payments are made.

### 34. PUBLIC RECORDS

- A. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE OCPS CUSTODIAN OF PUBLIC RECORDS AT 407.317.3965, [RECORDS@OCPS.NET](mailto:RECORDS@OCPS.NET), ORANGE COUNTY PUBLIC SCHOOLS, RECORDS MANAGEMENT, P. O. BOX 271, ORLANDO, FL 32802.**
- B. This Agreement is subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally makes public all records or other writings made by or received by the Parties. Contractor acknowledges its legal obligation to comply with Section 119.0701, Florida Statutes. Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by OCPS in order to perform the scope of services. Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to OCPS, all public records in the possession of Contractor upon a request for such public records. See Section 119.0701(2)(b)4, Florida Statutes, for additional record keeping requirements.
- C. A request to inspect or copy public records relating to OCPS's contract for services must be made directly to OCPS's Custodian of Public Records. If OCPS does not possess the requested records, OCPS's Custodian of Public Records shall immediately notify Contractor of the request. Contractor must provide a copy of the records to OCPS or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes. If Contractor does not timely comply with OCPS's request for records, OCPS shall be able to sue for breach of contract and the prevailing party shall be entitled to attorney's fees.
- D. Should Contractor fail to provide the requested public records to OCPS within a reasonable time, Contractor understands and acknowledges that it may be subject to penalties under Sections 119.0701(3)(c) and 119.10, Florida Statutes.
- E. Contractor shall not disclose public records that are exempt, or confidential and exempt, from public records disclosure unless specifically authorized by law for the duration of this Agreement term and following the completion, expiration, or termination of same if Contractor does not transfer the records to OCPS. Upon completion, expiration, or termination of this Agreement, Contractor shall transfer, at no cost to OCPS, all public records in its possession or keep and maintain public records required by OCPS to perform the services. If Contractor transfers all public records to OCPS, Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If Contractor keeps and maintains public records upon competition, expiration, or termination of this Agreement, Contractor shall meet all applicable requirements for retaining public records and provide requested records to OCPS pursuant to the requirements of this Article. All public records stored electronically must be provided to OCPS in a format that is compatible with the information technology systems of OCPS.



**APPENDIX A**  
**ACKNOWLEDGEMENT OF BUSINESS TYPE**

This form must be signed in the presence of a Notary Public or other officer authorized to administer oaths and submitted with the proposal on the specified due date and time. The undersigned Respondent certifies that this proposal package is submitted in accordance with the scope of services in its entirety and with full understanding of the conditions governing this proposal.

Respondent further declares that it has carefully examined the scope of services, instructions, terms and conditions of this RFP and that Respondent's proposal is made according to the provisions of the solicitation and that it will meet or exceed the scope of services, requirements, and standards contained in the RFP.

**BUSINESS ADDRESS OF RESPONDENT:**

Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Number of years in business \_\_\_\_\_ Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Is the firm a Minority Women Business Enterprise (MWBE)? Y/N \_\_\_\_ If yes, include certificate from certifying agency

**SIGNATURE OF RESPONDENT**

If an Individual: \_\_\_\_\_  
Signature

doing business as \_\_\_\_\_

If a Partnership: \_\_\_\_\_

by: \_\_\_\_\_  
Partner Signature

If a Corporation: \_\_\_\_\_  
Corporate Name

(a \_\_\_\_\_ Corporation) In what State is the Corporation Incorporated? \_\_\_\_\_

If not incorporated under the laws of Florida, are you licensed to do business in Florida? Yes \_\_\_\_ No \_\_\_\_

by: \_\_\_\_\_  
Signature

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

Attest: \_\_\_\_\_ (Seal)  
Corporate Secretary

NOTARY PUBLIC

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by \_\_\_\_\_.

(Seal)

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

Personally Known \_\_\_\_ or Produced Identification \_\_\_\_ Type of Identification Produced \_\_\_\_\_

**APPENDIX B**  
**RESPONDENT'S STATEMENT OF QUALIFICATION**

Please provide written responses to the following questions. If the answer to any of the questions is "Yes", Respondent shall describe fully the circumstances, reasons therefore, the current status, and ultimate disposition of each matter that is the subject of this inquiry.

1. Has Respondent been declared in default of any contract?  Yes  No
  
2. Has Respondent forfeited payment of performance bond issued by a surety company on any contract?  Yes  No
  
3. Has an uncompleted contract been assigned by Respondent's surety company on any payment of performance bond issued to Respondent arising from its failure to fully discharge all contractual obligations thereunder?  Yes  No
  
4. Within the past three (3) years, has Respondent filed for reorganization, protection from creditors, or dissolution under the bankruptcy statutes?  Yes  No
  
5. Is Respondent now the subject of any litigation in which an adverse decision might result in a material change in Respondent's financial position or future viability?  Yes  No
  
6. Is Respondent currently involved in any state of a fact-finding, negotiations, or resistance to a merger, friendly acquisition, or hostile take-over, either as a target or as a pursuer?  Yes  No
  
7. License Sanctions: List any regulatory or license agency sanctions. The School Board may perform a background check on Respondent with all state and regulatory agencies. \_\_\_\_\_

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8. Respondent must provide the name and address of all persons or entities serving or intending to serve as principals in Respondent's firm.

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\_\_\_\_\_  
Corporate Name of Respondent (Typed)

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Date

**APPENDIX C**  
**STATEMENT OF AFFIRMATION AND INTENT**

To: Orange County Public Schools, Procurement Services  
RFP Number: RFP1811447RFP Title: NETWORK EQUIPMENT – E-RATE AND NON-E-RATE

The undersigned, hereinafter called Respondent, declares that the only persons, or parties interested in their proposal are those named herein, that this proposal is, in all respects, fair and without fraud that it is made without collusion with any other vendor or official of the School Board of Orange County, Florida. Neither the Affiant nor the above named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in connection with Respondent's submittal for the above project. This statement restricts the discussion of pricing data until the completion of negotiations and execution of the Agreement for this project.

Respondent certifies and declares:

1. No Board Member, Director, or any OCPS Employee directly or indirectly owns assets or capital stock of the bidding entity, nor will directly or indirectly benefit by the profits or emoluments of this proposal.
2. (Please check A or B, as appropriate.)
  - A. \_\_\_ There are no professional, business, or Familial Relationships between any OCPS Employee or Board Member and those employees of Respondent or Business Entity that are, (i) Principals of Respondent or Business Entity; (ii) Shareholders, partners, Business Associates, joint venture partners or otherwise hold a Material Interest in Respondent or Business Entity; (iii) Preparing, submitting or presenting Respondent's or Business Entity's procurement documents; or, (iv) Working or expecting to work in any administrative capacity or will have contract management responsibilities for Respondent or Business Entity.

or
  - A. \_\_\_ There are professional, business or Familial Relationships between any OCPS Employee or Board Member and those employees of Respondent or Business Entity that are: (i) Principals of Respondent or Business Entity; (ii) Shareholders, partners, Business Associates, joint venture partners or otherwise hold a Material Interest in Respondent or Business Entity; (iii) Preparing, submitting or presenting Respondent's or Business Entity's procurement documents; or, (iv) Working or expecting to work in any administrative capacity or will have contract management responsibilities for Respondent or Business Entity as described below:  
  
\_\_\_\_\_  
\_\_\_\_\_
  - C. No member of Respondent's ownership or management is presently applying for an employee position or actively seeking an elected position with the district. In the event that a conflict of interest is identified in the provision of services, the respondent agrees to immediately notify OCPS in writing.
  - D. He/she has carefully examined the scope of services, instructions, terms and conditions of this Request for Proposal and that Respondent's proposal is made according to the provisions of the RFP and that it will meet or exceed the scope of services, requirements, and standards contained in the Request for Proposals.

Failure to disclose a known relationship as described in paragraph 2 above, may result in a proposal being rejected as non-responsive. In the event the relationship is discovered after the proposal documents are submitted, the relationship shall be disclosed and submitted to the OCPS Ethics Compliance Officer at time of discovery. This form is in compliance with OCPS Policy KCE. With respect to paragraph 2 hereof, the defined terms in this form shall have the same meanings as contained in OCPS Policy KCE.

Respondent agrees to abide by all conditions of the negotiation process. In conducting negotiations with OCPS, Respondent offers and agrees that if this negotiation is accepted, Respondent will convey, sell, assign, or transfer to OCPS all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by OCPS. At the district's discretion, such assignment shall be made and become effective at the time the district tenders final payment to the respondent. The proposal constitutes a responsive and binding offer by Respondent to perform the services as stated.

\_\_\_\_\_  
Corporate Name of Respondent (Typed) Address, City, Zip

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

**Appendix D**  
**Insurance Capacity Verification**

It is a requirement of all respondents to prove their capacity to provide the required insurance as specified in this solicitation. Please provide a "Certificate of Liability" (Acord 25) matching the specified requirements. If selected, you will then be required to name the School Board of Orange County, Florida as an additional insured and provide a revised "Certificate of Liability" at the time of contract execution.

APPENDIX E

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989 Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS BELOW

- 1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals: (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representatives

Signature Date

Instructions for Certification

- 1. By signing and submitting this form, the prospective primary participant is providing the certification set out above in accordance with these instructions.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction; unless it knows that, the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**APPENDIX F**  
**DRUG-FREE WORKPLACE CERTIFICATION FORM**

**IDENTICAL TIE BIDS** - In accordance with Section 287.087, Florida Statutes, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, which are equal with respect to price, quality and service, are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors has a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this respondent complies fully with the above requirements.

---

Authorized Representative's Signature

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Company Name

**APPENDIX G**  
**RESPONDENT'S EXPERIENCE AND REFERENCE FORM**

Please describe relevant services carried out in the last 5 years which best illustrate company's experience as it relates to this RFP.

a. **EXPERIENCE:**

Years in business under present name: \_\_\_\_\_ Years performing work specialty: \_\_\_\_\_

Licenses currently valid in force: \_\_\_\_\_

b. **REFERENCES:** Provide three references from agencies you have provided similar goods or services to in the past five (5) years, at least one reference should be a public school system.

**Reference # 1**

Nature of the firm's responsibility on the engagement: \_\_\_\_\_

Key professionals involved: \_\_\_\_\_

Size of engagement: (in \$) \_\_\_\_\_

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

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

Phone #: \_\_\_\_\_

Fax#: \_\_\_\_\_

Start Date: \_\_\_\_\_

Completion Date: (if in progress: percent Completed, Go Live Date): \_\_\_\_\_

Present status of engagement: \_\_\_\_\_

Description of Project: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

**Reference # 2**

Nature of the firm's responsibility on the engagement: \_\_\_\_\_

Key professionals involved: \_\_\_\_\_

Size of engagement: (in \$) \_\_\_\_\_

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

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

Phone #: \_\_\_\_\_

Fax#: \_\_\_\_\_

Start Date: \_\_\_\_\_

Completion Date: (if in progress: percent Completed, Go Live Date): \_\_\_\_\_

Present status of engagement: \_\_\_\_\_

Description of Project: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

**Reference # 3**

Nature of the firm's responsibility on the engagement: \_\_\_\_\_

Key professionals involved: \_\_\_\_\_

Size of engagement: (in \$) \_\_\_\_\_

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Agency Contact: \_\_\_\_\_

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

Phone #: \_\_\_\_\_



Fax#: \_\_\_\_\_

Start Date: \_\_\_\_\_

Completion Date: (if in progress: percent Completed, Go Live Date): \_\_\_\_\_

Present status of engagement: \_\_\_\_\_

Description of Project: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Corporate Name of Respondent (Typed)

\_\_\_\_\_

Authorized Representative's Signature

\_\_\_\_\_

Date

**APPENDIX H**  
**MWBE/LDB/VBE PARTICIPATION GUIDELINES**

The Respondent understands that the School District is committed to an increase in the number of qualified minorities and women who wish to provide supplies, equipment, or services to the district, and that the School District has established as goals for that participation twelve percent (12%) of the total cost of the purchasing contracts to be provided by minorities or women-owned business enterprises (MWBE), ten percent (10%) to be provided by local developing businesses (LDB) and three (3%) percent to be provided by veteran business enterprises (VBE).

Accordingly, the Respondent hereby certifies that he/she will use his/her best efforts to achieve the Board's goals in the administration of this contract unless waived as provided herein.

Minority/Women Business Participation may be provided through any combination of the following elements:

1. Business with MWBE and/or LDB and/or VBE ownership: The amount of participation for this element where the company is certified by agencies accepted by the district, the total amount of the order shall be used as the amount of participation.
  - a) MWBE, LDB and VBE firms shall submit valid proof of certification with the bid. Each MWBE firm shall submit a copy of a valid MWBE certification from the City of Orlando, Orange County Government, State of Florida or the National/Florida Minority Supplier Development Council (NMSDC/FMSDC) and the Women Business Enterprise National Council (WBENC). Each LDB firm shall submit a valid LDB letter of certification issued by the Greater Orlando Aviation Authority or a copy of their OCPS LDB Certificate. Each VBE firm shall submit a valid VBE certification from the State of Florida or by the United States Department of Veterans Affairs through the Center of Verification and Evaluation (CVE). A firm must be certified by the bid award date. A bidder may be considered non-responsive and may be rejected, at the sole discretion of OCPS, if the bidder fails to provide the required data.
  - b) OCPS shall be the final authority in determining whether a bidder qualifies as an MWBE, or LDB or VBE firm for purposes of this bid.
  - c) For clarification regarding the district's MWBE, LDB or VBE programs and/or for LDB certification, please contact The Office of Business Opportunity (407) 317- 3739 or visit the website at: <http://www.obo.ocps.net>
2. Sub-contractor participation – Purchase of material and/or service obtained from minority/women distributors or manufacturers: The amount of participation for this element shall be the relative portion of the total amount of the order in proportion to the percentage of the value for that amount of materials, which is obtained from minority/women distributors or manufacturers. All firms must submit a completed Office of Business Opportunity MWBE/LDB/VBE Subcontractor form. Firms not committing to sub-contracting should so indicate on the form.

## **CERTIFICATE OF MINORITY/WOMEN PARTICIPATION**

Responsibility for determining MWBE, LDB and VBE participation by supplier shall be in the Office of Business Opportunity in submitting a proposal to provide supplies, equipment or services to the School District. The Respondent must include with the proposal the CERTIFICATE OF MINORITY/WOMEN Ownership and/or LDB and/or VBE status from the certifying agency. After a proposal has been opened and the appropriate staff of the School District has completed all procedures relating to the recording of said proposal, the Specialist in the Office of Business Opportunity for the School District shall examine the same to determine whether the proposed contractor has complied with the minority/women participation goals contemplated herein.

The Respondent/supplier must demonstrate to the satisfaction of the Specialist, Office of Business Opportunity for the School District prior to the award of the contract, and periodically thereafter throughout the term of the contract, that the Respondent/supplier is complying with the goals for MWBE, LDB and VBE participation.

If at any time, either before or after the award of contract, the supplier determines that he/she will be unable to comply, the supplier may request an evaluation of Good Faith by the Office of Business Opportunity of the School District. The Specialist, Office of Business Opportunity will make an analysis to verify that the supplier has made diligent, good faith efforts to meet the goals for MWBE, LDB and VBE participation, but due to circumstances beyond its control, it is impossible for the supplier to comply.

Notwithstanding, any of the forgoing requirements relating to the MWBE, LDB and VBE Participation Guidelines contained herein, the School District reserves the right to waive any technical requirements relating to the submission of the CERTIFICATES OF MINORITY/WOMEN Ownership, or LDB or VBE status, if to do so would benefit the District in the increase of MWBE, LDB and VBE participation in contracts originating in the Procurement Services Department.

**OFFICE OF BUSINESS OPPORTUNITY  
MWBE/LDB/VBE  
SUBCONTRACTOR**

OCPS has established annual participation levels for the procurement of goods and non-professional services with Minority-Owned & Women-Owned Business Enterprises (MWBEs), Local Developing Businesses (LDBs) and Veterans Business Enterprise (VBEs). For the purpose of calculating the MWBE, LDB and VBE participation percentages, only those dollars awarded to certified MWBE, LDB and VBE vendors will be utilized. Monies contracted or subcontracted to MWBE, LDB and VBE vendors are included in the calculation. As a result, respondents are asked to include certified MWBE, LDB and VBE subcontractor participation information below. If proposer has questions regarding a vendor's certification, he/she may contact the OCPS Office of Business Opportunity (407) 317-3739.

Please complete the information below showing respondent's commitment to subcontract at least twelve percent (12%) of its business related to this solicitation to one or more MWBE and ten (10%) for one or more LDB respondents and three (3%) for one or more VBE respondents.

Overall percent of MWBE Sub-Contractor Participation expected: \_\_\_\_\_

Overall percent of LDB Sub-Contractor Participation expected: \_\_\_\_\_

Overall percent of VBE Sub-Contractor Participation expected: \_\_\_\_\_

Please complete the following table by indicating the name of the sub-contracting firm, whether or not the firm is an MWBE and/or LDB and/or VBE, the type of work or material to be supplied by the sub-contractor, anticipated dollar value, and the anticipated percent of the contract value.

Sub-Contractor	MWBE and/or LDB and/or VBE	Type of Work/Material	\$ Value	% of Contract Value

If respondent has more than two MWBE, LDB and VBE vendors, the respondent should include information for additional MWBE and/or LDB and/or VBE vendors on an additional sheet of paper. Respondent agrees to supply subcontractor payment information to Orange County Public Schools. The due date and report format will be established upon award of the contract.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**PROPOSAL PRICE SHEET  
APPENDIX I**

PRICE PROPOSAL SHEET IS IN A SEPARATE DOCUMENT HOWEVER, THIS PAGE MUST BE SIGNED AND RETURNED WITH SUBMITAL. PRICE SHEET HAS BEEN POSTED IN EXCEL FORMAT AND MUST BE SUBMITTED IN THE SAME FORMAT. PRICES MUST BE ENTERED ELECTRONICALLY, NOT HAND WRITTEN. PDF COPIES OF PRICE SHEET WILL NOT BE ACCEPTED.

**Respondent Acknowledgment and Approval**

The undersigned has examined the Scope of Services and agrees, if this proposal is accepted, to contract with the School Board and perform the work in full and complete accordance with the Scope of Services and contract documents to the full and entire satisfaction of the School Board.

The undersigned certifies that this proposal was prepared without prior understanding, agreement, or connection with any corporation, firm or individual submitting a proposal for the same contractual service, and is in all respects fair and without collusion or fraud in order to gain an unfair advantage in the award of this solicitation. Respondent acknowledges that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119 F.S.

The signer states that he or she is duly authorized to sign and execute this proposal on behalf of Respondent, company, or corporation. The signer of this proposal guarantees, as evidence of the sworn affidavit required herein, the truth and accuracy of all statements and information hereinafter provided. The undersigned hereby authorizes any public official, surety company, bank depository, material, or equipment manufacturer or distributor or any person or firm or corporation to furnish any pertinent information requested by the School District of Orange County, Florida or its representative, deemed necessary to verify the information provided and statements made regarding the standing and general reputation of Respondent.

**Firm Name** \_\_\_\_\_ **Phone #** \_\_\_\_\_

**Authorized Representative Name/Title** \_\_\_\_\_

**Authorized Representative Signature** \_\_\_\_\_ **Date** \_\_\_\_\_



# Orange County Public Schools

Procurement Services Department • 445 W. Amelia St. • Orlando, FL 32801 • Phone 407.317.2876 • Fax 407.317.3414

## APPENDIX J NON-DISCLOSURE AGREEMENT For CONFIDENTIAL MATERIALS

Reference # \_\_\_\_\_

**RETURN THIS FORM *ONLY* IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE SUBMITTAL. PLEASE READ THE SECTION IN THE BID DOCUMENT TO DETERMINE IF THIS APPLIES.**

Respondent: \_\_\_\_\_

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

This Agreement is entered into as of the date of the last signature set forth below between the School Board of Orange County, a political subdivision of the State of Florida (the "District"), and the above named Respondent (hereinafter the "Respondent"). The School Board of Orange County and the Respondent are collectively referred to as the "Parties" and may be referred to individually as a Party.

### RECITALS

WHEREAS, the Respondent possesses certain confidential trade secret materials that it wishes to disclose to the School Board of Orange County for the purpose of responding to a solicitation or otherwise conducting business with the School Board; and

WHEREAS, the School Board desires to review such materials in order to evaluate the District's interest in negotiating and concluding an agreement for the purchase of certain products and services, or otherwise conducting business with the Respondent.

NOW THEREFORE, in consideration of the mutual promises and premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the School Board and the Respondent agree as follows:

1. Confidential Materials. The Respondent warrants and represents to the School Board that the materials described in the attached Exhibit A (the "Confidential Materials") constitute trade secrets as defined by Section 812.081(1)(c), Florida Statutes, or financial statements required by the School Board for projects as defined in 119.071(1)(c), Florida Statutes. Subject to the terms and conditions of this Agreement, the School Board agrees not to disclose such Confidential Materials to third parties.

2. Additional Materials. During the course of the review or the business relationship with the School Board, the Respondent may disclose additional confidential or trade secret information to the District in which case the restrictions and obligations on the use and disclosure of the Confidential Materials imposed by this Agreement shall also apply to such additional information to the extent permitted by Florida law. Any such additional confidential or trade secret information shall be duly marked and stamped "confidential" or "trade secret" prior to delivery to the School Board, and shall be subject to this Agreement and Section 812.081(2), Florida Statutes, only if written receipt is provided by the School Board acknowledging receipt of such materials.

3. Exclusions. For purposes of this Agreement, the term "Confidential Materials" does not include the following:

- (a) Information already known or independently developed by the School Board;
- (b) Information in the public domain through no wrongful act of the School Board;
- (c) Information received by the School Board from a third party who was legally free to disclose it;
- (d) Information disclosed by the Respondent to a third party without restriction on disclosure;
- (e) Information disclosed by requirement of law or judicial order, including without limitation Chapter 119 Florida Statutes; or
- (f) Information that is disclosed with the prior written consent of the Respondent, but only to the extent permitted by such consent.

4. Non-Disclosure by Respondent. In the event that the School Board discloses confidential or trade secret information to Respondent, the Respondent agrees to not disclose such information to any third party or copy such information or use it for any purpose not explicitly set forth herein without the School Board's prior written consent. Further, upon conclusion of discussions or business transactions between the School Board and the Respondent, or at any time upon request of the School Board, Respondent agrees to return such information (including any copies) to the School Board.

5. Duty of Care. Each Party agrees to treat the other Party's confidential or trade secret information with the same degree of care, but not less than reasonable care, as the receiving Party normally takes to preserve and protect its own similar confidential information and to inform its employees of the confidential nature of the disclosing Party's information and of the requirement of nondisclosure. In the event either Party has actual knowledge of a breach of the nondisclosure requirements set forth in this Agreement, the Party acquiring such knowledge shall promptly inform the other Party and assist that Party in curing the disclosure, where possible, and preventing future disclosures.

6. Limitations of Florida Law. Respondent understands and agrees that its assertion that any item is confidential or a trade secret does not, in and of itself, render such material exempt from the Florida Public Records Law, Chapter 119 of the Florida Statutes, and that the School Board's ability to prevent disclosure of confidential and trade secret information may be subject to determination by a Florida court that such materials qualify for trade secret protection under Florida law. In the event a third party makes a public records request for the Confidential Materials or other materials deemed by Respondent to be confidential or a trade secret, the School Board may submit the materials to the court for inspection in camera as set forth in Section 119.07(1)(g) Florida Statutes. Respondent further understands that the School Board may be required to disclose such information if directed by a court of competent jurisdiction.

7. Indemnification by Respondent. In the event of any litigation instituted by a third party to compel the School Board to disclose such materials, Respondent shall, at its sole cost and expense, provide assistance to the School Board in defending the denial of the records request, and shall hold the School Board harmless from any claim for statutory costs and attorney's fees arising from the School Board's refusal to disclose such materials.

8. No Additional Obligations. This Agreement shall not be construed in any manner to be an obligation for either Party to enter into any subsequent contract or agreement.

9. Sovereign Immunity. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the School Board beyond any statutory limited waiver of immunity or limits of liability, which has been or which may be adopted by the Florida Legislature, regardless of the nature of any claim which may arise, including but not limited to a claim sounding in tort, equity or contract. In no event shall the School Board be liable for any claim or claims for breach of contract, including without limitation the wrongful disclosure of confidential or trade secret information for an amount which exceeds, individually and collectively, the then current statutory limits of liability for tort claims. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the School Board, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

10. Notice. Whenever either Party desires to give notice unto the other, it must be given by written

notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Respondent designates the address set forth above as its place for receiving notice, and the School Board designates the following address for such notice:

The School Board of Orange County, Florida  
Director of Purchasing and Contracting  
445 W. Amelia Street  
Orlando, FL 32801

11. Governing Law. This Agreement shall be governed by the laws of the State of Florida, and venue for any action arising out of or relating to the subject matter of this Agreement shall be exclusively in Orange County, Florida, or the Federal District Court for the Middle District of Florida, Orlando Division.

12. Respondent and the School Board hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation related to or arising from this solicitation and resulting agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year as set forth below.

**The School Board of Orange County, Florida**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: Director of Purchasing and Contracting  
DATE: \_\_\_\_\_

**Respondent**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_



EXHIBIT A  
DESCRIPTION OF CONFIDENTIAL MATERIALS

**Contract Template**

**APPENDIX k**

**AGREEMENT**

**By and Between**

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**

**And**

**INSERT LEGAL NAME OF CONTRACTOR HERE**

This Agreement ("Agreement") is made by and between The School Board of Orange County, Florida, a political subdivision of the State of Florida, located at 445 West Amelia Street, Orlando, FL 32801, hereinafter referred to as "OCPS," and **INSERT LEGAL NAME AND ADDRESS OF CONTRACTOR HERE**, hereinafter referred to as "Contractor," each individual referred to as a "Party" and, collectively, the "Parties."

**WITNESSETH:**

WHEREAS, OCPS desires to secure a contractual relationship for the purpose of **INSERT BRIEF DESCRIPTION OF THE DESIRED SCOPE OF SERVICES HERE** for Orange County Public Schools, as outlined in Exhibit "A," Scope of Services ("Services"), and

WHEREAS, these Services have been competitively solicited pursuant to **INSERT METHOD BY WHICH COMPETITION WAS ACHIEVED HERE**, which has been assigned to **INSERT SOLICITATION NUMBER HERE** by OCPS for tracking purposes.

**NOW THEREFORE**, for good and valuable consideration and the mutual promises contained herein, the Parties agree as follows:

**ARTICLE 1 – DEFINITIONS**

The following definitions of terms associated with this Agreement are provided to establish a common understanding between both Parties to this Agreement, as to the intended application, interpretation, and usage of terms in connection with this Agreement.

- (a) **"AGREEMENT"** refers to the executed Agreement by and between OCPS and Contractor.
- (b) **"AMENDMENT"** means a written document authorized by the parties to this Agreement which, when executed by both parties, sets forth any changes to that certain scope of services ("Services"), attached hereto as Exhibit "A" and incorporated herein by reference, that contemplates a change in the Services, work, and materials to be provided and performed by Contractor pursuant to this Agreement, sets forth the basis of compensation due to Contractor of, and sets forth the time period and/or schedule for performance and completion thereof.
- (c) **"CONFIDENTIALITY"** For purposes hereof, "Confidential Information" shall mean any non-public information of the other party that is designated as confidential, or that the receiving party knew or reasonably should have known was confidential because it derives independent value from not being generally known to the public. Confidential Information shall not include any information which: (i) a party can demonstrate was rightfully in its possession prior to the date of disclosure to it by the other party; (ii) at the time of disclosure or later, is published or becomes part of the public domain through no act or failure to act on the part of a party; (iii) a party has developed independently without reference to any Confidential Information of the other party; (iv) a party can demonstrate such information came into its possession from a third-party who had a bona fide right to make such information available; or (v) is subject to the Florida Public Records Law, Chapter 119, Florida Statutes, or any other information required to be disclosed by a valid court order or agency of government.
- (d) **"CONTRACTOR"** means **INSERT LEGAL NAME OF CONTRACTOR HERE**, a Party hereto, who is authorized to conduct business in the State of Florida, offering Services hereunder, which has executed this Agreement, and which shall be legally obligated, responsible, and liable for providing and performing any and all of the Services, work, and materials, including services and/or work of any approved sub-contractors, required under the covenants, terms, and provisions contained in this Agreement and any and all Amendments thereto.

- (e) **“FUNDS”** shall mean payment made by OCPS to Contractor hereunder.
- (f) **“OCPS”** shall mean Orange County Public Schools and may be used interchangeably with OCPS or The School Board of Orange County, Florida.
- (g) **"PARTIES"** shall mean the parties entering into this Agreement, OCPS and Contractor, respectively.
- (h) **“OCPS”** shall mean The School Board of Orange County, Florida, a political subdivision of the State of Florida, and may be used interchangeably with OCPS or Orange County Public Schools.
- (i) **"SERVICES"** shall mean the services as set forth and required, pursuant to the Agreement and described in further detail in Exhibit "A," attached hereto and incorporated herein by reference.

## **ARTICLE 2 - AMENDMENTS AND MODIFICATIONS**

No Amendments and/or modifications of this Agreement shall be valid unless in writing and signed by each of the parties.

## **ARTICLE 3 – TERM AND TERMINATION**

- (a) The term of this Agreement will cover the period beginning **INSERT BEGINNING DATE HERE** through **INSERT ENDING DATE HERE**, and may be renewed at the end of the term on the same or substantial similar terms by mutual written agreement of the Parties.
- (b) Contractor shall give OCPS written notice of any substantial failure to perform under this Agreement through no fault of Contractor. If OCPS fails to correct or diligently pursue cure of such failure within ten (10) business days of receipt of notice, this Agreement may be terminated by Contractor, at its option, upon thirty (30) calendar days' prior written notice to OCPS. This Agreement may be terminated by OCPS with or without cause upon thirty (30) days' written notice sent by certified mail to Contractor. In the event of a material breach by Contractor hereunder through no fault of OCPS, OCPS may, at its option, terminate this Agreement immediately.

## **ARTICLE 4 - PAYMENT**

- (a) OCPS agrees to provide Funds for the Agreement as outlined in Exhibit "B", Fee Schedule, which is attached hereto and incorporated herein. Payments shall be made on or about forty-five (45) days after OCPS's receipt of invoice. OCPS shall pay these fees to Contractor for services rendered as outlined in Exhibit "B" which includes all direct charges, indirect charges, and reimbursable expenses, if any.
- (b) Subject to Contractor's right to cure under Article 3 herein, should the project not be completed as scheduled, Contractor and OCPS will jointly plan a revised completion date for the project. Failure on the part of Contractor to complete its work in an accurate and quality manner shall be considered a default of this Agreement.
- (c) Completion of a phase is defined by an appropriate signoff by OCPS's and Contractor's project manager that all activities of that phase have been satisfactorily completed according to the project schedule, as agreed upon by both parties attached Exhibit "A". Contractor and OCPS will agree upon planned completion dates for each phase and work in good faith to meet the planned schedule. OCPS reserves the right throughout each phase to conduct a quality assurance check to ensure accuracy, quality and delivery of work.
- (d) Final Notice: The final invoice for payment shall be submitted to OCPS no more than forty-five days (45) after the Agreement term ends or the Agreement is terminated. Any payment due under the terms of this Agreement may be withheld until all reports due from Contractor, and necessary adjustments thereto, have been approved by OCPS.

## **ARTICLE 5 - AVAILABILITY OF FUNDS**

The obligations of OCPS under this Agreement are subject to the availability of Funds lawfully appropriated for its purpose by the State of Florida and OCPS.

## **ARTICLE 6 - TRUTH-IN-NEGOTIATION CERTIFICATE**

- (a) Signature of this Agreement by Contractor shall be deemed an acknowledgement and certification by Contractor that the wage rates and costs used to determine the Funds provided for in this Agreement are accurate, complete, and current as of the date of this Agreement.

- (b) The said rates and costs shall be adjusted to exclude any significant sums should OCPS determine that the rates and costs were increased due to inaccurate, incomplete, or non-current wage rates or due to inaccurate representations of fees paid to Contractor. OCPS shall exercise its rights under this provision within one (1) year following final payment of the Funds.

#### **ARTICLE 7 – PERSONNEL**

- (a) All of the Services herein shall be performed by Contractor or under its supervision, and all personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under applicable state and local law to perform such Services.
- (b) Contractor and any of its employees performing Services hereunder shall comply with the Jessica Lunsford Act effective September 1, 2005, as same may be amended from time to time. Non-instructional school OCPS employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds must meet level 2 screening requirements as described in Section 1012.32, Florida Statutes. For purposes of this Agreement contractual personnel shall include any vendor, individual, or entity under Agreement with OCPS. The cost of the required screening is at the expense of Contractor.
- (c) Contractor shall notify OCPS as soon as possible, but no later than five (5) working days, after any changes in address or key personnel positions of Contractor's account team. Changes in key personnel may include resignations, approved leaves of absence of six (6) weeks or more, or terminations. Such notification shall be in writing and shall include information related to replacement staff assigned. Contractor agrees to work closely with OCPS to ensure that the work and cooperation between the two organizations is efficient and mutually productive to both parties.
- (d) Contractor and all Contractor staff under this Agreement shall comply with all federal, state, county, and city laws, ordinances, rules, and regulations that relate to the background screening process of those applying for work with children, seniors, or the disabled. In addition, all Contractor staff contributing to the delivery of the scope of Services that meet the criteria of both Chapter 408 and Chapter 435 and Section 110.1127, Florida Statutes, and Section 65C-14.025, Florida Administrative Code, must be in compliance with these Florida laws, and are required, at a minimum, but may not be limited, to perform the following screenings prior to supervision and /or direct care at no additional cost to OCPS:
- (i) An initial Level 2 background screening, and
  - (ii) Additional Level 2 background screenings at five (5) year intervals.

#### **ARTICLE 8 - FEDERAL AND STATE TAX**

- (a) OCPS is exempt from federal and state taxes for tangible personal property. Contractor shall not be exempted from paying applicable sales tax to the State of Florida and/or the federal government, as the case may be, for the purchase of materials to fulfill contractual obligations with OCPS, nor shall Contractor be authorized to use OCPS's tax exemption number in securing such materials.
- (b) In the event Contractor is also exempt from federal and state taxes for tangible personal property, it shall promptly submit to OCPS an appropriate exemption certificate. OCPS will sign an exemption certificate submitted to it by Contractor.
- (c) Contractor shall be responsible for payment of its own FICA and social security benefits with respect to this Agreement.

#### **ARTICLE 9 - DOCUMENTATION AND REPORTING**

- (a) In the performance of this Agreement, Contractor shall maintain books, records, and accounts of all activities in compliance with standard accounting procedures.
- (b) **Documentation.** Documentation in connection with the description of the Services as set forth in Exhibit "A" attached hereto shall be provided upon request.
- (c) **Reporting.** Contractor shall provide report containing requested data in the requested format in a timely manner as defined by OCPS.

## **ARTICLE 10 – INSURANCE**

At its sole expense, Contractor shall maintain the following insurance during the term of this Agreement and such insurance will apply to Contractor, its employees, agents, and subcontractors:

- E. Workers Compensation insurance in statutory amounts and Employers Liability in an amount not less than One Million Dollars (\$1,000,000) each accident/disease. This insurance shall apply to all Contractor's employees who will be engaged in the performance of the Services in this Agreement.
- F. Commercial General Liability insurance, including products and completed operations and contractual liability, arising from any and all claims for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) aggregate. This policy must include The School Board of Orange County, Florida, its board members, employees, and representatives as additional insured.
- G. Automobile Liability insurance, including all owned, non-owned, and hired vehicles used in conjunction with providing Services outlined in this Agreement, for property damage and bodily injury, including death, in an amount not less than One Million Dollars (\$1,000,000) each accident. This policy must include The School Board of Orange County, Florida, its board members, employees, and representatives as additional insured.
- H. Professional Liability insurance for any and all claims as a result of an action, lack of action, error or omission by Contractor, its employees or subcontractors in an amount not less than One Million Dollars (\$1,000,000) each claim. If such policy is written on a "claims-made" basis, coverage shall remain in effect for three (3) years after the expiration or termination of this Agreement and any of its extensions.
- I. Fidelity/Crime insurance in an amount not less than Twenty-Five Thousand Dollars (\$25,000) for employee dishonesty for OCPs-owned property (money and securities) in the care, custody, and control of Contractor, its employees, agents, and subcontractors.
- J. Contractor agrees to the following as it relates to all above required insurance:
  - (i) All insurance shall be written with an insurance company licensed to issue insurance in the State of Florida and shall maintain an A.M. Best financial strength rating of A (VI).
  - (ii) All insurance shall be primary and not contributory to any other insurance carried by The School Board of Orange County, Florida. This shall also apply to any self-insurance maintained by the School Board of Orange County, Florida.
  - (iii) Contractor shall notify OCPs's Risk Management Department within thirty (30) days of any material changes or notice of cancellation Contractor received from its insurer on above required insurance.
  - (iv) Contractor shall provide evidence of all insurance in the form of a Certificate of Insurance (Acord) and specify any deductible or retention applicable to above required insurance.
  - (v) Contractor agrees that proof of insurance shall be provided prior to execution of this Agreement and that no Services shall begin until proof of insurance is received by OCPs. Receipt of proof of insurance shall not be construed as an approval of Contractor's insurance or a release or waiver of Contractor's obligation to provide insurance required in this Agreement.
  - (vi) To the extent permitted by law, Contractor's insurance shall contain a waive rights to recover from OCPs or its insurance.
  - (vii) Any required insurance that Contractor self-insures or carries retentions in excess of Ten Thousand Dollars (\$10,000) shall be pre-approved by OCPs's Risk Management Department and referenced in an addendum to this Agreement.

## **ARTICLE 11 - TIME OF ESSENCE**

Time is of the essence concerning the performance of all terms and conditions of this Agreement.

## **ARTICLE 12 - STANDARD OF CARE**

In providing Services under this Agreement, Contractor will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice by OCPS, Contractor will correct those Services not meeting such a standard.

## **ARTICLE 13 – INDEMNIFICATION**

- (a) Contractor shall indemnify, defend, and hold harmless OCPS, its board members, employees, representatives from and against all claims, suits, actions, damages, losses, expenses, and/or a cause of action, including but not limited to, economic loss, reasonable attorneys' fees, and expenses, arising out of or in connection with this Agreement, provided that any such claims, suits, actions, damages, losses, expenses, and/or a cause of action, (i) is attributable to any person(s) claiming personal injury, bodily injury, sickness, disease, or death; or damage to tangible property of a third party including the loss of use, (ii) loss of Contractor's tools and equipment used in connection with this Agreement, and (iii) is caused or incurred in whole or in part by Contractor or any of its subcontractors, agents, or anyone directly or indirectly employed by contractor, subcontractor, agents, regardless if caused in part by OCPS. This indemnification shall not apply to any claims, suits, actions, damages, losses, expenses, and/or a cause of action, arising from OCPS's sole gross negligence or intentional misconduct.
- (b) Nothing in this Agreement shall be deemed to affect the rights, privileges, or be deemed a waiver of, or limitation of OCPS's sovereign immunity protection and limitations of liability pursuant to Section 768.28, Florida Statutes. Any indemnity or assumption of liability by OCPS hereunder shall be subject to OCPS's rights to sovereign immunity and any other limitations of liability provided OCPS pursuant to Florida law.

## **ARTICLE 14 - SUCCESSORS AND ASSIGNS**

OCPS and Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other Party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement. Neither OCPS nor Contractor shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of OCPS, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than OCPS and Contractor.

## **ARTICLE 15 – GOVERNING LAW AND REMEDIES**

- (a) This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary arising out of the Agreement will have its venue in Orange County and the Agreement will be interpreted according to the laws of Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- (b) If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs, and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## **ARTICLE 16 - CONFLICT OF INTEREST**

Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of Services required hereunder, as provided for in Section 112.311, Florida Statutes. Contractor further represents that no person having any interest shall be employed for said performance of services. Contractor shall promptly notify OCPS in writing by certified mail of all potential conflicts of interest for any prospective business association, interest, or other circumstances which may influence or appear to influence Contractor's judgment or quality of Services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstances and the nature of work that Contractor may undertake. Contractor shall request an opinion by OCPS as to whether the association, interest, or circumstance would, in the opinion of OCPS, constitute a conflict of interest if entered into by Contractor. OCPS agrees to notify Contractor of its opinion by certified mail within thirty (30) calendar days of receipt of notification by Contractor. If, in the opinion of OCPS, the prospective business association, interest, or circumstance would not constitute a conflict of interest by Contractor, OCPS shall so state in its response, and Contractor may, at its option, enter into said association, interest, or circumstance and it shall be deemed not a conflict of

interest with respect to the Services provided to OCPS by Contractor under the terms of this Agreement. If OCPS, in its sole discretion, determines that there is a conflict, Contractor shall not enter into or if already entered into, will immediately terminate such arrangement or Agreement with the subject business associate.

#### **ARTICLE 17 - INDEPENDENT CONTRACTOR RELATIONSHIP**

- (a) Contractor is, and shall be, in the performance of all Services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of OCPS. All persons engaged in any of the work or Services performed pursuant to this Agreement shall at all times, and in all places, be subject to Contractor's sole direction, supervision, and control. Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects to Contractor's relationship and the relationship of its employees to OCPS shall be that of an independent contractor and not as employees or agents of OCPS. Contractor does not have the power or authority to bind OCPS in any promise, agreement, or representation.
- (b) Nothing contained herein shall be deemed to create an association, partnership, joint venture, or relationship of principal and agent or master and servant among the Parties or any affiliate thereof, or to provide any Party hereto with the right, power, or authority whether expressed or implied, to create any such duty or obligation on behalf of any other Party.

#### **ARTICLE 18 – ARREARS**

Contractor shall not pledge OCPS's credit or make it a guarantor of payment or surety for any agreement, debt, obligation, judgment, lien, or any form of indebtedness. Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

#### **ARTICLE 19 – CONFIDENTIAL INFORMATION AND DISCLOSURE OF DOCUMENTS**

- (a) Contractor shall deliver to OCPS for approval and acceptance, and before eligible for final payment of any amounts due, all documents and materials prepared by Contractor for OCPS under this Agreement.
- (b) All OCPS written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by OCPS at its expense will be kept as Confidential Information by Contractor and will not be disclosed to any other party, directly or indirectly, without OCPS's prior written consent unless required by a lawful order of court. All drawings, maps, sketches, and other data developed or purchased under this Agreement or at OCPS's expense shall be and remains OCPS's property and may be reproduced and reused at the discretion of OCPS. As requested, OCPS shall comply with the provisions of Chapter 119, Florida Statutes.
- (c) The Party receiving Confidential Information will not at any time disclose to any person or entity (including, without limitation, any member of the media) or use for its own benefit or the benefit of anyone, Confidential Information of the other Party without the prior written consent of said Party. Neither Party shall be liable for disclosure of Confidential Information if made in response to a valid order of a court, authorized agency of government, or in compliance with Chapter 119, Florida Statutes.

#### **ARTICLE 20 – PUBLIC RECORDS**

This Agreement is subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally makes public all records or other writings made by or received by the Parties. Contractor acknowledges its legal obligation to comply with Section 119.0701, Florida Statutes. Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by OCPS in order to perform the scope of services. Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to OCPS, all public records in the possession of Contractor upon a request for such public records and upon termination or expiration of this Agreement. Contractor shall not disclose public records that are exempt or confidential and exempt from public records disclosure unless specifically authorized by law. Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. All public records stored electronically must be provided to OCPS in a format that is compatible with the information technology systems of OCPS.

#### **ARTICLE 21 – CONTINGENT FEES**

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

## **ARTICLE 22 - ACCESS AND AUDITS**

Contractor shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least seven (7) years after completion of this Agreement. OCPS or its duly authorized representatives shall have access to such books, records, and documents as required in this section for the purpose of inspection, audit, excerpts, and transcription during normal business hours, at OCPS's cost, upon five (5) days' written notice.

## **ARTICLE 23 – NONDISCRIMINATION**

Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, sex, age, national origin, sexual orientation, gender identity, or expression, and genetic information or any other category of persons protected pursuant to Florida law.

## **ARTICLE 24 – SURVIVAL**

All covenants, agreements, representations, and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. The insurance and indemnity provisions set forth in the Agreement shall survive the termination of the Agreement.

## **ARTICLE 25 – AUTHORITY**

Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

## **ARTICLE 26 - COMPLIANCE WITH LAWS**

Contractor agrees it shall comply with all applicable laws, codes, ordinances, permitting, and regulations as well as applicable OCPS policies and OCPS regulations, rules, and guidelines in connection with the Services to be provided hereunder, including without limitation OCPS policy KCE, Lobbying and Ethics. OCPS agrees it shall comply with all applicable laws, codes, ordinances, permitting, and regulations in connection with the Services to be provided hereunder.

## **ARTICLE 27 – SEVERABILITY**

If any terms or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, such term or provision shall be stricken and deemed unenforceable and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

## **ARTICLE 28 - NAMES; TRADEMARKS**

Contractor shall acquire no rights under the Agreement to, and shall not use, the name of OCPS or the name of "Orange County Public Schools" or "OCPS" either alone or in conjunction with or as part of any other name, word, mark, picture, logo, design, and/or trademark (collectively, "OCPS Marks") in any of Contractor's advertising, publicity, or promotion; to express or imply any endorsement by OCPS or Orange County Public Schools of its Services; or in any other manner (whether or not similar to the uses hereinabove specifically prohibited) without the prior review and written approval by OCPS, except as expressly permitted herein. No advertisement, publication, or other use of OCPS Marks shall be published or otherwise promulgated by Contractor without OCPS's prior inspection and written approval. This clause shall survive the expiration or sooner termination of this Agreement.

## **ARTICLE 29 - PROTECTION AND HANDLING OF DATA**

- (a) **Data Confidentiality** - Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action that could result in substantial harm to OCPS or an individual identified with the data or information in Contractor's custody.
- (b) **Compliance with Laws and OCPS Policies and Procedures** - Contractor will not knowingly permit any Contractor's personnel to have access to any OCPS facility or any records or data of OCPS if the person has been convicted of a crime in connection with (i) a dishonest act, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, as described in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. §1829(a); or (ii) a felony. Contractor must, to the extent permitted by law, conduct a check of public records in all of the employee's states of residence and employment



for at least the last five (5) years in order to verify the above. Contractor shall assure that all contracts with subcontractors impose these obligations on the subcontractors and shall monitor the subcontractors' compliance with such obligations. No subcontractors may be used without prior written consent of OCPS.

- (c) **FERPA** - To the extent Services provided hereunder pertain to the access to student information, Contractor shall adhere to all standards included in Sections 1002.22 and 1002.221, Florida Statutes (the Protection of Pupil Privacy Acts), 20 U.S.C. §1232g - the Family Educational Rights and Privacy Act (FERPA), the federal regulations issued pursuant thereto (34 CFR Part 99), and/or any other applicable state or federal law or regulation regarding the confidentiality of student information and records. Further, Contractor, and its officers, employees, agents, and representatives, shall fully indemnify and hold OCPS harmless for any violation of this provision including, but not limited to, defending OCPS and its officers, employees, agents, and representatives against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon OCPS, or payment of any and all costs, damages, judgments, or losses incurred by or imposed upon OCPS arising out of the breach of this provision by Contractor, its officers, employees, agents, or representatives, to the extent that the Contractor, or its officers, employees, agents, or representatives, shall either intentionally or negligently violate this provision, Sections 1002.22 and 1002.221, Florida Statutes, or other applicable state, local, or federal laws, rules, or regulations. This provision shall survive the termination of or completion of all performance obligations under this Agreement, and shall remain fully binding upon Contractor. A separate Non-Disclosure Agreement may be required.
- (d) **HIPAA, CIPA, and GLBA** - Contractor also agrees to comply with all applicable state and federal laws, regulations, and OCPS policies including Privacy Rights of Students, Computer Users' Responsibilities, Security of Computing Resources, Security of Data, Privacy of Computing Resources, Health Information Privacy and Accountability Act (HIPAA), Children Internet Protection Act (CIPA), and the Gramm-Leach Bliley Act (GLBA).
- (e) **Data Security** – Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority (e.g. Microsoft notifications, etc.) Likewise, OCPS agrees to conform to the following measures to protect and secure data:
- (i) **Data Transmission.** Contractor agrees that any and all transmission or exchange of system application data with OCPS and/or any other parties shall take place via secure means, e.g. HTTPS, FTPS, SFTP, or equivalent.
  - (ii) **Data Storage and Backup.** Contractor agrees that any and all OCPS data will be stored, processed, and maintained solely on designated servers and that no OCPS data at any time will be processed on or transferred to any portable or laptop 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 service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by an OCPS officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by the OCPS Chief Information Security Officer for any general or specific case.
  - (iii) Contractor agrees to store all OCPS backup data stored as part of its backup and recovery processes in encrypted form, using no less than 128 bit key.
  - (iv) **Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in this Agreement. Data shall not be distributed, repurposed, or shared across other applications, environments, or business units of Contractor. As required by Federal law, Contractor further agrees that no OCPS data of any kind shall be revealed, transmitted, exchanged, or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by an OCPS officer with designated data, security, or signature authority.
- (f) **End of Agreement Data Handling** - Contractor agrees that upon termination of this Agreement it shall return all data to OCPS in a useable electronic form, and erase, destroy, and render unreadable all OCPS data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within thirty (30) days of the termination of this Agreement or within seven (7) days of the request of an agent of OCPS, whichever shall come first.
- (g) **Data Breach** - Contractor agrees to comply with the State of Florida Database Breach Notification process and all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of Contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), Contractor agrees to

notify OCPS immediately and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless, and defend OCPS and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.

- (h) **Mandatory Disclosure of Protected Information** - If Contractor becomes compelled by law or regulation (including securities laws) to disclose any Protected Information, Contractor will provide OCPS with prompt written notice so that OCPS may seek an appropriate protective order or other remedy. If a remedy acceptable to OCPS is not obtained by the date that Contractor must comply with the request, Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
- (i) **Remedies for Disclosure of Confidential Information** – Contractor and OCPS acknowledge that unauthorized disclosure or use of the Protected Information may irreparably damage OCPS in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Protected Information shall give OCPS the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants OCPS the right, but not the obligation, to enforce these provisions in Contractor's name against any of Contractor's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors violating the above provisions.
- (j) **Safekeeping and Security** - As part of the Services, Contractor will be responsible for safekeeping all keys, access codes, combinations, access cards, personal identification numbers, and similar security codes and identifiers issued to Contractor's employees, agents, or subcontractors. Contractor agrees to require its employees to promptly report a lost or stolen access device or information.
- (k) **Non-Disclosure** – Contractor is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants, and auditors on a need to know basis only, provided that all such subcontractors, agents, consultants, and auditors have written confidentiality obligations to Contractor and OCPS.
- (l) **Request for Additional Protection** - From time to time, OCPS may reasonably request that Contractor protect the confidentiality of certain Protected Information in particular ways to ensure that confidentiality is maintained. Contractor has the right to reasonably decline OCPS's request.

### **ARTICLE 30 - NON-EXCLUSIVE AGREEMENT**

The Parties understand and agree this Agreement is a non-exclusive agreement and the Parties hereto may participate in other comparable services to and from any other person or entity.

### **ARTICLE 31 - ENTIRETY OF AGREEMENT**

OCPS and Contractor agree that this Agreement and any documents made a part thereof, sets forth the entire agreement between the Parties, that there are no promises or understandings other than those stated herein. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto. In the event a conflict arises, the Parties shall discuss any such conflict and the priority of controlling documents shall be as follows: this Agreement, the solicitation, any addenda, and Contractor's response to the solicitation. Note that OCPS reserves the exclusive right to rectify any conflicts in its sole discretion.

### **ARTICLE 32 – CONSTRUCTION OF AGREEMENT**

Each Party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of this Agreement.

### **ARTICLE 33 – OTHER CONDITIONS**

- (a) **Legal Authority** - It is understood that those signing this Agreement have the legal authority to enter into binding Agreements.
- (b) **Terms and Conditions** - This Agreement contains all the terms and conditions agreed upon by the Parties. Items incorporated by reference are physically attached hereto. No other Agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind the Parties hereto.

- (c) **License and Permits** - Contractor shall obtain and possess throughout the term of this Agreement all licenses and permits required for its operations under Federal, Florida, and local laws and shall comply with all fire, health, and other applicable regulatory codes.
- (d) **Location** - All Service(s) shall be performed and located in appropriate settings that are convenient, safe, clean, and well maintained.
- (e) **Access** - OCPS agrees to provide full accessibility to property owned or leased by OCPS for Contractor's employees to perform Services as agreed upon herein. For software support, OCPS agrees to allow for secure, remote access to the system via internet-based tools such as WebEx or PCAnywhere or as outlined and agreed upon herein.
- (f) **Covenant Not-to-Hire** - Each Party agrees not to hire or attempt to hire employees of the other Party during the term and for a period of one (1) year after the term (including any renewal term) of this Agreement, without the express written consent of the other Party.
- (g) **Public Entity Crime** - Pursuant to Section 287.133, Florida Statutes, the following restrictions are placed on the ability of persons convicted of public entity crimes to transact business with OCPS: when a person or affiliate has been placed on the convicted vendor list following a conviction for a public entity crime, it may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

#### **ARTICLE 34 – PUBLIC RECORDS**

- (a) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF SECTION 119.0701, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE OCPS CUSTODIAN OF PUBLIC RECORDS AT 407.317.3965, [RECORDS@OCPS.NET](mailto:RECORDS@OCPS.NET), ORANGE COUNTY PUBLIC SCHOOLS, RECORDS MANAGEMENT, P.O. BOX 271, ORLANDO, FL 32802.**
- (b) This Agreement is subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally makes public all records or other writings made by or received by the Parties. Contractor acknowledges its legal obligation to comply with Section 119.0701, Florida Statutes. Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, which would be required to be kept and maintained by OCPS in order to perform the scope of services. Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to OCPS, all public records in the possession of Contractor upon a request for such public records. See Section 119.0701(2)(b)4, Florida Statutes, for additional record keeping requirements.
- (c) A request to inspect or copy public records relating to OCPS's contract for services must be made directly to OCPS's Custodian of Public Records. If OCPS does not possess the requested records, OCPS's Custodian of Public Records shall immediately notify Contractor of the request. Contractor must provide a copy of the records to OCPS or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes. If Contractor does not timely comply with OCPS's request for records, OCPS shall be able to sue for breach of contract and the prevailing party shall be entitled to attorney's fees.
- (d) Should Contractor fail to provide the requested public records to OCPS within a reasonable time, Contractor understands and acknowledges that it may be subject to penalties under Sections 119.0701(3)(c) and 119.10, Florida Statutes.

Contractor shall not disclose public records that are exempt, or confidential and exempt, from public records disclosure unless specifically authorized by law for the duration of this Agreement term and following the completion, expiration, or termination of same if Contractor does not transfer the records to OCPS. Upon completion, expiration, or termination of

this Agreement, Contractor shall transfer, at no cost to OCPS, all public records in its possession or keep and maintain public records required by OCPS to perform the services. If Contractor transfers all public records to OCPS, Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. If Contractor keeps and maintains public records upon competition, expiration, or termination of this Agreement, Contractor shall meet all applicable requirements for retaining public records and provide requested records to OCPS pursuant to the requirements of this Article. All public records stored electronically must be provided to OCPS in a format that is compatible with the information technology systems of OCPS.

**ARTICLE 35 – NON-WAIVER**

The failure of either Party to exercise or delay in exercising any right, power, or privilege provided for hereunder shall not be deemed a waiver thereof; nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege under this Agreement. No Party shall be deemed to have waived a right, power, or privilege provided for herein, unless such waiver is in writing and signed by the waiving Party.

**ARTICLE 35 – FORCE MAJEURE**

Except as otherwise provided herein, none of the Parties shall be obligated to perform, and no Party shall be deemed to be in default of its performance, if prevented by: (a) fire, earthquake, hurricane, wind, flood, act of God, riot, or civil commotion; (b) any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, war, or governmental law and regulation; or (c) labor dispute that results in a strike or work stoppage affecting the performance of this Agreement.

**ARTICLE 37 – NOTICE**

All formal notices, proposed changes, and determinations between the Parties hereto including, but not limited to, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by United States mail, postage prepaid, to the parties at the contact information listed below:

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**  
Attention: Procurement Services  
445 West Amelia Street  
Orlando, FL 32801

**INSERT NAME OF CONTRACTOR HERE**  
Attention:

**SIGNATURE PAGE TO FOLLOW**

**(All signatures should be on one page. Keep this statement if there is blank space at the end of the provisions and if the signatures need to be bumped to the next page. Then, make sure that the signatures start at the top of the next page.)**

**IN WITNESS WHEREOF**, OCPS has made and executed this Agreement and Contractor has made and executed this Agreement on the day and year above written.

**INSERT NAME OF CONTRACTOR HERE IN BOLD CAPS**

WITNESS (**INSERT NAME OF CONTRACTOR HERE**):

By \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Name & Title (Type or Print)      Date

\_\_\_\_\_  
Name & Title (Type or Print)      Date

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**

WITNESS (School Board):

By \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Name & Title (Type or Print)      Date

\_\_\_\_\_  
Name & Title (Type or Print)      Date

Reviewed by: \_\_\_\_\_

\_\_\_\_\_  
Name & Title (Type or Print)      Date