

	Fort Mill School District RFQ / RFP	Solicitation Number:	22-014
		Date Issued:	12/23/2022
		Procurement Specialist:	Kelly Keniston
		Phone:	(803) 548-8202
		E-Mail Address:	kenistonk@fortmillschools.org
		Mailing Address:	2233 Deerfield Drive Fort Mill, SC 29715

DESCRIPTION: CM at Risk Services for Pre-Construction (Limited) and Construction Phase Services

The Term "Offer" Means Your "Bid" or "Proposal". Your offer must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior. See "Submitting Your Paper Offer or Modification" provision.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:	
MAILING ADDRESS: Fort Mill School District 2233 Deerfield Drive Fort Mill, SC 29715	PHYSICAL ADDRESS: Fort Mill School District 2233 Deerfield Drive Fort Mill, SC 29715

QUESTIONS MUST BE RECEIVED BY: **January 10, 2022 @ 12:00 p.m.**

SUBMISSIONS DUE NO LATER THAN: **Step I: Due January 17, 2023 @ 12:00 p.m.**
Step II: Only Shortlisted Firms (See Page 14)

NUMBER OF COPIES TO BE SUBMITTED:

STEP I: **One (1) Original and nine (9) copies (clearly marked) and One (1) Digital copy**

STEP II: **One (1) Original Signed Copy (Following Shortlist Selections)**

CONFERENCE TYPE: N/A DATE & TIME: (As appropriate, see "Conferences – Pre-Bid/Proposal" & "Site Visit" provisions)	LOCATION: N/A
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AWARD & AMENDMENTS	Intent to Award will be posted on or around February 8, 2023
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You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR <small>(full legal name of business submitting the offer)</small>		Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>		TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>
TITLE <small>(business title of person signing above)</small>		
PRINTED NAME <small>(printed name of person signing above)</small>	DATE SIGNED	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

OFFEROR'S TYPE OF ENTITY: (Check one) <small>(See "Signing Your Offer" provision.)</small>		
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)
	Area Code - Number - Extension Facsimile
	E-mail Address

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
___ Payment Address same as Home Office Address	___ Order Address same as Home Office Address
___ Payment Address same as Notice Address (check only one)	___ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)							
Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	___ Calendar Days (%)
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Minority Participation: Are you a SC Certified Minority Vendor <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, SC Certification # _____ Are you a Non SC Certified Minority Vendor <input type="checkbox"/> Yes <input type="checkbox"/> No	
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End of Page Two

**KEY DATES FOR RFQ
(Subject to Change)**

Issue RFQ	December 23, 2022
Deadline for Questions	January 10, 2023 @ 12:00 p.m.
Responses to Questions	January 11, 2023 @ 4:00 p.m.
Request for Qualifications Portion Due	January 17, 2023 @ 12:00 p.m.
Short List Selection	January 19, 2023
Short List Notification	January 20, 2023
Deadline for Questions for RFP	January 26, 2023 @ 12:00 p.m.
Responses to Questions	January 27, 2023 @ 2:00 p.m.
Request for Proposals Due	February 3, 2023 @ 12:00 p.m.
On-Site Presentation by Short Listed Firms Each vendor will have a specific start time	February 7, 2023 @ 9:00 a.m.
Intent to Award Posted	February 8, 2023
Board Meeting to Approve Contract	February 21, 2023

December 23, 2022

Subject: CM @ Risk – Pre-Qualification
RFQ: Solicitation 22-014

Perspective Offerors:

The Fort Mill School District (FMSD) is soliciting Request for Qualifications (RFQ) from firms having interest in providing comprehensive services as described, but not limited to, the scope outlined in this RFQ. Step I of this RFQ will determine the qualified firms approved to move to Step II in this process. The evaluation factors for the Step I proposal are included in the RFQ.

Step II will require the prequalified general contractors to conduct a presentation of the information included within their submitted RFQ responses. General contractors will also be required to submit the Step II: Project Proposal Form located on page 18 of this RFQ. Interview. Presentations shall be limited to a maximum of 45-minutes with 15-minutes dedicated for Questions and Answers.

The Evaluation Committee will rate and rank each prequalified general contractor based on their interview and Step II: Project Proposal Form. The Evaluation Committee will recommend that the top ranked firm(s) be assigned to any or all projects using the CM @ Risk project delivery method.

A complete package of this RFQ can be obtained from the FMSD Procurement Officer, Ms. Kelly Keniston by sending her an email at kenistonk@fortmillschools.org or by going to Vendor Registry located at the following website:

<https://vrapp.vendorregistry.com/Bids/View/BidsList?BuyerId=11355f9a-0f05-4070-812b-4788bd2db9d9>

Public receipt of Step I Proposals will be recorded at 12:00 pm on January 17, 2023 in the Board Room at the Fort Mill District Office located at 2233 Deerfield Drive, Fort Mill, SC 29715. **Step I Statement of Qualifications Proposals must be physically in the possession of the FMSD Procurement Officer by the specified time to be considered timely.**

Qualifications Statements received after that time will not be considered.

Emailed or FAX copies of the Qualifications Statements will not be accepted.

Qualifications Statements shall be publicly accepted and only the names of offerors shall be read aloud at the opening. Contents of competing offerors shall not be disclosed during the prequalification process. Proprietary or confidential information specifically marked as such shall not be disclosed without written consent of the offeror.

A signature of a person authorized to contract for the company is required. The signature must be in either black or blue ink.

Please insert the exact company name and the signature of responsible person to contact on your Qualifications Statements.

Each company is to provide one (1) original and nine (9) copies of the Step I proposal and one (1) digital copy of the qualification statement.

If your Qualifications Statement is forwarded by U.S. Mail please allow adequate time to ensure delivery. Qualification Statements received after the time shown will not be considered. Mark your envelope/box with your company name and Request for Qualification Solicitation No. 22-014 – CM at Risk.

The Fort Mill School District (FMSD) reserves the right to reject any and all Qualifications Statements or any portion of said Qualifications Statements, to waive minor technicalities, and to make any and all purchases in the best interests of the School District.

Sincerely,

Kelly Keniston

Kelly Keniston
FMSD Procurement Officer

I. SCOPE OF SOLICITATION

ACQUIRE SERVICES (JAN 2006): The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions.

The Fort Mill School District is accepting qualification proposals for Construction Management as Constructor services to provide comprehensive services as described, but not limited to, the scope outlined in the AIA A133-2019 contract documents for Owner / Construction Manager as Constructor services. The potential projects may include, but not limited to the following and are contingent upon funding through impact fee approval and/or successful upcoming Bond Referendum approval:

1. New Elementary School
2. Potential New Construction Projects Over the Next 24 Months (May Include Following):
 - Middle School
 - Early Childhood Development Center

Fort Mill School District intends to award an applicable AIA revised contract to qualified firm(s) for these services. In accordance with the Fort Mill School District Procurement Regulations, the submittals will be reviewed and ranked by a selection committee. The selection committee will interview a minimum of three (3) top ranked firms. The District will then, at their convenience, proceed with firm selections.

Please submit one (1) original and nine (9) signed copies of the qualifications no later than 12:00 PM on January 17, 2023 to the person and address listed on the first page of this solicitation. Submissions after this date and time will not be considered and will be returned to this sender. Submittals must clearly respond to each of the five (5) evaluation factors of this RFQ as detailed in Step I: Section 5 - INSTRUCTIONS FOR PREPARING STATEMENT OF QUALIFICATIONS. All responses must refer to each section of this document by number and address compliance and/or exceptions to that section. FMSD reserves the right to disqualify any firm which does not follow such a format. Additional general narrative is welcome, but only addition to your specific response.

Short listed firms will be asked to submit one (1) original signed copy of the STEP II items no later than 12:00 p.m. on February 3, 2023 to the person and address listed on the first page of this solicitation. Shortlisted firms will also be requested to present the information provided within the RFQ response on February 7, 2023 to the Evaluation Committee prior to final selections.

The District shall have the right to request correction(s) to a submittal or request additional information. Failure by the submitting firm to correct any deficiency or provide requested information within forty-eight (48) hours, may result in the proposal being considered non-responsive and excluded from further consideration.

At any time throughout the solicitation process, **Submitters shall not contact any member of the Board of Education or the Selection Committee regarding this RFQ. Failure to comply will result in immediate rejection of your submittal.**

MAXIMUM CONTRACT PERIOD – Any resulting contract will begin on the date specified in the notice of award and extend until project completion. See clause entitled “Term of Contract - Effective Date/Initial Contract Period”.

STEP I - REQUEST FOR QUALIFICATIONS

Statement of Qualifications

CM @ Risk Services

Fort Mill School District (FMSD) is seeking Statements of Qualifications from firms interested in providing CM @ Risk services for multiple projects. Firms determined by the Evaluation Committee to be the most qualified for this project, will be invited to offer proposals for these services. FMSD reserves the right to reject any or all statements of qualifications or proposals, and to waive technicalities and informalities at the discretion of the FMSD.

Restriction of Communication: From the issue date of this (RFQ/RFP) solicitation until a successful proposer is selected and the selection is announced, proposers are **not allowed to communicate** for any reason with any agents, officers, directors, employees or members of the FMSD, Evaluation Committee, Leitner Management Group, LLC, Program Management or Architecture firms, except for submission of questions as instructed in the RFQ and RFP, or during the proposer's conference (if applicable), or as provided by any existing work agreement(s). For violation of this provision, FMSD reserves the right to reject the proposal of the offending proposer.

1. GENERAL PROJECT INFORMATION

Project Description FMSD intends to construct any or all of the following:

- 1) New Elementary School
 - a) Site Adapted Prototype Design
 - b) 132,000sf Facility
 - c) 40-acre Site
 - d) Estimated Schedule:
 - i) Start: February 2023
 - ii) Occupancy: June 2025
 - e) \$50,000,000 Construction Budget

- 2) Potential New Construction Projects Over the Next 24 Months (May Include Following):
 - a) Middle School (1,200 / 1,400 Students)
 - i) 195,000sf Facility
 - ii) 40-acre Site
 - b) Early Childhood Development Center (750 Student)
 - i) 125,000sf Facility
 - ii) 20-acre Site

The delivery method for this project will be CM @ Risk, and at a minimum, will employ the services of a Design Professional in addition to the services of a Program Manager for these schools.

Once the General Construction firm(s) is/are selected the contractor will be issued construction documents in which a Guaranteed Maximum Price (GMP) will be requested.

The General Contractor, Program Manager and Architect for this project will be expected to work collaboratively to develop separate proposal packages during the course of construction. In addition, FMSD will solicit an Early Site Package(s) Invitation for Bids (IFB) for the grading of the sites. This contract will be assigned to the successful General Contractor.

The prospective General Contractor(s) will be required to provide a constructability review with potential VE options prior to or part of the GMP process. The General Contractor(s) will be responsible for methods of construction, safety, and the scheduling and coordination of the work of all construction and miscellaneous contracts required for completion of the project within its predetermined budget and schedule. The successful General Contractor(s) will be required to work harmoniously with FMSD's consultants.

2. QUALIFICATIONS REVIEW PROCESS

Selection of the General Contractors will be a two-step process generally following the steps outlined below.

Step I- Statement of Qualification Review. This RFQ is issued for the purpose of acquiring Statements of Qualifications from prospective General Contractors. A selection of prequalified firms will be made by an Evaluation Committee consisting of representatives from the Program Management firm and the FMSD staff. The evaluation committee will receive and review Step I Statement of Qualifications submitted in response to this RFQ.

The responding general construction firms must meet the following minimum qualifications which will be evaluated on a pass or fail basis by the Evaluation Committee.

The General Construction firm must have sufficient bonding capacity for anticipated total cost of work. The firm must provide a letter from their proposed bonding company. Include letter from Surety Company indicating bonding capacity and AM Best rating for the surety in Appendix.

The General Construction firm must demonstrate a commitment to safety with regard to Worker's Compensation by having an Experience Modification Rate (EMR) over the past three years of or less than 1.0. Include letter from insurance provider verifying EMR for past three years in Appendix.

Provide current insurance certificate outlining coverages for General Liability, Auto, Excess Umbrella and Worker's Compensation in Appendix.

The firm must have all necessary, valid and current licenses to do business in the State of South Carolina. In addition, firms must apply for the appropriate York County and Fort Mill Business Licenses needed.

The firm will provide documented proof when available and a certified sworn statement attesting to compliance with the minimum criteria listed above in accordance with Deliverable A5 (see page 11) defined in the RFQ.

The Evaluation Committee will then evaluate the submittals which have met the above minimum qualifications. Criteria for the evaluation are listed below:

- (25% Factor) **Company Stability:** Stability of the firm, including the firm's corporate history including years of continuous operation in South Carolina, resources, form of Ownership including parent and/or holding company information, litigation history, financials, etc.
- (20% Factor) **Experience and Qualifications of the Proposed Project Team.** Firm's relevant overall CM@R experience. Firm's relevant public project experience with OSF on projects within South Carolina. Experience of the project executive, project manager and superintendent on completed projects of similar size, type, and complexity; Assigned team's experience with effective budget and schedule control plans for this project; Provide information regarding % of primary team member's time committed to this project.
- (30% Factor) **Past Prior Experience.** Previous performance of the firm on projects provided in RFQ Sections B1 and B2 including level of quality of the services of the firm to those customers, customer's statements of that quality, the firm's ability to meet established time requirements, the firm's response to project needs during preconstruction and construction, the firm's control of construction quality and budget. The Evaluation Committee will use references from stakeholders of the Evaluation Committee's choosing from previous projects of the finalists, among other information as necessary. This information will be collected by the Evaluation Committee from project references provided in the RFQ submittal.
- (20% Factor). **Management Approach:** Firm's management approach to provide services for project, including the firm's apparent fit to the project type, delivery method, and unique qualifications for the project. The firm's cost and schedule management plans; Firm's approach for managing changes within the stated cost and schedule limitations; Firm's approach for competitively administering and evaluating proposal packages; The firm's subcontractor management plan; The firm's quality assurance program and plan; The firm's close-out plan; The firm's work force plan; The firm's safety plan and site logistics plan for proposed project. Submit a level 2 schedule showing proposers duration from NTP to Substantial Completion.
- (5% Factor). **Local Contractor and SWMBE Participation:** It is the desire of FMSD that minority owned businesses and small businesses have a fair and equal opportunity to participate in the projects. The contractor(s) shall demonstrate the ability of the proposer to attract and encourage local and SWBE participation.

3. SCHEDULE OF EVENTS (Step I)

The following Schedule of Events represents FMSD's best estimate of the schedule that will be followed. All times indicated are prevailing times in Fort Mill, South Carolina. FMSD reserves the right to adjust the schedule as FMSD deems necessary.

Step I (RFQ) Estimated Schedule

Event	Date	Time
FMSD issues public advertisement for RFQ	12/23/2022	
Deadline for submission of written requests for clarifications	1/10/2023	12:00pm
Deadline for submission of Statement of Qualifications	1/17/2023	12:00pm
Committee completes qualification evaluation	1/19/2023	
Notification of prequalified Firms	1/20/2023	

4. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION

It is the responsibility of each respondent to examine the entire RFQ and RFP, seek clarification in writing, and review its submittal for accuracy before submitting the document. Questions about any aspect of the RFQ, RFP, or the project, shall be submitted in writing (e-mail is preferable) to: Ms. Kelly Keniston, FMSD Procurement Officer, at kenistonk@fortmillschools.org along with a copy to the Program Management Firm's designee Mr. Jay Gaither, jay@leitnergrp.com

Deadlines: The deadline for submission of questions relative to the RFQ is the time and date shown in the Schedule of Events (Section 3). All relevant questions and requests for clarification and FMSD's responses will be sent to all perspective bidders via email as an addendum to the original solicitation.

FMSD will not request clarification from individual respondents relative to their submission, but reserves the right to ask for additional information from all parties who have submitted qualifications.

5. INSTRUCTIONS FOR PREPARING STATEMENT OF QUALIFICATIONS

Provide one (1) original, nine (9) hard copies, and one (1) digital copy of the complete package. Each submittal shall be identical and include a transmittal letter. Submittals must be on 8 ½" x 11" paper; numbered sequentially. A table of contents, with corresponding tabs, must be included to identify each section. Responses are limited to twenty-five (25) two sided pages or fifty (50) single pages or less using a minimum of an 12-point font. The cover page, transmittal letter, table of contents and section dividers will not count as part of the page count. Any exhibits, affidavits, or other enclosure information called for to be included in the Appendix will not count as part of the page count. Submittals that include qualifications of more than one firm shall not exceed the page limit. Emphasis should be on completeness, relevance, and clarity of content. To expedite the review of submittals, it is essential that respondents follow the format and instructions outlined below. The content of all Statements of Qualifications must be categorized and numbered as outlined below, and must address in a responsive and responsible manner, all requested information.

**STEP I – STATEMENT OF QUALIFICATIONS
(DELIVERABLES "A", "B", "C", "D", and "E" FOR ALL FIRMS)**

A. Company Stability (25%):

A1: Provide basic company information (If Proposer is a team or joint venture, provide the following information pertaining to both firms): Company name, address, name of primary contact, telephone number, fax number, e-mail address, and company website (if available). Provide form of ownership including parent and/or holding company information. Indicate # of years in continuous operation, number of personnel currently employed and volume of work currently under contract.

A2: Provide overview of firm's K-12 and South Carolina public project experience (if team or joint venture, provide this overview for each team member). Indicate number of years in continuous operation, number of personnel currently employed and volume of work currently under contract.

A3: If team or joint venture, explain contractual arrangement between team members and reason(s) for teaming.

A4: Please disclose whether or not the firm(s) has been involved in any litigation or claims with an Owner or Architects during the past five (5) years on public projects in South Carolina. List any active or pending litigation and provide a thorough explanation of its scope.

A5: The firm, in order to be deemed eligible for further evaluation, will issue the following statement asserting that the firm meets the minimum qualifications required for this project (supporting information is requested further into the process). The SIGNED statement shall read as follows:

- a) The firm must have sufficient bonding capacity for anticipated total cost of work. Provide letter from the bonding company. Include letter from Surety Company indicating bonding capacity and AM Best rating for the surety in Appendix.
- b) The firm must demonstrate a commitment to safety with regard to Worker's Compensation by having an Experience Modification Rate (EMR) over the past three years of 1.0 or less. Include letter from insurance provider verifying EMR for past three years in Appendix.
- c) Provide current insurance certificate outlining coverages for General Liability, Auto, Excess Umbrella and Worker's Compensation in Appendix.
- d) The firm must have all necessary, valid and current licenses to do business in the State of South Carolina.

B. Experience and Qualifications of the Proposed Project Team (20%):

B1: Describe your firm's proposed organization for the general construction team including, Managing principal(s), project executive, project manager, superintendent, project engineer, pre-construction manager, etc., who will manage the project. Please designate the specific individuals to fill the following key roles on your team:

- a) Managing Principal(s)
- b) Project Executive
- c) Project Manager

- d) Superintendent(s)
- e) Project Engineer(s)
- f) Safety Manager
- g) Quality Control Manager
- h) Other (please describe, if applicable)

B2: Please provide, for each of the above personnel, current resumes listing relevant project experience and percentage of the person's time to be committed to this project.

B3: Provide an organizational chart showing the lines of responsibility and accountability for your team and proposed consultants.

C. Past Prior Experience (25%):

C1: Provide information on the firm's construction management experience on relevant South Carolina K-12 "At-Risk", K-12 projects or other "At-Risk" projects of similar size, and complexity. For each project, provide the following information (limit 5 projects):

- a) Project name and location.
- b) Name and location of Architect.
- c) Total square footage, construction cost, completion date and owner reference
 - i. (Name, Title, address and contact number).
- d) Brief narrative describing the scope of the project and services provided which
- e) demonstrates how the highlighted project relates to the current Project being considered.

C2: Provide information on the firm's general construction experience on relevant public projects in South Carolina (limit 5) of similar, size, function, and complexity. For each project, provide the following information:

- a) Project name and location.
- b) Name and location of Architect.
- c) Total square footage, construction cost, project NTP and completion date, and owner reference (Name, Title, address and contact number).
- d) Brief narrative describing the scope of the project and services provided which demonstrates how the highlighted project relates to the current Project being considered.

C3: For projects provided in RFQ Sections C1 and C2 include the following information:

- a) Provide project photographs
- b) Provide a written reference and letter/s of recommendation from the Architect and Owner (with current contact information) familiar with your performance
- c) Original Proposed Substantial Completion Date vs. Actual Substantial Completion Date
- d) Original Contract Amount vs. Final Contract Amount (explain any delta)
- e) Lost Time Incident Rate & Recordable Incident Rate

D. Management Approach (25%):

D1: Provide your proposed methods and plans of communication with the owner and project team.

D2: Describe your firm's approach to providing pre-construction services on this project (estimating, value engineering and constructability reviews).

D3: Provide your detailed safety plan and site logistics plan for this project.

D4: Provide detailed construction schedule phasing plan.

- D5: Provide your detailed schedule management plan for this project during construction. Describe systems and procedures your firm uses to manage the project schedule. Describe alternatives that may be explored to expedite schedule.
- D6: Provide your quality control plan for this project. Describe your firm's approach for validating compliance with the construction documents. Explain your process for ensuring quality workmanship.
- D7: Provide your detailed cost management plan for controlling costs on this project within the GMP during preconstruction. Describe your systems and procedures for controlling costs During construction.
- D8: Provide your detailed subcontractor management plan including, contract document compliance procedures, project accounting procedures and issue resolution.
- D9: Provide your detailed change management plan for managing cost and schedule exposures within the stated limitations.
- D10: Provide your closeout management plan for this project. Describe your systems and procedures for your closeout plan.
- D11: Provide your detailed plan for applying any services not specifically mentioned herein. Explain the relevance of these services to this project and how they benefit the project.
- D12: Provide any information that may serve to differentiate your firm from other firms' technical approach for the project. This evaluation factor may include, but is not limited to:
- a) % of project portfolio completed as CM at Risk
 - b) describe project controls approach methodology
 - c) describe scheduling methodologies technology
 - d) describe quality control program to ensure quality and regulatory standards are met
 - e) describe formal commissioning methodology
 - f) other services the offeror deems as relevant to this evaluation factor

E. Local Contractor and SWMBE Participation (5%):

- E1: Provide your procurement and workforce plan including details on your plan to assure local and SWMBE contractor opportunity.
- E2: Provide specific examples for project specific local and SWMBE participation.
- E3: SWMBE and local subcontractor outreach methodologies offered by the firm

6. SUBMITTAL OF STATEMENTS OF QUALIFICATIONS

Submit one (1) original, nine (9) hard copies and one (1) Digital Copy of the complete package for a total of eleven (11) sets of responses. All responses must be sealed in an envelope or box with reference to the Project No. 22-014, CM at Risk. Statements of Qualifications must be physically received by FMSD prior to the deadline indicated in the Schedule of Events (*Section 3 of RFQ*) at the exact address below:

Fort Mill School District
2233 Deerfield Drive
Fort Mill, SC 29715
Attn: Kelly Keniston, Procurement Officer

No submittals will be accepted after the date and time set for receipt. Statements of Qualifications submitted via facsimile or e-mail will be rejected. FMSD reserves the right to reject any and all submittals.

STEP II - REQUEST FOR PROPOSALS

CM @ Risk Services

The firms who have been issued notification as having been deemed eligible, the Fort Mill School District (FMSD) issues this Request for Proposals (RFP), for those firms to offer proposals for CM @ Risk Services for the specific projects.

1. CONTRACT INFORMATION

The delivery method for this Project will be CM @ Risk. In addition, FMSD, at a minimum, will employ the services of a Design Professional in addition to the services of a Program Manager (PM). The CM @ Risk contracts format will be an *Actual Cost plus a Fixed Fee not to exceed the Guaranteed Maximum Price (GMP) Agreement*. The Projects will be *Open-Book*. During Pre-Construction, the CM @ Risk will be responsible for pricing, value engineering, and constructability reviews. Construction will commence with the release of two distinct work packages based on the design documents, and site and building. The General Contractor shall select all construction subcontracts by competitive selection using cost and other factors.

Project Goals

It is FMSD's desire to have these facilities constructed (including design reviews) to a level of quality that reflects the standard of excellence of FMSD. FMSD's goal is to provide facilities that are a reflection of the future and remain sensitive to the surrounding environment.

2. BUILDING PROGRAM INFORMATION

Project Description -- FMSD intends to construct any or all of the following.

- 1) New Elementary School
 - a) Site Adapted Prototype Design
 - b) 132,000sf Elementary School
 - c) 40-acre Site
 - d) Estimated Schedule:
 - i) Pre-Construction Phase:
 - (1) Start: February 2023
 - (2) Completion: May 2023
 - ii) Early Site Package Schedule:
 - (1) Start: May 2023
 - (2) Completion: October 2023
 - iii) Construction Schedule:
 - (1) Start: October 2023
 - (2) Completion: May 2025
 - iv) Occupancy: June 2025
 - e) \$50,000,000 Construction GMP Budget

3. SCHEDULE OF EVENTS (STEP II)

The following Schedule of Events represents the FMSD's best estimate of the schedule that will be followed. All times indicated are prevailing times in Fort Mill, South Carolina. FMSD reserves the right to adjust the schedule as FMSD deems necessary.

STEP II (RFP) Estimated Schedule

Event	Date	Time
FMSD issues notice to prequalified firms to propose as instructed in the RFP	1/20/2023	
Deadline for prequalified firms to submit written questions and requests for clarification	1/26/23	2:00pm
Submission of Proposals	2/3/2023	12:00pm
Evaluation Committee interviews prequalified firms	2/7/2023	TBD

4. SELECTION PROCESS

Step II - General Contractor Selection will be initiated by the invitation to the qualified finalists by the Procurement Specialist. Finalists will be requested to submit Project Proposals as instructed in this RFP. Finalist interviews should consist of presentation of the Criteria submitted within the RFQ response of each General Contractor. Interviews will be conducted by the Evaluation Committee. The successful General Contractor will be determined from the evaluation of interviews and proposals received .

5. FINAL EVALUATION

Upon completion of the evaluation of Project Proposals and interviews by the Evaluation Committee, proposers will be ranked in descending order of recommendation. Preconstruction Cost, Construction Fee, and General Conditions of the offeror with the highest-scoring Project Proposal will be negotiated between the highest-scoring firm and the district's Construction Director and the Program Management firm. In the event satisfactory Fees and General Conditions cannot be reached with the highest-scoring firm, the Construction Director will formally terminate the negotiations in writing and begin negotiations with the next highest-scoring ranking firm, and so on until a mutually agreed upon Fees and General Conditions are established. Once the successful General Contractor(s) and the agreed upon Fees and General Conditions have been determined, a CM @ Risk services contract will be awarded by the FMSD. The actual Form of Contract will be developed by the FMSD.

6. SUBMITTAL OF QUESTIONS AND REQUESTS FOR CLARIFICATION, AND EXTENSIONS

It is the responsibility of each respondent to examine the entire RFP, seek clarification in writing, and review its submittal for accuracy before submitting the document. Questions about any aspect of the RFP, or the project, shall be submitted in writing (e-mail is preferable) to: Kelly Keniston, Procurement Officer at kenistonk@fortmillschools.org along with a copy to the Program Management Firm's designee Mr. Jay Gaither, jay@leitnergpr.com

- a. **Deadlines:** The deadline for submission of questions relative to the RFP is the time and date shown in the Schedule of Events (Section 3). All relevant and significant questions that have been submitted in writing prior to the deadline will be compiled and answered in writing, and issued directly to all proposers via E-mail. Any proposer exceptions to the RFP requirements or requests for deadline extensions must also be communicated to the FMSD Procurement Specialist by the deadline to be properly considered. Any requests for proposal deadline extensions must include the reason(s) for such a request. FMSD reserves the right to approve or reject such requests as the FMSD deems necessary.
- b. **Restriction of Communication.** From the issue date of this solicitation until a successful proposer is selected and the selection is announced, all parties are prohibited from communication in any manner or for any reason with any agents, officers, directors, employees or members of the FMSD, Evaluation Committee or Architecture or Program Management firms. Parties will be allowed to communicate only as sanctioned by FMSD. Communications will be accepted as submission of questions as instructed in the RFP, or during the Pre-Proposal Site Visit. For violation of this provision, the FMSD Procurement Officer shall reserve the right to reject the proposal of the offending proposer.

7. INSTRUCTIONS FOR PREPARING PROJECT PROPOSAL – STEP II

Provide one (1) original signed copy of the Project Proposal Form (next page) and corresponding itemized General Conditions. The original and all copies of the proposal must be submitted in a sealed envelope, with reference to the Project No. 22-014, the words "SEALED PROPOSAL" and the name of the submitting firm must be indicated on the outside of all of the envelope. Each submittal shall be identical and include a transmittal letter. Submittals must be typed on standard (8.5" x 11") paper. The pages of the Project Proposal must be numbered sequentially. A table of contents, with corresponding tabs, must be included to identify each section. Submittals that include proposals of more than one firm shall not exceed the page limit. Emphasis must be on completeness, relevance, and clarity of content. To expedite the review of submittals, it is essential that respondents follow the format and instructions outlined below. The content of all Project Proposals must be categorized and numbered as outlined in the following "PROJECT PROPOSAL DELIVERABLES" and must address in a responsible and responsive manner all requested information.

STEP II: PROJECT PROPOSAL FORM
DELIVERABLES "F", "G", and "H" FOR PREQUALIFIED FIRMS ONLY
(Please provide requested costs indicated below and submit)

CM@R FEES: To be provided in a sealed envelope included as part of the proposal submission with the outside of the envelope stating the firms name and project name. Please be sure to include the fees for each project.

F. Pre-Construction Phase (Lump Sum Fee): _____

F1: Preconstruction Fee should reflect the estimated project schedule information provided in Step II: Item 2 for a duration of 4 months.

F2: Pre-Construction services will vary from project to project depending on the scope and complexity of each project. Services usually include field verification, constructability reviews, value engineering, design suggestions and cost estimating – but for this project the building is a prototype and have been designed. They are in the process of being reviewed to allow for any District specifics needs – so limited pre-construction services are needed. Provide a lump sum fee for these **limited pre-construction services** for the project detailed in Step II: Item 2.

G. Construction Fee (Fixed %): _____

G1: As stated in § 5.2 of the AIA-A133-CMc-2019, the Guaranteed Maximum Price consists of the Cost of the Work plus the Fee. Provide a percentage fee for the Construction Phase for each project and awarded volume increments shown below. Percentage fees should be reflected only in the volume increments that the firm wishes to be considered AND can obtain a performance and payment bond.

G2: Construction Phase fees shall include all home and/or satellite office overhead and profit associated with the project. The District reserves the right to review staffing of project prior to finalizing the contract.

H. General Conditions (Total GC's for Project): _____

H1: General Contractor shall provide an itemized breakdown for total GC's estimated for the full duration of the construction project per the schedule indicated in Step II: Item 2.

H2: Monthly costs should reflect each of the Early Site / Construction / Closeout phases of the project.

H3: Itemized Monthly breakdown shall be submitted with proposal.

H4: General Contractor shall note that construction fee markup of submitted GC's is not permitted.

Submitted by: _____

Title: _____

Company Name: _____

Address: _____

Telephone #: _____

E-Mail Address: _____

Signed: _____

Date: _____

8. PRESENTATION / INTERVIEW INFORMATION

- A. The Contractor warrants that Contractor has complied with the Immigration Reform and Control Act of 1986 and the South Carolina Illegal Immigration Reform Act by registering at <https://everify.uscis.gov/enroll> and verifying information of all new employees;
- B. The successful proposer shall comply with the stipulations cited in South Carolina Code § 41-8-20 with respect to the proper federal authorizations regarding the right to work for subcontractors and contractors.
- C. Statement of Agreement. By submitting a proposal, the Proposer agrees that they have carefully examined and are fully aware and accept all the requirements stipulated in this Request for Proposal. The Proposer agrees that it is the Proposer's responsibility to request clarification or exceptions. The Proposer also understands that failure to mention these items in the proposal will be interpreted to mean that the Proposer is in full agreement with the terms, conditions, specifications and requirements of the RFP. With submission of a proposal, the Proposer hereby certifies:
 - a) that this proposal is genuine and is not made in the interest or on behalf of any undisclosed person, firm, or corporation; b) that Proposer has not directly or indirectly enticed or forced any other Proposer to submit a false or insincere proposal; and c) that Proposer has not solicited or induced any person, firm, or corporation to refrain from submitting a proposal.

Interview Format

Firms selected to make presentations shall be notified in writing by the Procurement Officer. The Procurement letter shall designate a place and time for the interview session and will specify the manner in which the presentations will be conducted.

- a) Electronic presentations, such as PowerPoint presentations, are allowed but may not comprise more than 45 minutes with 15 minutes set aside for questions and answers during the presentation.
- b) The Evaluation Committee will typically have a screen available in the interview room. All presenters must be prepared with their own projector and computer for their presentation.
- c) The presentation may involve flip charts or boards along with the oral presentation.
- d) All members of the Evaluation Committee will be present during all of the presentations and interviews.

Interview Requirements

The primary intent of the formal interview process is to provide the Selection Committee with in-depth and clarifying information about the firm. Information provided should assist the Selection Committee in making an informed decision as to the proposer best suited for the work.

- a) Describing their overall understanding of the project with specific regard to SITE LOGISTICS, CONSTRUCTION SCHEDULE, COST MANAGEMENT, QUALITY MANAGEMENT, COMMUNITY IMPACT; and
- b) Demonstrate any unique services the firm offers to be applied to the items noted above.
- c) Firms are discouraged from reviewing general company history and past experience as submitted in Statements of Qualifications or Project Proposals unless this information is

particularly relevant to the presentation. All key personnel should be present at the interview including at a minimum, the project executive, project manager and the project superintendent.

9. SUBMITTAL OF PROJECT PROPOSAL

Submit one (1) original signed copy of the Project Proposal Form and corresponding itemized General Conditions. All responses must be sealed in an envelope or box with reference to the Solicitation #22-014, the words "SEALED PROPOSAL" and the name of the submitting firm on the outside of all envelopes or boxes. Proposals must be physically received by the FMSD prior to the deadline indicated in the Schedule of Events (*Section 3 of RFP*) at the exact address below:

Fort Mill School District
2233 Deerfield Drive
Fort Mill, SC 29715
Attn: Kelly Keniston, Procurement Officer

No Proposals will be accepted after the date and time set for receipt. Proposals submitted via facsimile or e-mail will be rejected. FMSD reserves the right to reject any and all Proposals. The Proposer agrees that, his Proposal shall remain valid for a period of ninety (90) days.

10. ADDITIONAL TERMS AND CONDITIONS

A. Submittal Costs and Confidentiality.

- a) FMSD is not obligated to any party to reimburse for any expenses incurred in the preparation and submittal of a response to this solicitation.
- b) All submittals received shall become the property of the FMSD.

B. Award Conditions.

- a) FMSD reserves the right to forego award, suspend or change the manner of award for the Project contemplated hereby.
- b) This solicitation is not an offer to contract or a solicitation of priced bids.
- c) Your response to this solicitation regardless of whether the proposal is determined to be the best proposal, shall not be binding upon the FMSD and it will not obligate the FMSD to procure or contract for any services contemplated hereby or parts thereof.
- d) Neither the FMSD nor any party submitting a response will be contractually bound unless a written contract is mutually negotiated and executed by both parties.
- e) Upon receipt and review of responses, the FMSD will determine which proposal in the sole judgment of the FMSD Procurement Specialist is in the best interest of the FMSD using the evaluation criteria stated herein.
- f) FMSD intends to conduct negotiations with the proposer deemed to be the highest ranked from all the responses shortlisted.

C. Small, Women Owned and Minority Business Enterprise (SWMBE) Program.

It is the desire of FMSD that minority owned businesses and small businesses have a fair and equal opportunity to participate in the projects. The contractor(s) shall demonstrate the ability of the proposer to attract and encourage local and SWBE participation.

D. FMSD – CM @ Risk Contract.

General Conditions and supplementary conditions shall remain as what's currently being used in the AIA format. FMSD does not intend to modify any language contained in the general requirements of the contract, and any significant exceptions to the standardized contract proposed by a firm could render a firm as non-responsive. Any approved exceptions may be addressed as Supplementary General Requirements to the contract.

E. Immigration Reform Compliance Requirement.

The successful Proposer will be required to certify compliance with the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603 and the South Carolina Illegal Immigration Reform Act, 2008 Act 280, Section 3, Title 8, Chapter 14, by meeting or having complied with one of the (2) following provisions and by executing any affidavits required by the rules and regulations issued by the South Carolina State Budget and Control Board as set forth by South Carolina Code § 41-8-20 (B) with respect to the proper federal authorizations regarding the right to work for subcontractors and contractors.

F. Statement of Agreement.

By submitting a proposal, the Proposer agrees that they have carefully examined and are fully aware and accept all the requirements stipulated in this Request for Proposal, The Proposer agrees that it is the Proposer's responsibility to request clarification or exceptions. The Proposer also understands that failure to mention these items in the proposal will be interpreted to mean the Proposer is in full agreement with the terms, conditions, specifications and requirements of the RFP.

With the submission of a proposal, the Proposer hereby certifies:

- a) that this proposal is genuine and is not made in the interest or on behalf of any undisclosed person, firm, or corporation:
- b) that Proposer has nor directly or indirectly enticed or forced any other Proposer to submit a false or insincere proposal; and
- c) that Proposer has not solicited or induced any person, firm, or corporation to refrain from submitting a proposal.

II. INSTRUCTIONS TO OFFERORS - General Instructions

DEFINITIONS, CAPITALIZATION, AND HEADINGS (MODIFIED - DEC 2015)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

AUTHORITY means the School Board or its successor in interest.

BOARD means Fort Mill School District Board of Trustees.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

BUYER means the Procurement Specialist/Procurement Officer or his/her designee.

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the Procurement Officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

DISTRICT means Fort Mill School District (FMSD)

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT SPECIALIST/PROCUREMENT OFFICER means the person, or his successor, identified as such on the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the District.

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

AMENDMENTS TO SOLICITATION (MODIFIED - JAN 2004): (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should check for the issuance of Amendments <https://www.fortmillschools.org/domain/57> . Click "Current Bids and RFPs," then click the appropriate Bid listing. (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by identifying the amendment number and date in the space provided for this purpose on Page Two or (2) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

AUTHORIZED AGENT (MODIFIED – FEB 2015): All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer Unless specifically delegated in writing, the Procurement Officer is the only District official authorized to bind the District with regard to this procurement or the resulting contract.

AWARD NOTIFICATION (FEB 2015): Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given.

BID/PROPOSAL AS OFFER TO CONTRACT (MODIFIED – JAN 2004): By submitting Your Bid or Proposal, You are offering to enter into a contract with the District. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with the District. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

BID ACCEPTANCE PERIOD (JAN 2004): In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID IN ENGLISH and DOLLARS (JAN 2004): Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

AUTHORITY AS PROCUREMENT AGENT (MODIFIED – DEC 2015): The Procurement Officer is an employee of the District acting on behalf of the District pursuant to Fort Mill School District Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the District. The Board of Trustees is not a party to such contracts, unless and to the extent that the Board is a using District department, and bears no liability for any party's losses arising out of or relating in any way to the contract.

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008): GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

- (a) By submitting an offer, the offeror certifies that –
- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to –
 - (i) Those prices;
 - (ii) The intention to submit an offer; or
 - (iii) The methods or factors used to calculate the prices offered.
 - (2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
 - (3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
- (b) Each signature on the offer is considered to be a certification by the signatory that the signatory-
- (1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of the certification; or
 - (2) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

- (i) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs(a)(1) through (a)(3) of this certification; and
 - (ii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.
- (c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (MODIFIED - JAN 2004):

- (a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-
- (i) Offeror and/or any of its Principals-
 - (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
 - (B) Have not, within a three-year period preceding this offer, 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) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
 - (C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
 - (ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.
- (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- (b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.
- (d) 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 paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the District, the Procurement Officer may terminate the contract resulting from this solicitation for default.

CODE OF LAWS AVAILABLE (MODIFIED – JAN 2006): The Fort Mill School District Procurement Code is available at: <https://www.fortmillschools.org/Page/174>

CONTENTS OF OFFER (RFP) (FEB 2015)

- (a) Offers should be complete and carefully worded and should convey all of the information requested.
- (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- (c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.
- (d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE

(MODIFIED - FEB 2015): You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the District may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

DEADLINE FOR SUBMISSION OF OFFER (MODIFIED – JAN 2004): Any offer received after the Procurement Officer or his/her designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the District's mail room which services the purchasing office prior to the bid opening

DISTRICT OFFICE CLOSINGS (MODIFIED – JAN 2004): If an emergency or unanticipated event interrupts normal District processes so that offers cannot be received at the District office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal District processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If District offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference.

DRUG FREE WORKPLACE CERTIFICATION (JAN 2004): By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

DUTY TO INQUIRE (MODIFIED – FEB 2015): Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors,

omissions, or conflicting statements in the solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the District's attention. See clause entitled "Questions from Offerors."

ETHICS CERTIFICATE (MODIFIED - 2008): By submitting an Offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statute requires special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public officials; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-755, prohibiting public official with economic interest from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The District may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

PROTESTS (MODIFIED – JUN 2006): Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Procurement Officer within the time provided. (Article 17-4210 of Fort Mill School District Procurement Code)

PROHIBITED COMMUNICATIONS AND DONATIONS (MODIFIED - FEB 2015): Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, *you must not communicate, directly or indirectly, with the District or its employees, agents or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010]*

(b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. *You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the District during the period beginning eighteen months prior to the Opening Date.*

PUBLIC OPENING (JAN 2004): Offers will be accepted at the date/time and at the location identified in these documents. No information will be divulged at this time other than the names of the firms submitting proposals.

QUESTIONS FROM OFFERORS (MODIFIED – FEB 2015): (a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the Procurement Officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.** (b) The District seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

All questions shall be in writing and submitted to the Procurement Officer via Email. Please send questions to:

Mailing Address: Fort Mill School District
Kelly Keniston
2233 Deerfield Drive
Fort Mill, SC 29715

Email: kenistonk@fortmillschools.org

REJECTION/CANCELLATION (MODIFIED – JAN 2004): The District may cancel this solicitation in whole or in part. The District may reject any or all proposals in whole or in part. (Article 5-1710 of Fort Mill School District Procurement Code)

RESTRICTIONS APPLICABLE TO OFFERORS: Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, all communications must be solely with the Procurement Officer. You agree not to discuss this procurement activity in any way with any other District employees, agents or officials. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, you agree not to give anything to any other District employees, agents or officials prior to award.

SIGNING YOUR OFFER (JAN 2004): Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in

paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

SUBMITTING CONFIDENTIAL INFORMATION (MODIFIED - FEB 2015):

(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the District may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the District will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the District, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the District or any of its agencies, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.) [02-2A125-2]

SUBMITTING YOUR OFFER OR MODIFICATION: (a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) – (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder. (b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page. (d) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if

the electronic commerce method was specifically stipulated or permitted by the solicitation. (g) It is the Offeror's responsibility to ensure that bids submitted by electronic commerce were received by the Procurement Officer.

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008): Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498.

TAXPAYER IDENTIFICATION NUMBER: (a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror shall submit with its Offer the name and TIN of common parent.

(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government.

WITHDRAWAL OR CORRECTION OF OFFER (MODIFIED – JAN 2004): Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by Article 5-1520 of Fort Mill School District Procurement Code.

III TERMS AND CONDITIONS – A. General

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (MODIFIED FEB 2015): (a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the District shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identify (by contract number) of the specific contract to which the assignment applies, and (iii) the name of the assignee and he exact address or account information to which assigned payments should be made. (b) if contractor amends, modifies, or otherwise changes its name, its identify (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and required approvals.

BANKRUPTCY - GENERAL (MODIFIED JAN 2006): (a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the District. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all District contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the District upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

CHOICE-OF-LAW (JAN 2006): The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (MODIFIED FEB 2015): (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications or discussions of an offer, if applicable, (4) your offer (5) any statement reflecting the District's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the District (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by the District. Any

document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

DISCUSSION WITH BIDDERS/OFFERORS: After opening, the Procurement Officer may, in his/her sole discretion, initiate discussions with you to discuss your bid/offer. Discussions are possible only if your bid/offer is apparently responsive and only for the purpose of clarification to assure your full understanding of the solicitation's requirements. Any discussions will be documented in writing and shall be included in the bid file.

DISPUTES (MODIFIED JAN 2006): (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the Procurement Officer in accordance with the District's Procurement Code, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in the State of South Carolina. Contractor agrees that any act by the government regarding the Agreement is not a waiver of either the government's sovereign immunity or the government's immunity under the Eleventh Amendment of the United State's Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

EQUAL OPPORTUNITY (JAN 2006): Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

FALSE CLAIMS (JAN 2006): According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

FORCE MAJURE: The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the contractor and the subcontractor, and without the fault or negligence of either of the, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet the required delivery schedule.

NO INDEMNITY OR DEFENSE (MODIFIED FEB 2015): Any term or condition is void to the extent it requires the District to indemnify, defend, or pay attorney's fees to anyone for any reason.

NOTICE (MODIFIED JAN 2006): (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the District shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

PUBLICITY (MODIFIED JAN 2006): Contractor shall not publish any comments or quotes by District employees, or include the District in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

QUALIFICATIONS OF OFFEROR: To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating the Offeror's responsibility, the District's Procurement Code and information from any other source may be considered. An Offeror must, upon request of the District, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award.

SURVIVAL OF OBLIGATIONS (JAN 2006): The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006): Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds thereof. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

WAIVER (MODIFIED JAN 2006): The District does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the District's rights under this Contract. Any waiver must be in writing.

IV. TERMS AND CONDITIONS – B. Special

BANKRUPTCY – GOVERNMENT INFORMATION (MODIFIED - FEB 2015)

(a) All government information (as defined in the clause herein entitled "Information Security - Definitions") shall belong exclusively to the District, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor

enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate.

(b) Contractor agrees to notify the District within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to the District, before such filing, all government information that is in Contractor's possession in a format that can be readily utilized by the District.

(c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit or access government information.

CHANGES (MODIFIED JAN 2006):

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the District in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the District promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the District is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

COMPLIANCE WITH LAWS (JAN 2006): During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

CONTRACT LIMITATIONS (JAN 2006): No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration

of this contract. Violation of this provision may result in termination of this contract and may subject contractor to suspension or debarment.

CONTRACTOR'S LIABILITY INSURANCE REQUIREMENTS:

- a. Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors.
- b. Coverage shall be at least as broad as:
 - (1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.
 - (2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
 - (3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- c. The District, and its officers, officials, employees and volunteers, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used. Please list the additional insured as Fort Mill School District, 2233 Deerfield Drive, Fort Mill, SC 29715.
- d. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the District, the officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the District, officers, officials, employees and volunteers, shall be excess of the Contractor's insurance and shall not contribute with it.
- e. Prior to commencement of the work, the Contractor shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.
- f. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the District immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.
- g. Contractor hereby grants to the District a waiver of any right to subrogation which any insurer of said Contractor may acquire against the District by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect

this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

- h. Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- i. The District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

CONTRACTOR PERSONNEL (JAN 2006): The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR'S OBLIGATION – GENERAL (JAN 2006): The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

CONTRACTOR'S USE OF DISTRICT PROPERTY (MODIFIED - JAN 2006): Upon termination of the contract for any reason, the District shall have the right, upon demand, to obtain access to, and possession of, all District properties, including, but not limited to, current copies of all District application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the District without the District's written consent, except to the extent necessary to carry out the work.

DEFAULT – SHORT FORM (MODIFIED - FEB 2015)

The District may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any material contract terms and conditions, or fails to provide the District, upon request, with adequate assurances of future performance. In the event of termination for cause, the District shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the District for any and all rights and remedies provided by law. If it is determined that the District improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

EXPERIENCE AND REFERENCE CHECKS: The District reserves the right to consider historic information and fact, whether gained from the offeror's proposal, question and answer conferences, references, or any other source, in the evaluation process. Proposer acknowledges (1) that the District will contact various persons who are familiar with proposer's prior work and related matters, whether such persons are voluntarily disclosed to the District in this proposal or not; (2) that truthful and complete information is necessary for the District to make an adequate evaluation; and (3) that proposer will not take any action against any person who responds in good faith to a bona fide inquiry by the District for the purposes of evaluating the proposals received by the District under this solicitation.

ILLEGAL IMMIGRATION (MODIFIED NOV. 2008): (An overview is available at www.procurement.sc.gov): By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the District upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

INDEMNIFICATION – THIRD PARTY CLAIMS – (MODIFIED NOV 2011): Notwithstanding any limitation in this agreement, contractor shall defend and indemnify Fort Mill School District, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorney's fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from any defect in the goods or services acquired hereunder or from any act or omission of contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. District shall allow contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. District shall allow contractor to settle such suit or claim so long as:

- a. all settlement payments are made by (and any deferred settlement payments are the sole liability of) contractor; and
- b. the settlement imposes no non monetary obligation upon the District.

The District shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of contractor. District shall reasonably cooperate with the contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.

INFORMATION USE AND DISCLOSURE – STANDARDS (MODIFIED - FEB 2015)

To the extent applicable:

- (a) Breach of security of state agency data; notification; rights and remedies of injured parties; penalties; notification of Consumer Protection Division, S.C. Code Ann. Section 1-11-490.
- (b) South Carolina Financial Identity Fraud and Identity Theft Protection Act (FIFITPA), 2008 Act 190, as amended. Solely for purposes of Section 39-1-90 of the South Carolina Code of Laws, as amended, Contractor is deemed to be the owner of District information, as defined herein, and Contractor agrees that the District is not a licensee.
- (c) The South Carolina Family Privacy Protection Act of 2002, S.C. Code Ann. Sections 30-2-10, et seq.
- (d) Personal Identifying Information Privacy Protection, S.C. Code Ann. Sections 30-2-310 et seq.
- (e) Data Breach Notification, 2014 Act No. 286, Section 117.117, as revised in any future annual appropriations act.

LICENSES AND PERMITS (MODIFIED JAN 2006): During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including

professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

OWNERSHIP OF DATA and MATERIALS (MODIFIED JAN 2006): All data, material and documentation either prepared for the District pursuant to this contract shall belong exclusively to the District.

RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

TERM OF CONTRACT – OPTION TO RENEW (MODIFIED – JUNE - 2018): At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 1 year(s), 0 month(s), and 0 day(s), unless contractor receives notice that the District elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. Maximum contract period is 5 (five) years unless additional years are approve by the Superintendent and/or Board.

TERM OF CONTRACT – TERMINATION BY CONTRACTOR (JAN 2006): Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least 120 days prior to the expiration of the then current term.

TERMINATION FOR CONVENIENCE – SHORT FORM (MODIFIED - JAN 2006): The Procurement Officer may terminate this contract in whole or in part, for the convenience of the District. In such a termination, the Procurement Officer may require the contractor to transfer title and deliver to the District in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called “manufacturing material”) as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. Upon such termination, the contractor shall (a) stop work to the extent specified, (b) terminate any subcontracts as they relate to the terminated work, and (c) be paid the following amounts without duplication, subject to the other terms of this contract: (i) contract prices for supplies or services accepted under the contract, (ii) costs incurred in performing the terminated portion of the work, and (iii) any other reasonable costs that the contractor can demonstrate to the satisfaction of the District, using its standard record keeping system, have resulted from the termination. The contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided. As a condition of payment, contractor shall submit within three months of the effective date of the termination a claim specifying the amounts due because of the termination. The absence of an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the District beyond what it would have been had the subcontract contained such a clause.

FORT MILL SCHOOLS

APPENDIX A OFFEROR REPRESENTATIONS AND CERTIFICATION

The undersigned hereby affirms that:

- He/she is a duly authorized agent of the Offeror (corporate or other authorization confirmation may be required prior to final contract execution)
- He/she has read and agrees to the complete solicitation, including any and all amendments issued.
- The offer is being offered independently of any other Offerors and is in full compliance with the collusive prohibitions of the State of South Carolina. The Offeror certifies that no employee of its firm has discussed, or compared the proposal with any other Offeror or District employee, and has not colluded with any other Offeror or District employee.
- The Offeror will accept any awards made to it as a result of this solicitation if the acceptance is made within 90 calendar days after the proposal due date.

I hereby certify that I am submitting the following offer as my firm's proposal. I understand that by virtue of executing and returning with this proposal this required response form, I further certify full, complete, and unconditional acceptance of the contents of this solicitation. I also agree to be bound by any and all specifications, terms and conditions, contract document, accepted offer and other documents of this solicitation.

Submitted by: _____ **Title:** _____

Company Name: _____

Address: _____

Telephone #: _____ **E-Mail Address:** _____

Signed: _____ **Date:** _____