The School District of Philadelphia
Office of Procurement Services

Invitation for Bid and Contract Form

(Requirements or Blanket Purchase Agreements)

Bid Number:	**Date Issued:**	**Bid Due Date and Time:**	**Buyer:**
NG10834	8/17/2026	9/10/2026 at 2:00 PM ET	Cuc Chim
Delivery Location:	**Contract Period**	**From:**	**To:**
Various		When Awarded	11/19/2029

Goods Or Services Required:

Scaffolding Services

Bidder Authorized Signature

The undersigned bidder has carefully read and understands the terms and conditions of this Invitation for Bid ("IFB") and its accompanying documents and hereby agrees to furnish the goods and/or services and all incidental work contemplated herein in accordance with the terms and conditions and contract provisions at the prices stated herein.

Bidder Company Name:	Print Authorized Name:
Address:	Authorized Signature:
Tax ID:	Title:
State of Incorporation:	Email Address:
Phone Number:	Date:
DUNS Number:	

School District of Philadelphia Signature (School District Use Only)

Print Authorized Name:	Authorized Signature:
Title:	Date:

Pre-Audit Signature

Print Authorized Name:	Authorized Signature:
Title:	Date:

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SUBMISSION INSTRUCTIONS

Submission Process

Proposers must upload bids in response to this bid to the Office of Procurement Services by **2:00 PM ET, September 10th, 2026** or The School District of Philadelphia ("School District") shall deem the Proposal non-responsive. Failure to meet this deadline may result in immediate disqualification.

Proposers must submit responses to this IFB via the online Oracle Supplier Portal in the School District of Philadelphia's Oracle ERP system, unless otherwise specified through this document or in writing by an authorized representative in The Office of Procurement Services.

Registration instructions and information on how to use the portal are available at:
https://www.philasd.org/finance/#sdpvendors

Online Support for submitting responses to the SDP's Oracle Supplier Portal are available weekly on Tuesdays from 10:00 AM - 11:00 AM ET and Thursdays from 12:30 PM - 1:30 PM ET at:
https://philasd-org.zoom.us/j/81012958505?pwd=2Of9a4hYfLYYbKas2vlhN8WzfYpxER.1

Submission Address

Online Proposal Submission Address
https://www.philasd.org/finance/#sdpvendors

Original Bid Documents, Hard Copies and Samples (only when specified in this document)
Office of Procurement Services
The School District of Philadelphia
440 N. Broad Street
3rd Floor, Portal A
Philadelphia, Pennsylvania 19130

Proposal Due Date

Proposers must upload a response to this Bid to SDP's Oracle Supplier Portal by **September 10th, 2026, at 2:00 PM ET**. Failure to meet this deadline may result in immediate disqualification.

Contact for Questions Regarding this Solicitation

Proposers may submit questions and request clarifications about this IFB, in writing via email, to the contact person listed below. The School District will provide its responses to all questions and inquiries we receive to all prospective proposers who received the original IFB, and to all other organizations who request our responses in writing.

Cuc Chim
Buyer II
Office of Procurement Services
The School District of Philadelphia
440 N. Broad Street
Philadelphia, Pennsylvania 19130-4015
E-mail: cchim@philasd.org
215-400- 5160

Pre-bid Conference

The School District will hold a virtual pre-bid conference at the location listed below, at the date and time listed in the schedule, below, in this section. This meeting offers a chance for prospective Proposers to discuss the requirements of the IFB, obtain clarification regarding the documents, and request changes from the program office and Procurement Services.

Location

Online Video Call Link:
https://philasd-org.zoom.us/j/84010948617?pwd=QkwKiaJXorcokNbCj96FgvYfXfVRrd.1

Bid Opening

The School District will hold a virtually public bid opening at the location listed below, at the date and time listed in the schedule, below, in this section. This meeting offers a chance for prospective bidders and to obtain the list of bidders in addition to the pricing of each bid.

Online Video Call Link:
https://philasd-org.zoom.us/j/87464629484?pwd=HmdVrj5SW4CMWo5JyKnSVXYJ6rIRzv.1

Schedule

Event	Date/Time
• Deadline for Questions	August 24th, 2026 at 10:00 AM ET
• Pre-Proposal Conference	August 25th, 2026 at 9:30 AM ET
• Bid Opening/Due Date	September 10th, 2026 at 2:00 PM ET
• Oral Presentations (if required)	TBD
• Anticipated Date of Board of Education Approval	November 2026
• Anticipated Date of Commencement of Services	When Awarded

Bidding Instructions:

1. This is not a purchase order.
2. Read all instructions, terms and conditions carefully.
3. Failure to comply with the mandatory requirements will result in rejection of your bid.
4. **All bids received after the specified time and date will be rejected.**
5. Bidders must quote f.o.b. destination freight prepaid and allowed.
6. Bids must be for a firm fixed price unless otherwise requested in the IFB.
7. Bids must be signed in the space provided on this form. Failure to sign your bid will lead to **rejection of your bid**.
8. Payment discounts will not be used in determining the lowest responsible bidder.
9. The terms and conditions of this invitation, including all general conditions, plus any special conditions enumerated herein including Federal or Pennsylvania Department of Education Grant-Funded Contractor Requirements (“Contractor Requirements”), if applicable, shall be part of the contract(s) resulting from this bid.

Requirements Contract Terms and Conditions:

1. Prices quoted are to remain firm for the term of the contract.
2. Quantities are estimated. The School District reserves the right to purchase more or less than the estimated quantity during the term of the contract with no minimum or maximum guaranteed.
3. Delivery dates may be scheduled for up to six (6) months after expiration of the contract.
4. Vendor agrees to accept contract orders from individual schools and offices on authorized prenumbered purchase order forms.

Requirements of a Responsive Supplier

All required documents must be fully completed, signed, dated, and submitted by the Advertised Bid due date for a supplier to be considered fully responsive. Failure to adhere to the directions within the bid document or failure to provide fully completed documents referenced below can result in immediate disqualification, where proposers cannot be evaluated nor considered on final awards.

Responses to the Advertised Bid must be submitted as one full document with ALL document pages in numerical order from the original posting. Refer to the table of contents for confirmation of the total number of pages.

Advertised Bid Contracts

- Fully completed and signed Cover Page
    - As outlined in the Invitation for Bid and Contract Form (Page 1)
- Completed Pricing Sheet
    - All line items must include the vendor's proposed pricing and any other information requested within the line.
- Specification/Award Request
    - As outlined in the Specifications and Award sections, any additional documentation requests must be attached with bid responses that are not included within the bid contract package. This includes but is not limited to:
        - City of Philadelphia Tax Clearance Certificate
        - Manufacturer Specifications
        - Licenses
        - Certificates of Insurance
        - MWBE Certifications
- Procurement Vendor Acknowledgement Form
    - Fully completed and signed
- Minority/Women-Owned Business Enterprise (M/WBE) Participation Plan
    - **Section I** - Fully completed and signed by the Prime Contractor
    - **Section II** - Fully completed and signed by the subcontractor when applicable.
    - **Section III** - Fully completed and signed by the Prime Contractor when applicable.
    - Certifications of MWBE Primes and/or sub-contractors.

*Contact the Office Small Business Representative listed in Appendix E to clarify which documents are required as they relate to the specific RFP/Q.

- Contractor Debarment and Suspension
    - Fully completed and signed
- Non-Collusion Affidavit
    - Fully completed, signed, and notarized

IFB No. NG10834 PRICING SHEET

Enter your unit price, extended price (quantity x unit price), supplier item number and description, and manufacturer item number in the table below. Note that the manufacturer item number must be the manufacturer, not the supplier sourcing the item.

			Supplier Item Information			
Item No.	Item Description	Quantity	Unit Price	Extended Price	Supplier Item No. and Description	Manufacturer and Mfg. Item No.
1	**Daily Rate**	**1 EACH**				
2	**Flat Rate for Assembly**	**1 EACH**				
3	**Flat Rate for Tear-Down**	**1 EACH**				
4						

Bidders must include the following for each item submitted in response to this IFB:

1. Specification sheet including manufacturer, item material composition and item applications, if applicable
2. Material Safety Data Sheet (MSDS) for any items for which an MSDS is available from the manufacturer

SPECIFICATIONS

Service Contract for Routine and Emergency Scaffolding Services

Furnish all labor and materials to assemble, erect, disassemble and remove scaffolding once the School District of Philadelphia work is complete. The awarded vendor will be expected to provide flat rates for any Philadelphia School District building that requires service, no matter the size.

***THE SCHOOL DISTRICT OF PHILADELPHIA CURRENTLY OPERATES OVER 200 SCHOOLS THROUGHOUT THE CITY OF PHILADELPHIA. THE AWARDED VENDOR WILL BE EXPECTED TO PROVIDE FLAT RATES FOR ANY SCHOOL DISTRICT BUILDING THAT REQUIRES SERVICE, NO MATTER THE SIZE.**

Invoicing:

All invoices must be submitted via email with a work order number, the assigned purchase order number and all associated back up documents. Invoices are to be emailed to the Maintenance Resource Scheduler responsible for assigning the work.

AWARD

A. Award shall be to the lowest RESPONSIVE AND RESPONSIBLE bidder(s), based on thorough evaluation by The School District of Philadelphia's Office of Procurement Services.

B. The School District of Philadelphia reserves the right to award this contract to one (1) or more bidders if the District's needs require additional service beyond a single vendor's capacity.

C. The contract shall be from the date of award to **November 19, 2029** with the option for **two (2)**, one (1) year renewals. Prices are to remain firm and fixed for the contract period.

D. It is anticipated that this contract will be awarded at the **November 2026** Board of Education meeting.
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CONTRACT FEATURES

E. Service shall be rendered during normal school hours or as agreed to by The Office of Maintenance Management.

F. The School District shall retain the right to cancel this contract for lack of performance or complete satisfaction of intent. No minimum or maximum amount of work is guaranteed under this contract.

BIDDING

All pricing must be submitted with the vendor(s) bid. Pricing must be filled out on the Pricing Sheet(s) in this document. It is the responsibility of the bidder to include any extra cost with their bid submission.

In order to be considered for award, bidder(s) must submit the following completed items:

1. Invitation for Bid and Contract Form
2. Duns & Bradstreet Number
3. MWBE forms
4. Pricing Sheet
5. Contractor Debarment
6. Non-Collusion Affidavit
7. Addendums (if any issued)
8. Name, number, email of at least 3 references
9. Tax Certification form

All bidders must be tax-compliant with the City of Philadelphia. Please include an updated Tax Compliance Certification with your company's bid submission. You may retrieve a certification from the following link: https://tax-services.phila.gov/_/.

No bid(s) will be accepted if any of the above-mentioned forms are missing or incomplete.

CONDITIONS OF BIDDING

1. Bids must be submitted on this form and signed by the bidder. No Bid shall be withdrawn for 90 days. The Board of Education (Board) may accept this bid any time within the said 90 days, or later if agreed to by the BOE and bidder.

Changes, alterations, or interlineations in the bid may void the bid entirely.

2. (a) Bids must show unit and total price, but where the figures are irreconcilable, awards will be made on the basis of unit price. The School District is exempt from the payment of any federal excise or transportation taxes and is excluded from the provision of the Pennsylvania Sales Tax. The bid price must be net exclusive of taxes.

   (b) A bidder agrees that the Board may make its award for one or for more than one of the articles, or may make its award for all of the articles set forth in the specifications hereon. The Board has the right to accept or reject all or any portion of any bid submitted and to make the award in the best interest of the School District.

3. All articles must be delivered at the bid price which includes transportation charges, and at the place(s) set forth in the specification inside the building at the first floor level unless otherwise specified.

4. When a formal, numbered specification is referred to in this IFB no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification. When catalogs, models or cuts are listed in the IFB, they are, unless otherwise specified, included for the purpose of furnishing bidders with information concerning the style, type or kind of article desired and a bidder may offer an article which he certifies to be equal in quality, performance and other essential characteristics. In so doing the bidder must set forth a complete description of the article proposed to be furnished and may also be required to furnish the article described in the IFB

5. Where Board sample is indicated in the specification, unless otherwise stated such sample may be seen at the Education Center at 440 N. Broad Street. Samples provided by the bidder shall be removed at his expense within 30 days after the awarding of a bid after such time they may be stored at his risk and expense or may be deemed abandoned property and disposed of as such. The Board shall not be responsible for any samples which may be destroyed or damaged in examination.

6. Full tare must be allowed on delivery weights. No charge will be made for packaging except when provided for in the specification. Weigher's certificate will accompany invoices whenever the School District may so require.

7. Any vendor of goods, wares and merchandise, or purveyor of services, who has been awarded a contract by the School District, will be liable for payment of one or more of the following taxes: Mercantile License Tax, Net Profits Tax, City Wage Tax or General Business Tax. Successful bidder, if not already paying the aforesaid taxes, is required to apply to the Department of Revenue, Room 240, Municipal Services Building, 15th Street and John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19107, for an account number, and to file appropriate business tax returns as provided by law.

8. The successful bidder will be required to enter into a contract with the School District that consists of (1) the School District's Invitation for Bid; (2) the School District's Standard Terms and Conditions and Grant-Funded Contractor Requirements attached as or linked in Exhibit A; and (3) the Contractor's Bid. By submitting a bid, Contractor agrees to be bound by the District's Invitation for Bid and the District's Standard Terms and Conditions and Grant-Funded Contractor Requirements, as applicable, and the content of its Bid.

9. The School District may, at its sole discretion, extend the contract for an additional period of up to six (6) months, commencing as of the expiration of the contract period, in order to ensure continuity in the provision of goods or services pending the award of a new contract.

ALL BIDS MUST BE SIGNED IN THE SPACE PROVIDED. FAILURE TO PROPERLY SIGN YOUR BID WILL BE CONSIDERED A MATERIAL OMISSION AND YOUR BID WILL BE REJECTED.

Please be advised that vendor bidding by FAX machine or e-mail is not acceptable. If bids are received by FAX or e-mail, they will be rejected. Bids MUST be submitted through the Oracle Supplier Portal unless otherwise authorized by the Procurement Buyer specified above.

The BOE will not be responsible for any oral communications, explanations, or interpretations of the attached bid specifications. Interpretation of the attached specifications may be made only by an addendum or bulletin issued by the Office of Procurement Services for the School District. A copy of said addendum or bulletin will be e-mailed or delivered to each vendor. A record will be maintained on persons to whom these documents have been e-mailed or delivered. If any bidder is in doubt as to the meaning of any part of the attached specifications or contract language; he may submit to the Executive Director, Procurement Services a written request for interpretation. All responses must be in form of a written addendum to be binding on the School District.

The contractor shall be responsible for assuring that his own employees, his subcontractors and his subcontractor's employees shall have no direct contract with and shall identify themselves and check in at the school or administrative offices upon arrival and check out departure.

WORKER AND COMMUNITY RIGHT-TO-KNOW ACT MATERIAL SAFETY DATA SHEETS (MSDS)

The bidder does hereby agree to fully comply with all requirements and mandates of the Worker and Community Right-to-Know Act 35 P.S. 7301 et-seg. (the "Act"), and the regulations promulgated pursuant to the Act, 35 PA Code chs, 301, 305, 307, and 309, and any amendments. The bidder will furnish all applicable Material Safety Data Sheets ("MSDS") with bid or upon request by the School District. Vendors must agree to include all required MSDS sheets with each shipment.

DISCRIMINATION

The successful bidder shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, actual or perceived gender identity or expression, marital status, pregnancy, union membership, disability, veteran status, or limited English proficiency, or other protected classification in the performance of this contract, including but not limited to preparation, manufacture, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the successful bidder, or its agents, employees or representatives of the School District shall have the right to terminate this contract. In the event of the continued refusal on the part of the bidder to comply with this anti-discrimination provision, the contractor may be removed from the list of approved Contractors of the School District.

The successful bidder is to include subparagraph (1) with appropriate adjustments for the identity of the parties in all subcontracts which are entered into for work to be performed pursuant to this contract.

TAX COMPLIANCE PROVISIONS

RFPS, RFQs and Bids

Tax Compliance. It is the policy of the School District of Philadelphia ("School District") to ensure that firms, businesses and other legal entities receiving School District contracts are current in their payment of City of Philadelphia ("City") taxes and School District taxes or other indebtedness owed to the City or the School District, including but not limited to taxes collected by the City on behalf of the School District, at the time of contract award. Pursuant to Resolution SRC-2 dated February 21, 2013, the School District's Board of Education ("BOE") has adopted a Tax Compliance of Vendors Policy which provides that generally, the BOE will not authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City and/or the School District at the time of contract award. Attached is the Tax Compliance of Vendors Policy.

1. Comply with Tax Compliance Policy. All firms, businesses and other legal entities wanting to receive a School District contract or receiving a School District contract shall comply with all of the terms and conditions of the Tax Compliance of Vendors Policy.

2. Check for Tax Compliance Before School District Contract Award.

A. Before submitting a Proposal, Quotation, Quote or Bid, the Proposer, Vendor or Bidder shall check its tax compliance status with the City Revenue Department Tax Clearance Unit by going to the City Revenue Department website for tax compliance system https://tax-services.phila.gov/_/ selecting "Vendor/Contractor" as the reason for compliance, and then submitting its name, type and tax identification number.

B. The City Revenue Department online tax compliance system will verify the tax compliance of the Proposer, Vendor or Bidder. If the Proposer, Vendor or Bidder is in compliance, then the Proposer, Vendor or Bidder shall print out a "Certificate of Tax Clearance" and include the "Certificate of Tax Clearance" in its Proposal, Quotation, Quote or Bid.

C. The City Revenue Department online tax compliance system will advise the Proposer, Vendor or Bidder if it is not in compliance and how to contact the City Revenue Department to resolve non-tax compliance issues. If the Proposer, Vendor or Bidder is not in compliance, then the Proposer, Vendor or Bidder shall contact the City Revenue Department Tax Clearance Unit directly (at telephone number 215-686-6565), identify itself as a School District vendor, and resolve the non-tax compliance issue before the BOE authorizes the award of the School District contract.

D. Generally, a Proposer, Vendor or Bidder will not receive a School District contract award until it has submitted proof of its tax compliance in the form of a "Certificate of Tax Clearance" to the School District. Generally, the BOE will not authorize the award of a School District contract to a Proposer, Vendor or Bidder that has not submitted a "Certificate of Tax Clearance" to the School District. Generally, the School District will not enter into a contract with a Proposer, Vendor or Bidder that has not submitted a "Certificate of Tax Clearance" to the School District.

Failure by a Proposer, Vendor or Bidder to include the "Certificate of Tax Clearance" in its Proposal, Quotation, Quote or Bid may make the firm, business or other legal entity a "non-responsible" Proposer, Vendor or Bidder for award of a School District contract. Failure by a Proposer, Vendor or Bidder to provide a "Certificate of Tax Clearance" to the School District within the time period required by the School District may make the Proposer, Vendor or Bidder ineligible to receive an award of a School District contract.

3. Provide Proof of City Satisfactory Arrangement, Settlement Agreement or Payment Plan; Continue to Comply with said Arrangement, Agreement or Plan.

A. The Proposer, Vendor or Bidder shall provide written proof to the School District of its satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District. The Proposer, Vendor or Bidder shall not receive a School District contract award until it provides written proof of said City satisfactory arrangement, settlement agreement or payment plan to the School District.

B. The successful Proposer, Vendor or Bidder shall be required under the awarded School District contract to continue to comply with said City satisfactory arrangement, settlement agreement or payment plan during the duration of said contract.

4. BOE Reserves Right or Option to Award School District Contract to Non-Tax Compliant Firm, Business or Other Legal Entity.

A. The BOE reserves the right or option to award a School District contract to a Proposer, Vendor or Bidder that has not submitted a "Certificate of Tax Clearance" to the School District if the BOE determines, in its sole discretion, that award of said contract to the Proposer, Vendor or Bidder is in the best interest of the School District, or is required under applicable Federal, State or Local laws, codes, regulations or rulings.

B. The BOE reserves the right or option to award a School District contract to the apparent lowest or successful Proposer, Vendor or Bidder that does not provide a "Certificate of Tax Clearance" to the School District if the BOE determines, in its sole discretion, that award of said contract to the apparent lowest or successful Proposer, Vendor or Bidder is in the best interest of the School District, or is required under applicable Federal, State or Local laws, codes, regulations or rulings.

C. The BOE reserves the right or option to award a School District contract to a Proposer, Vendor or Bidder that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City or the School District at the time of contract award if the BOE determines, in its sole discretion, that award of said contract to the Proposer, Vendor or Bidder is in the best interest of the School District, or is required under applicable Federal, State or Local laws, codes, regulations or rulings.

D. The BOE reserves the right or option to award a School District contract to a Proposer, Vendor or Bidder that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City or the School District at the time of contract award if the Proposer, Vendor or Bidder has entered into a satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District. The Proposer, Vendor or Bidder shall provide written proof of said City satisfactory arrangement, settlement agreement or payment plan to the School District before the BOE authorizes the award of said contract.

E. The BOE reserves the right or option to award a School District contract to a Proposer, Vendor or Bidder that is in default of any satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District if the BOE determines, in its sole discretion, that award of said contract to the Proposer, Vendor or Bidder is in the best interest of the School District, or is required under applicable Federal, State or Local laws, codes, regulations or rulings

5. BOE or School District Reserves Right or Option to Set Off or Offset Delinquent

Tax or Other Indebtedness against Contract Payment; Agreement to said Set Off or Offset.

A. The BOE or the School District reserves the right or option to set off or offset the amount of any City or School District tax or taxes or other indebtedness owed to the City or the School District against any payment or payments due to the successful Proposer, Vendor or Bidder under any contract with the School District.

B. The successful Proposer, Vendor or Bidder shall agree under the awarded School District contract that the School District may set off or offset the amount of any City or School District tax or taxes or other indebtedness owed to the City or the School District against any School District payment or payments due under any School District contract.

C. The successful Proposer, Vendor or Bidder shall agree under the awarded School District contract that the School District may set off or offset the amount of any City or School District tax or taxes or other indebtedness owed to the City or the School District against any School District payment or payments due under any School District contract if the successful Proposer, Vendor or Bidder breaches the tax indebtedness representation, warranty and covenant in said contract.

6. BOE or School District Reserves Right or Option to Withhold Contract Payment; Agreement to said Withholding.

A. The BOE or the School District reserves the right or option to withhold payment or payments due to the successful Proposer, Vendor or Bidder under any School District contract if the successful Proposer, Vendor or Bidder is delinquent in the payment of City or School District tax or taxes or other indebtedness owed to the City or the School District. The BOE or the School District further reserves the right or option to continue said withholding until the City Revenue Department notifies the School District that the successful Proposer, Vendor or Bidder is tax compliant.

B. The BOE or the School District reserves the right or option to withhold payment or payments due to the successful Proposer, Vendor or Bidder under any School District contract if the successful Proposer, Vendor or Bidder is in default of a satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District. The BOE or the School District further reserves the right or option to continue said withholding until the City Revenue Department notifies the School District that the successful Proposer, Vendor or Bidder is tax compliant.

C. The successful Proposer, Vendor or Bidder shall agree under the awarded School District contract that the School District may withhold payment or payments due to the successful Proposer, Vendor or Bidder under any School District contract if the successful Proposer, Vendor or Bidder is delinquent in the payment of City or School District tax or taxes or other indebtedness owed to the City or the School District. The successful Proposer, Vendor or Bidder shall further agree under the awarded School District contract that the School District may continue said withholding until the City Revenue Department notifies the School District that the successful Proposer, Vendor or Bidder is tax compliant.

D. The successful Proposer, Vendor or Bidder shall agree under the awarded School District contract that the School District may withhold payment or payments due to the successful Proposer, Vendor or Bidder under any School District contract if the successful Proposer, Vendor or Bidder is in default of a satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District. The successful Proposer, Vendor or Bidder shall further agree under the awarded School District contract that the School District may continue

said withholding until the City Revenue Department notifies the School District that the successful Proposer, Vendor or Bidder is tax compliant.

E. The successful Proposer, Vendor or Bidder shall agree under the awarded School District contract that the School District may withhold payment or payments due to the successful Proposer, Vendor or Bidder under any School District contract if the successful Proposer, Vendor or Bidder breaches the tax indebtedness representation, warranty and covenant in said contract. The successful Proposer, Vendor or Bidder shall further agree under the awarded School District contract that the School District may continue said withholding until the City Revenue Department notifies the School District that the successful Proposer, Vendor or Bidder is tax compliant.

7. Good Faith Contest.

A. The successful Proposer, Vendor or Bidder shall be permitted under the awarded School District contract to, in good faith, contest the amount of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District.

B. The successful Proposer, Vendor or Bidder shall be required under the awarded School District contract to diligently and expeditiously proceed to resolve the matter with the City, or the Commonwealth of Pennsylvania, as the case may be, in order to reach a satisfactory settlement agreement or payment plan with the City, or the Commonwealth of Pennsylvania, as the case may be.

C. The successful Proposer, Vendor or Bidder shall be required under the School District contract to expeditiously pay all uncontested obligations.

TAX COMPLIANCE OF VENDORS POLICY

1. It is the policy of the School District of Philadelphia that a competitive process is required for all contracts over $15,000 unless (a) the School District is required by law to enter into a contract regardless of tax compliance; or (b) there is a strong countervailing reason approved by the Deputy Superintendent or the Chief Operating Officer, and the Board of Education is notified at the time of the approval.

2. It is the policy of the School District to ensure that firms, businesses and other legal entities receiving School District contracts are current in their payment of City of Philadelphia ("City") taxes or other indebtedness owed to the City, including but not limited to taxes collected by the City on behalf of the School District, at the time of contract award.

3. Whenever a proposed vendor, bidder, responder or contracting party is awarded a contract, the vendor, bidder, responder or contracting party shall produce to the School District a Certificate that the vendor, bidder, responder or contracting party is compliant with any tax obligations or an Affidavit that the vendor, bidder, responder or contracting party is not subject to or liable for any City or School District taxes or other indebtedness owed to the City and/or the School District.

4. Generally, the Board of Education ("BOE") of the School District will not authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City and/or the School District at the time of contract award.

5. The BOE reserves the right or option to award a School District contract to the apparent lowest or successful vendor, bidder, responder or contracting party who does not provide a Certificate of Tax Clearance to the School District if the BOE determines, in its sole discretion, that award of the contract to the apparent lowest or successful vendor, bidder, responder or contracting party is in the best interest of the School District, or required under applicable Federal or State laws, regulations or rulings. The BOE also reserves the right or option to set off or offset the amount of any City taxes or other indebtedness owed to the City and/or the School District against any payment or payments due to the apparent lowest or successful vendor, bidder, responder or contracting party under any contract with the School District.

6. The BOE or the School District reserves the right or option to set off or offset the amount of any City taxes or other indebtedness owed to the City and/or the School District against any payment or payments due to a firm, business or other legal entity under any contract with the School District.

7. The BOE may authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City and/or the School District at the time of contract award, if the BOE determines, in its sole discretion, that award of the contract to the firm, business or other legal entity is in the best interest of the School District, or required under applicable Federal or State laws, regulations or rulings.

8. The BOE, in its sole discretion, may authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District

taxes or other indebtedness owed to the City and/or the School District at the time of contract award and that has entered into a satisfactory arrangement with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City and/or the School District. The firm, business or other legal entity must provide written proof of this satisfactory arrangement with the City before the authorization of the award of the contract.

9. The Chief Financial Officer will be responsible for monitoring and overseeing the School District's implementation and enforcement of the Tax Compliance of Vendors Policy.

Adopted
Februrary 21, 2013

STANDARD TERMS AND CONDITIONS

Exhibit "C"

School District
Standard Terms and Conditions
Agreement for Services
Updated August 2023

1. ***General Conditions of the Work***.

a. *Standard of Performance*. In carrying out the Work, the Contractor shall exercise the highest degree of competence and diligence exercised by providers in the Contractor's field. The Contractor shall cooperate with the School District and all other Persons contracting with the School District whose work affects the Contractor's Work or whose work the Contractor's Work affects. The Contractor shall perform all Work under this Contract to the satisfaction of the School District.

b. *Compliance with Applicable Law*. In connection with this Contract, the Contractor shall comply with all Applicable Law, defined in subsection 23.b., below, including but not limited to the Pennsylvania Right-to-Know Law ("RTKL"), 65 Pa. Stat. §§ 67.101 to 67.3104, and 24 Pa. Stat. § 1-111.1, Employment History Review, as amended.

c. *Warranty*. To the extent that the Work includes the sale or the furnishing of Materials, the Contractor warrants that the Materials shall be good, free of defects, merchantable, and fit for the particular purposes for which the School District intends to use them.

d. *Contractor Responsibility for Quality of the Work*. Payment by the School District or acceptance of the Work, including any Materials, shall not relieve the Contractor of responsibility for the substance and quality of all Materials and Work. Without any additional compensation, the Contractor shall diligently and expeditiously correct any errors, deficiencies, or omissions in the Work, including any Materials, and shall remain liable in accordance with this Contract and Applicable Law for all damages to the School District caused by the Contractor or the Work, including any Materials.

e. *Contractor Staff*. The Contractor shall not assign any Person dismissed from School District employment to perform any Work under this Contract. Within seven (7) days of notice by the Responsible Official to the Contractor that, in the reasonable opinion of the Responsible Official, any employee is incompetent or incapable of carrying out any part of the Work assigned to that Person, the Contractor shall reassign that employee from any Work.

f. *Meetings*. Upon reasonable prior notice from the School District, the Contractor shall attend any meetings requested by the School District at a reasonable location selected by the School District.

g. *Site License(s)*. To the extent that the Statement of Work, Exhibit "A" to this Contract, requires the Contractor to carry out any portion of the Work on School District premises, the School District, subject to the terms, covenants, and conditions set forth in this Contract, hereby grants the Contractor a limited, revocable license to use such School District premises, and only such School District premises, as are expressly provided or by necessary implication required in order for the Contractor to complete the Work in conformity with the requirements of this Contract. The School District shall have the right at any time and for any reason to terminate the foregoing license. The Contractor covenants and agrees to comply with all rules, regulations and directives concerning the use of School District premises imposed by the School District, including but not limited to rules, regulations, and directives set by a principal concerning his or her school. The Contractor shall promptly and fully

reimburse the School District for the actual costs of repairing any and all damage to School District premises caused by the Contractor or any of the Contractor's officers, agents, employees, or Subcontractors.

h. *Contract Reporting.* The Contractor shall comply promptly with the School District's reporting requirements for contracts, including electronic or other reporting of Contractor and contract data.

i. *Whistleblower Protection*. Anything to the contrary set forth elsewhere in this Contract notwithstanding, neither Party shall construe this Contract or any term, covenant, or condition in this Contract to prohibit either Party or any of its employees, Subcontractors, grantees, or subgrantees from filing a charge with, reporting possible violations to, or participating or cooperating with any governmental agency or entity having jurisdiction, including but not limited to a member or committee of Congress, an Inspector General, the Government Accountability Office, a federal employee responsible for contract or grant oversight, a law enforcement agency, a court or grand jury, or a management official or other employee who has responsibility to investigate, discover, or address misconduct, or making other disclosures protected under the whistleblower, anti-discrimination, or anti-retaliation provisions of Applicable Law, including but not limited to 41 U.S.C. § 4712, for the purpose of reporting or investigating a suspected violation of law.

j. *Time*. Time is of the essence of the Contractor's performance of the Work, including the delivery of any Materials to the School District, under this Contract.

k. *Act 126 Child Abuse Recognition, etc., Training*. Before starting any Work, the Contractor shall submit to the School District for the Contractor, if the Contractor is an individual, and for each of the Contractor's employees, officers, agents, servants, volunteers, and Subcontractors, if any, who may have Direct Contact or Direct Volunteer Contact with children, as defined by 23 Pa. Cons. Stat. Ann. § 6303(a), as amended, while performing any of the Work, a copy of the certificate of completion of Mandated Reporter Training as required by Act 126 of 2012, codified at 24 Pa. Stat. § 12-1205.6.

l. *Right-to-Know Requests.* The Contractor acknowledges and agrees that this Contract and records related to or arising out of this Contract remain subject to requests made pursuant to the RTKL. If the Commonwealth of Pennsylvania (the "Commonwealth") or the School District need the Contractor's assistance in any matter arising out of the RTKL related to this Contract, the Commonwealth or the School District shall notify the Contractor using the contact information provided in the Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior notice to the Commonwealth and the School District.

m. *Disaster Recovery/Business Continuity*. The Contractor shall maintain appropriate disaster recovery/business continuity and contingency plans providing for continued operation in the event of an adverse event or circumstance affecting the Contractor's business operations so as to minimize any interruption of the Work to the School District.

2. ***Background Checks***.

a. *Required Background Checks*. For the Contractor and each of the Contractor's employees, officers, agents, servants, volunteers, and Subcontractors, if any, who may have Direct Contact or Direct Volunteer Contact with children while performing the Work, as defined by 23 Pa. Cons. Stat. Ann. § 6303(a), as amended, the Contractor shall submit true, correct, complete, and current copies of the following clearances prior to starting any Work, in accordance with any and all Applicable Laws, including 24 Pa. Stat. § 1-111, as amended, and 23 Pa. Cons. Stat. Ann. §§ 6344, 6344.2., as amended:

i. the Pennsylvania State Police criminal history record information report;

ii. the child abuse history official certification;

iii. the report of the Federal Bureau of Investigation federal criminal history record information; and

iv. a sexual misconduct/abuse disclosure release required by Act 168 of 2014 (24 Pa. Stat. § 1-111.1) with all relevant matters and materials disclosed.

b. *Current; Direct Contact; Failure to Provide*. For purposes of subsection 2.a., "current" means processed by the issuing agency or organization within (i) one (1) year for paid individuals (including employees, officers, agents, servants, and Subcontractors) prior to the later of the individual's hiring or engagement by the Contractor or Subcontractor, or the commencement of the Term, and (ii) five (5) years for unpaid volunteers prior to the later of the individual's engagement by the Contractor or Subcontractor or the commencement of the Term. In both cases, where the School District has received and properly reviewed the individual's background checks within the past five (5) years, the Parties may rely on the individual's prior submission provided that all individuals relying on prior submitted checks must submit an arrest or conviction report and a certification form, both in a form acceptable to the School District. For an individual who has Direct Contact or Direct Volunteer Contact with children, the School District shall have the right, at any time and in its sole discretion, to require the Contractor to deliver new reports, certifications, clearances, or certificates as required by the more restrictive of School District policies or Applicable Law and the Contractor shall comply promptly with any such request. If the Contractor fails to deliver any such report, clearance certification or certificate on behalf of the Contractor, if an individual, or on behalf of any individual officer, employee, director or Subcontractor, then each such individual may not and shall not carry out any of the Work unless and until the Contractor delivers that individual's report, clearance, certification or certificate to the School District.

c. *Arrests; Convictions*. The Contractor shall comply and shall ensure that its officers, employees, agents and Subcontractors who carry out any of the Work comply with the requirements of 24 Pa. Stat. § 1-111(j), which mandates, among other things, that any officer, employee or agent of the Contractor or of any Subcontractor report an arrest or conviction for an offense listed in 24 Pa. Stat. § 1-111(e) within seventy-two (72) hours of that arrest. The Contractor shall provide notice to the School District, in a prompt and timely manner, all notices and reports required, and all background checks conducted, under § 1-111(j).

3. ***Compensation; Invoices***.

a. *Invoices Exclusive of Taxes*. Invoices shall be exclusive of state or local sales, use or gross receipts taxes and federal excise taxes. The School District's Pennsylvania Sales Tax Blanket Exemption Number is 76-51500-1; its Federal Tax ID Number is 23-6004102; and its Federal Excise Tax Number is 23-63-0021-K.

b. *Support for Invoices*. If the Contractor, after a request by the School District, does not provide evidence satisfactory to the School District to support any item or items set forth on an invoice, the School District shall have no liability to make any payment with respect to that item or items. If the School District has already made payment for that item or items, the School District may, by notice to the Contractor, require the Contractor to refund promptly to the School District the amount of any such overpayment, or the School District, at its option, may set off such overpayment against any payments accruing thereafter to the Contractor under this Contract or any other contract between the Parties.

4. ***The Contractor's Duties Concerning Taxes and Other Obligations***.

a. *Tax Policy*. The School Reform Commission (the "Commission") by its Resolution SRC-2, dated February 21, 2013, adopted its Tax Compliance of Vendors Policy (the "Tax Policy") for School District vendors, including the Contractor. The Tax Policy provides that, in general, the Commission will not permit the School District to contract with Persons delinquent in payment of any City of Philadelphia (the "City"), Commonwealth taxes, or other indebtedness or obligation at the execution and delivery of the Contract and at any time during the Term.

b. *Contractor's Covenants*. In compliance with the requirements of the Tax Policy, the Contractor covenants and agrees that throughout the Term, for itself and any Person controlling, controlled by or under common control with the Contractor, the Contractor shall comply with the following requirements.

i. At any time during the Term, upon notice from the School District, the Contractor shall deliver to the School District proof of its tax compliance in the form of a "Certificate of Tax Clearance" from the City's Department of Revenue.

ii. At any time during the Term, upon notice from the School District, the Contractor shall

deliver to the School District written proof of its execution and delivery of a settlement agreement, payment plan, or other necessary and appropriate documentation in satisfaction of any indebtedness to (A) the City for or on account of any City tax, including any tax collected by the City on behalf of the School District, or in satisfaction of any other indebtedness or obligation owed by the Contractor to the City and (B) the Commonwealth for or on account of any Commonwealth tax, or in satisfaction of any other indebtedness or obligation owed by the Contractor to the Commonwealth.

iii. The Contractor shall promptly pay and otherwise promptly and diligently comply with and carry out its duties and obligations under any such settlement agreement, payment plan, or other documentation with the City or the Commonwealth until it has discharged its obligation to the City or the Commonwealth by satisfying any such tax or other indebtedness or obligation.

iv. The Contractor may, in good faith, diligently, and expeditiously pursue any bona fide claim, contest, or appeal with the Commonwealth or the City, as the case may be, of its liability for, or the amount of, any indebtedness or obligation to the Commonwealth, or the City for or on account of any tax, including but not limited to any tax collected by the City on behalf of the School District, or other indebtedness or obligation, to the final appeal, adjudication, resolution, or compromise thereof with the Commonwealth or the City. The Contractor shall promptly pay all uncontested taxes and other indebtedness or obligations to the Commonwealth and the City.

c. *The Contractor's Taxes, etc. – School District Set-Off*. The Contractor agrees that the School District shall have the right to set off against, to withhold payment of, or any combination of the these options as the School District sees fit, any and all Compensation accruing and payable to the Contractor under this Contract or any other contract, in order to provide for and assure the payment by or on behalf of the Contractor of any and all sums of taxes or other indebtedness or obligations then lawfully due and owing by the Contractor or any Person controlling, controlled by, or under common control with the Contractor to either the City or the Commonwealth. Each Party shall have the right to rely on certificates and other official documents provided by either the City or the Commonwealth in proceeding to withhold or set off under this subsection 4.c.

5. ***Best Pricing***. The Contractor shall perform the Work at the lowest price the Contractor charges to other school districts or other governmental entities for like work. If the School District pays a price for the Work in excess of the lowest price the Contractor charges or has recently charged to a governmental entity, in addition to all other remedies, the School District shall have a right, as damages, to a refund equal to the difference between the price charged to the School District and the lowest price the Contractor charges or has recently charged to another school district or governmental entity, together with interest at a rate equal to the prime rate of interest as published from time to time by the *Wall Street Journal*, plus five percent (5.0%).

6. ***Unavailability of Funds; Crossing Fiscal Years***.

a. *Unavailability of Funds*. In the event the School District, in its sole determination, does not or cannot obtain or continue the funding for this Contract from any source or sources at an aggregate level sufficient to allow for payment for the Work, the School District may exercise one of the following alternatives: (i) terminate this Contract effective upon a date specified in a Termination Notice; or (ii) continue this Contract by reducing, through written notice to the Contractor, the amount of this Contract and the scope of the Work, consistent with the nature, amount, and circumstances of the loss of funding. Any termination or reduction of this Contract pursuant to this subsection 6.a. shall not affect any obligations or liabilities of either Party accruing prior to such termination or reduction. The School District shall not face any liability or penalty as a result of such termination or reduction of this Contract.

b. *Crossing Fiscal Years*. If the School District will pay any portion of the Compensation in any School District fiscal year subsequent to the current fiscal year (the School District's fiscal year runs July 1 – June 30), the portion of the Compensation that may accrue hereunder in a subsequent fiscal year remains subject to legally mandated budget authorization by the Board of Education of the School District under Applicable Law. If for any reason funds for that portion of the Compensation that may accrue hereunder in a subsequent fiscal year are not continued in any subsequent School District fiscal year, this Contract and the School District's liability under this Contract shall automatically terminate at the end of the fiscal year for which the Board of Education authorized funds.

7. ***Grant-Funded Contracts; Trust-Funded Contracts***.

a. *Compliance with Grant*. If the School District pays for all or any portion of the Work with funds received by the School District as grants or under other terms and conditions from any source, including the United States of America, the Commonwealth, the City, or any department or agency of said governments, or from any public or private charitable trust or corporation, then the Contractor shall comply with the terms of the applicable grant agreement, contract, or trust indenture, as the case may be, in carrying out the Work, and the School District shall comply with the terms of said grant agreement, contract, or trust indenture, as the case may be, in making any payment or payments hereunder to the Contractor. The Contractor shall not take any action or omit to act if such act or omission would cause a breach or default under any such grant agreement, contract, or trust indenture.

b. *Timely Submission of Invoices*. If the School District pays any of the Compensation from federal government or Commonwealth grant funds, the Contractor shall bill the School District for any outstanding Compensation owed to the Contractor within ten (10) business days after the end of the Term (*see,* Section 3 of the Agreement for Services). In the event the Contractor does not bill the School District for the balance of any Compensation within said ten (10) day period, the School District reserves the right to withhold payment of the balance of the Compensation to the Contractor based upon the loss of federal government or Commonwealth funds caused by the Contractor's delay, in which event the School District shall have no liability to the Contractor for said balance of the Compensation.

8. ***Independent Contractor; No Partnership or Agency***.

a. The School District has engaged the Contractor as an independent contractor to carry out the Work and neither the Contractor nor any of the Contractor's agents, employees, or Subcontractors shall in any way or for any purpose whatsoever be deemed an agent or employee of the School District. Neither the Contractor nor any of its agents, employees, or Subcontractors constitute employees of the School District and these Persons shall have no right to receive any School District employee benefits or any other privileges available to School District employees. Neither the Contractor nor its agents, employees, or Subcontractors shall represent themselves in any way as agents or employees of the School District. Further, neither the Contractor nor its agents, employees, or Subcontractors have any power to bind legally the School District in any way or for any purpose whatsoever, to any third party.

b. Anything set forth elsewhere in this Contract to the contrary notwithstanding, including but not limited to any references in any exhibits to a "partnership" or "partner" relationship, the Parties have not created, do not intend to create, and no Party nor any other Person, including any court or other tribunal, shall construe anything set forth in this Contract as creating a joint venture or partnership between the School District and the Contractor with respect to the Work. Neither the Contractor nor the School District shall have any power to bind the other Party in any manner whatsoever to any third party. The Contractor does not function as an agent of the School District in any dealings with any third party.

9. ***Non-Discrimination and Compliance with Diversity Policies***.

a. The Contractor, for itself, its directors, officers, agents, employees and Subcontractors, covenants and agrees that it shall not discriminate against or intimidate any employee or other Person on account of age race, color, sex, sexual orientation, handicap, disability, religious creed, ancestry, national origin, gender identity, marital status, genetic information, or Vietnam-era or any other veteran status. The School District operates as an equal opportunity employer under Applicable Law; the Contractor shall likewise operate in all respects as an equal opportunity employer under Applicable Law. The School District shall not do business with any Person that unlawfully discriminates on the basis of age, race, color, sex, sexual orientation, handicap, disability, religious creed, ancestry, national origin, gender identity, marital status, genetic information, or Vietnam-era or any other veteran status, or any other impermissible ground in hiring, promotion, subcontracting or procurement practices. The Contractor shall include the first three sentences of this Section 9.a., with appropriate adjustments for the identity of the parties, in any Subcontracts that it executes and delivers. If the School District has selected the Contractor pursuant to a public solicitation or through a request for proposals or comparable process and the Contractor submitted a plan describing the participation of minority-owned, women-owned or

disadvantaged businesses as part of the solicitation or the RFP, then the Contractor shall comply with its Participation Plan, as set forth in this Contract.

b. The Board of Education has adopted a diversity policy, Policy 612: Business Diversity in the Procurement of Materials and Contracted Services ("Diversity Policy"), which relates to the solicitation and participation of Certified Minority-Owned Business Enterprises, Certified Women-Owned Business Enterprises (collectively "M/WBE"), and other Certified diverse, small, or disadvantaged businesses in School District procurements and contracts to further the School District's diversity and anti-discrimination goals. In furtherance of the Diversity Policy, the School District has the discretion to establish participation rates and ranges for Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses in order to encourage meaningful participation of M/WBEs in the provision of quality goods and services to the School District.

c. The Contractor shall ensure that Certified M/WBEs and Certified diverse, small or disadvantaged businesses have a meaningful and substantial opportunity to participate in the performance of the Contract. The Contractor covenants, represents and warrants that the Contractor, its Subcontractors and partners commit to adhering to anti-discrimination laws and policies, diversity goals and workforce management practices that promote Meaningful and Substantial Participation of Certified M/WBEs and other Certified disadvantaged business enterprises throughout the Term of the Contract. If the Contractor has submitted a plan describing the participation of Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses ("Participation Plan") as part of a public solicitation, Request for Proposal, or as required by School District policies, then the Contractor shall comply with its Participation Plan. The Contractor's Participation Plan shall be attached to this Contract and made a part hereof. The commitments made by the Contractor in the Participation Plan are material representations that the School District relies upon in awarding and entering into this Contract.

d. The Participation Plan must demonstrate that the participation of Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses constitutes Meaningful and Substantial Participation in the Work , the Contract and any subsequent amendment. Participation shall be measured in terms of actual dollars received for work performed or services provided by Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses and the Contractor's workforce management practices. The Contractor shall take good faith actions to achieve the requirements of the Diversity Policy in conformity with Board of Education policies, including but not limited to submitting a Participation Plan.

e. The Contractor shall not increase or decrease the percentages of Work, scope of Work, or dollar amounts for any Certified M/WBE and other Certified diverse, small, or disadvantaged businesses set forth in the Participation Plan without the written approval of the School District. If the requested change is approved, the Contractor shall promptly submit a revised Participation Plan for School District approval. The Parties shall incorporate the revised Participation Plan in this Contract by amendment.

f. In addition to and not in derogation of the available rights and remedies under subsection 20.c., the School District may, if the Contractor breaches this Section 10, pursue suspension or debarment in conformity with the procedures set forth in the Diversity Policy.

g. In addition to and not in derogation of any reporting requirements set forth in subsection 1.h., when required by the Diversity Policy or the Participation Plan, as applicable, the Contractor shall keep appropriate records and periodically report to the School District regarding the use of Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses.

10. ***Subcontracts***.

a. *School District Consent Required*. The Contractor shall not delegate or enter into any Subcontract for the performance of any of its obligations under this Contract, including any portion of the Work, in whole or in part, without in each instance first giving notice to and obtaining the written consent of the School District, which consent the School District may grant, withhold, condition or delay in its sole discretion.

b. The School District hereby consents to any Subcontract entered into by the Contractor specifically referenced in Exhibit "A", the Contractor's Statement of Work, to this Contract. Any subcontract or assignment made in violation of this Section 10 shall be null and void. The School District shall have no

obligation to any Subcontractor. Each Subcontract shall contain clauses to the effect that (i) the Subcontractor shall have no recourse to the School District for any payment or for performance under such Subcontract; (ii) the Subcontractor consents to any assignment of the Subcontract by the Contractor to the School District, at the School District's sole option; and (iii) the Contractor shall make payment to any Subcontractor within five (5) business days after receipt of payment from the School District with respect to work properly invoiced by a Subcontractor to the Contractor and reflected in the payment by the School District to the Contractor.

c. *No Change in the Contractor's Obligations*. The existence of any Subcontract shall not alter or limit the obligations of the Contractor to the School District under this Contract. The Contractor shall at all times remain fully responsible for its Subcontractors, and shall ensure that it legally binds all Subcontractors to the same terms and conditions as the Contractor under this Contract, including without limitation, non-discrimination, warranties, confidentiality, maintenance and preservation of records and audit by government representatives.

11. ***Non-Assignment***. The Contractor acknowledges that the Work constitutes personal or professional services, or both, of the Contractor. Except through a Subcontract subject to Section 10 above, the Contractor shall not assign this Contract, or any part of this Contract, nor delegate performance of any part of this Contract, without the prior written consent of the School District, which consent the School District may grant, withhold, condition or delay in its sole discretion. This Contract legally binds the Parties and their respective successors and assigns. Any purported assignment in violation of this provision shall be void and of no effect. The School District's consent to an assignment shall not release the assignor from any liability or obligation accrued or thereafter accruing under this Contract. Any assignment shall be in writing and shall contain an express assumption by the assignee of all liability or obligation accrued or thereafter accruing under this Contract. Consent by the School District to any assignment shall not constitute a course of conduct, dealing or performance with respect to any other assignment or proposed assignment. For purposes of this Section 11, an assignment includes the acquisition of the Contractor, or a controlling interest therein, through an asset sale or a corporate or other merger, the appointment of a receiver or bankruptcy trustee for the Contractor, and the transfer of this Contract or the Contractor in any bankruptcy or other insolvency-related proceeding. A receiver or trustee of or for the Contractor in any federal or state bankruptcy, insolvency or other proceeding concerning the Contractor shall comply with the requirements set forth in this Contract, including but not limited to this Section.

12. ***Audits; Records and Payments; Inspectors General***.

a. *Audits*. From time to time during the Term and for a period of six (6) years after the expiration or termination of this Contract (*see,* 24 Pa. Stat. § 5-518), the School District; the Controller of the City; the Commonwealth, including without limitation its Auditor General and the Pennsylvania Department of Education, or a department, agency or instrumentality of the United States of America, if the School District funds this Contract with federal funds, or any of their authorized representatives (each, for the purposes of this Section, an "Auditor") may audit any and all aspects of the Contractor's performance under this Contract, including but not limited to its billings, invoices, and payments received.

b. *Inspection*. If requested by an Auditor or the School District, the Contractor shall submit to the Auditor and the School District, for review or inspection, all invoices presented for payment pursuant to this Contract, all canceled checks, Materials, invoices, vouchers, reports, work product, work papers, books, records and accounts upon which the invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to this Contract. The Contractor acknowledges and agrees that any Auditor may inspect or review all of its Work, Materials, and all of its sites, locations and facilities related to its performance under this Contract. Inspection and review of Work and Materials shall take place at the offices of the Contractor in the City, or in another location with the Auditor's consent. The Contractor shall cooperate with all School District, City, Commonwealth and federal inspections and reviews conducted in accordance with the provisions of this Contract. The scope of such inspection and review of the Work, Materials, and sites, locations and facilities lies in the sole discretion of the Auditor. Such inspection or review may include, without limitation, meetings with persons receiving services under this Contract, review of staffing ratios and job descriptions, and meetings with any of the Contractor's staff members who either directly or indirectly participate or participated in carrying out any of the Work, including preparing, delivering or installing any Materials.

c. *Retention and Availability of Records*. The Contractor shall retain all records, books of account and documentation pertaining to this Contract for the greater of (i) the period required by Applicable Law, or (ii)

six (6) years following expiration or termination of this Contract; provided that if any litigation, claim or audit commences prior to expiration of said six (6) year period, then the Contractor shall retain the records until all litigation, claims or audit findings have been completely terminated or resolved without right of further appeal. The Contractor shall make available, at the Contractor's office in the City or another Contractor office in reasonable proximity to the City, at reasonable times during the Term and for the period set forth in this Section 12, all records pertaining to this Contract for the purpose of inspection, audit or reproduction by any Auditor. The Contractor shall provide such records without unreasonable delay when requested by an Auditor.

d. *Inspector General; Inspectors General*. The School District's Inspector General shall enjoy all the rights, powers, and privileges of an Auditor under this Contract and any and all additional rights, powers, and privileges as provided by Applicable Law and by delegation from the Board of Education or other duly constituted authority having jurisdiction, *e.g.*, a commission. The Contractor shall cooperate and comply with any audit or investigation by the School District's Inspector General, or by any City, Commonwealth or federal inspector general having jurisdiction, and any joint investigation. The Contractor and its partners, members, shareholders, directors, officers, employees, agents, contractors and Subcontractors shall cooperate fully with the School District's Inspector General by providing true, correct and complete information and records, as well as all necessary or appropriate assistance in any matter investigated by the Inspector General. In any investigation the School District's Inspector General shall have and enjoy complete and unimpeded access to all papers, workpapers, books, records, documents, information, personnel, processes, *e.g.*, meetings, data, computer hard drives and networks, e-mail, text or instant messages, facilities and other assets owned, leased, licensed or used by or for the School District, including but not limited to information regarding the Contractor or other School District contractors, or any other Person involved in any way with the School District, as deemed necessary in performing investigative or audit activities pertaining in any way to the business, operations or public functions of the School District or the Board of Education, and in the custody of the Contractor or any Subcontractor.

13. ***Indemnification; Litigation Cooperation; Notice of Claims***.

a. *Indemnification*. The Contractor shall indemnify, defend, and hold harmless the School District, its officers, employees, agents, and the members of the Board of Education from and against any and all losses and expenses, including but not limited to, litigation and settlement costs, attorneys' fees and costs; claims; suits; actions; damages; and liability for or on account of actual or alleged loss of life, bodily injury, personal injury, damage to property, or the use of facilities or equipment furnished to the Contractor that arise out of or are related to the performance or non-performance of the Work by the Contractor or the Contractor's agents, Subcontractors, assignees, independent contractors, employees or servants. The Contractor shall indemnify, defend and hold harmless the School District, its officers, employees, agents and the members of the Board of Education from and against any and all losses and expenses, including, but not limited to, litigation and settlement costs, attorneys' fees and costs; claims; suits; actions; damages; and liability for or on account of actual or alleged violation of any third party's copyright, trademark, patent, trade secret or other valid proprietary right, employment discrimination, contamination of or adverse effects on the environment, intentional acts or omissions, failure to pay any Subcontractors or suppliers, any Event of Default under this Contract, and breach, if any, of any Subcontract, that arise out of or are related to the performance or non-performance of the Work by the Contractor or the Contractor's agents, Subcontractors, assignees, independent contractors, employees or servants.

b. *Indemnification; Contractor's Employees*. Except as set forth below in this subsection 13.b., this Section 13 does not require the Contractor to indemnify the School District to the extent of the School District's own negligent act or omission. This Section 13 protects the School District, its officers, employees, agents and the members of the Board of Education and the Commission from all claims arising during the Term asserted by employees, agents or workers of the Contractor or any Subcontractor who are injured on or by School District real or personal property, or who assert an employment claim of any kind against the School District, including but not limited to any claim or claims relating to the termination of employment, regardless of when the claimant makes the claim. Except as expressly set forth below in this subsection 13.b., the Parties shall not construe this Section 13 to alter, limit, negate, abridge or otherwise reduce any other right or obligation that would otherwise exist as to any Party or Person described in this Contract. This Section 13 functions independently of the Contractor's or its Subcontractors' insurance or lack thereof, and the Parties do not intend that rights set forth in this Section 13 be deemed limited by the Pennsylvania Workers' Compensation Act. This Section 13 shall apply, particularly, but not exclusively, to the claims of the Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, against the School District, its officers, employees and

agents, and the members of the Board of Education and the Commission. The Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, shall have no claim against the School District, its officers, employees and agents and the members of the Board of Education or the Commission, for the acts, failures to act or negligence of the School District, or its officers, employees and members of the Board of Education or the Commission.

c. *Litigation Cooperation*. If at any time, including after the expiration or earlier termination of the Term, the School District becomes involved in a dispute or receives notice of a claim, or is involved in litigation concerning the Work and Materials provided under this Contract, the resolution of which requires the services or cooperation of the Contractor, and the Contractor does not otherwise have a duty to indemnify and defend the School District pursuant to the provisions of subsection 13.a. above, the Contractor shall provide such services and shall cooperate with the School District in resolving such claim or litigation as part of the Work and Materials under this Contract.

d. *Notice of Claims*. If the Contractor receives notice of a legal claim against it in connection with or in any way related to this Contract, the Contractor shall (i) submit appropriate written notice of such claim to its insurance carrier within the time frame required for submission of claims by the applicable insurance policy and, (ii) within five (5) business days of receipt of notice of the claim, give notice of such claim to the School District.

14. ***School District Statutory Immunity***. Any other term, covenant or condition of this Contract to the contrary notwithstanding, the School District, its officers, employees, agents, and the members of the Board of Education, retain their statutory governmental, official and any other immunity provided pursuant to Applicable Law, including 42 Pa. Cons. Stat. Ann. §§ 8501 and 8541 *et seq*., as amended. The Contractor acknowledges and agrees that the School District (a) is a Local Agency, as defined in 42 Pa. Const. State. Ann. §§ 8501 and 8541; and (b) does not waive, nor have the power to waive, for itself or for its officers, employees, and for the members of the Board of Education and the Commission, by way of indemnity or otherwise, the defenses of governmental, official or any other immunity derived from said statutes or provided by law .

15. ***Insurance***. Prior to the commencement of any of the Work, the Contractor shall provide and maintain the following minimum levels of insurance at the Contractor's own expense until the latest of completion of the Work, final payment by the School District or final acceptance of the Work. The Contractor shall include in its bid, proposal or quote its cost of the required insurance; the Parties shall make no adjustment to the Compensation on account of these insurance costs. The term "Contractor" shall include Subcontractors and Sub-Subcontractors at every tier. The Contractor shall deliver to the School District a certificate or certificates of insurance evidencing and reflecting the effective date of coverage, as set forth below in subsection 15.e. In no event shall the Contractor commence or permit commencement of any of the Work unless and until the Contractor delivers and the School District has approved the required evidence of insurance in conformity with this Contract. If the School District finds the Contractor's evidence of insurance non-compliant, the School District shall have the right, but not the duty, at its discretion, to purchase the required insurance coverage or coverages, at the sole cost and expense of the Contractor, by set-off against Compensation accrued or accruing, or through the Contractor's direct payment or reimbursement to the School District. The School District by notice or other communication may require additional coverage or coverages, or higher coverage limits, aggregate limits or sub-limits at any time during the Term, if in the School District's sole judgment, a risk or risks warrant such additional coverage or limits.

a. *Rating*. The Contractor shall procure all insurance from insurers permitted to do business in the State in which the Work takes place, having an A.M. Best Rating of at least "A-, Class VIII".

b. *Self-Insured Retention*. The Contractor shall not have a Self-Insured Retention ("SIR") on any policy greater than $50,000; any and all SIRs shall remain the Contractor's responsibility. In the event any policy includes an SIR, the Contractor shall provide the additional insured requirements specified herein within the SIR.

c. *Occurrence Basis*. The Contractor shall ensure that its insurer or insurers write all insurance required hereunder, with the exception of the Professional Liability Insurance, on an "occurrence" basis. Claims-Made coverage must include:

i. a retroactive date on or prior to the start of Work under this Contract; and

ii. "tail coverage/an extended reporting period" or coverage for a period of three (3) years subsequent to the later of completion of the Work or final payment.

d. *Notice of Cancellation or Non-Renewal.* The Contractor's insurance carrier or carriers each shall agree to provide at least thirty (30) days prior written notice to the School District in the event of any cancellation or non-renewal of any coverage. In the event of cancellation or non-renewal of any coverage or coverages, the Contractor shall replace any such coverage or coverages so as to comply with the insurance requirements set forth in this Contract, with no lapse of coverage for any time period. In the event the Contractor's insurance carrier or carriers do not issue or endorse their policy or policies to comply with this subsection 15.d, above, the Contractor shall give notice to the School District of its receipt of any notice of cancellation or non-renewal at least thirty (30) days prior to the effective date of the proposed cancellation or non-renewal.

e. *Certificates*. The Contractor shall deliver to the School District the required certificate or certificates of insurance, evidencing the insurance coverages required under this Contract, at least ten (10) days prior to the start of the Work and thereafter promptly before or on renewal or replacement of each coverage. In the description of operations section of the required certificate, it must be written that the School District, its Board of Education and its members, officers, employees, and agents shall be named as additional insured. The Contractor shall not begin any Work until the School District has reviewed and in its discretion approved the certificate of insurance. The required insurance shall not contain any exclusions or endorsements unacceptable to the School District. The Contractor shall send all certificates of insurance to:

The School District of Philadelphia
Office of Risk Management
440 North Broad Street, Suite 325
Philadelphia, PA 19130-4015
Attn.:Director of Risk Management
E-mail: riskmanagement@phillasd.org

Failure of the School District to demand these certificates or other evidence of full compliance with these insurance requirements or failure of the School District to identify a deficiency from evidence that is provided shall not constitute a waiver of the Contractor's obligation to maintain such insurance.

With respect to insurance maintained after final payment in compliance with a requirement below, an additional certificate(s) evidencing such coverage shall be provided to the School District with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the time period for which such insurance must be maintained.

f. *Additional Insured*. The Contractor shall add the School District, and such other public entities as the School District may require, as additional insureds on all liability policies, except Workers' Compensation and Professional Liability Policy, where applicable, for ongoing operations and completed operations, using ISO Endorsements CG 2010 and CG 2037, or their equivalents, on a primary noncontributory basis. Coverage shall include ongoing and completed operations. Each of the additional insured's respective directors, officers, board members, employees, agents and representatives shall also constitute covered additional insureds. The Contractor and its insurer or insurers shall provide coverage for a period of three (3) years subsequent to the later of completion of Work or final payment. The School District reserves the right to require the Contractor to name other parties as additional insureds. There shall be no "Insured versus Insured Exclusion" on any policies (other than "Named Insured versus Named Insured"); all policies will provide for "cross liability coverage", per standard ISO policy forms.

g. *Waiver of Rights of Subrogation*. The Contractor shall waive all rights of recovery against the School District and all the additional insureds for loss or damage covered by any of the insurance maintained by the Contractor.

h. *No Limitation of Liability*. Neither the Parties nor any tribunal or adjudicatory body shall or may construe the amount of insurance set forth in the insurance coverages required in this Section 15, as a limitation of the liability of the Contractor. The carrying of insurance as set forth in this Section 15 shall not

relieve the Contractor of any duty or liability under the Contract, except to the extent of insurance proceeds paid. Any type of insurance, or any increase in limits of liability, not described above, which the Contractor requires for its own protection or on account of statute shall be its own expense.

i. *Notice of Accidents, Claims and Suits*. The Contractor shall promptly notify the School District and the appropriate insurance company(ies) in writing of any accident(s) as well as any claim, suit or process received by the Contractor arising in the course of operations under the Contract. The Contractor shall forward such documents received to its insurance company(ies), as soon as practicable, or as required by their insurance policy(ies).

j. *Required Coverages*. The following may be provided through a combination of primary and excess policies in order to meet the minimum limits set forth below:

i. Workers' Compensation and Employer's Liability: Provided in the State in which the Contractor performs the Work and elsewhere as required, and shall include:

A. Workers' Compensation Coverage: Statutory Requirements

B. Employers' Liability Limits not less than:

(1)	Bodily Injury by Accident:	$100,000 Each Accident
(2)	Bodily Injury by Disease:	$100,000 Each Employee
(3)	Bodily Injury by Disease:	$500,000 Policy Limit

C. Includes coverage for sole proprietors, partners, members or officers who will be performing the Work.

ii. Commercial General Liability: Provided on ISO form CG 00 01 04 13 or an equivalent form including Premises - Operations, Independent Contractors, Products/Completed Operations, Broad Form Property Damage, Contractual Liability, and Personal Injury and Advertising Injury.

A. Occurrence Form with the following limits:

(1)	General Aggregate:	$2,000,000
(2)	Products/Completed Operations Aggregate:	$2,000,000
(3)	Each Occurrence:	$1,000,000
(4)	Personal and Advertising Injury	$1,000,000

B. Products/Completed Operations Coverage must be maintained for a period of at least three (3) years after final payment/completion of the Work, including coverage for the additional insureds as set forth in this Section 15.

C. The General Aggregate Limit must apply on a Per Project basis.

D. Coverage for "Resulting Damage".

E. No sexual abuse or molestation exclusion.

F. No amendment to the definition of an "Insured Contract".

iii. Automobile Liability:

A. Coverage to include All Owned, Hired and Non-Owned Vehicles, or "Any Auto". If the Contractor does not have any Owned Vehicles the Contractor shall nevertheless maintain coverage for Hired and Non-Owned Vehicles as either a stand-alone policy or endorsed onto the Commercial General Liability policy above.

B. Per Accident Combined Single Limit: $1,000,000

iv. Professional Liability Insurance, including Technology E&O:

A. Minimum Limits of Liability:

(1)	Per Claim	$2,000,000
(2)	Aggregate:	$2,000,000

B. The Definition of "Covered Works" shall include the Works required in the scope of this Contract which shall include but not be limited to software development.

C. Coverage includes but is not limited to loss or disclosure of electronic data, media and contents rights software copyright infringement and network security failure.

D. The professional liability insurance shall cover errors and omissions, including liability assumed under this Contract. If the Contractor provides educational services, the professional liability insurance coverage shall also include educational wrongful acts, employment practices wrongful acts, and directors and executive officers' wrongful acts.

v. Privacy/Cyber Liability, Including Cyber Extortion & Cyber Crime:

A. The Contractor shall maintain coverage for third party liability arising out of breach of privacy, inclusive of confidential and proprietary business information, HIPAA violations and other breaches of personally identifiable information, or protected health information, or both, that may arise from their Work with this Contract.

B. Minimum Limits of Liability:

(1)	Per Claim	$1,000,000
(2)	Aggregate:	$1,000,000

C. Privacy Breach Notification and Credit Monitoring: $5,000,000 per Occurrence.

16. ***Confidentiality; Student Records; Publication Rights; Data Ownership***.

a. *Confidential Information*. The Contractor shall keep in strict confidence all information acquired in connection with or as a result of this Contract that is not generally known to others ("Confidential Information"). During the Term and at any time thereafter, without the prior written consent of the School District, the Contractor shall not disclose or use to its own or any other Person's advantage, profit or gain any Confidential Information or any other information subject to a third party's proprietary right, such as a copyrighted or trademarked work, that the School District makes available to Contractor in connection with this Contract.

b. *Student Records*. The Contractor shall keep any and all records and information, in whatever form or format received, pertaining to the School District's individual students and children, including but not limited to any academic or grade information, attendance, truancy, discipline, receipt of special education services or supplementary educational services, receipt of social security or public benefits, or information as to race, ethnicity or disability in strict confidence as required and to the fullest extent required by any Applicable Law, including but not limited to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.. The Contractor acknowledges and agrees that FERPA limits the transfer and re-transfer of education records and personally identifiable information in education records. Unless and until agreed otherwise by the Parties, the School District shall transmit information or records, or both, protected by FERPA solely to the individual named in Section 7 of the Agreement for Services, and such other duly authorized individuals as the Contractor may specify by notice to the School District (*see,* Section 7 of the Agreement for Services and Section 21 of these Standard Terms and Conditions).

c. *Publication Rights*. With regard to any reports, studies or other works developed in the course

of this Contract, or as a result thereof, the Contractor shall not publish Confidential Information or any other information which identifies students, employees or officers of the School District by name without first obtaining written consent from such individuals, or in the case of a student, his or her parent or legal guardian. Except upon the prior consent of the School District, the Contractor shall have no right to use the name of the School District or its seal, logos, or marks. The Contractor shall provide to the School District, for its review, any proposed report, study, publication, brochure, or advertisement that names the School District or uses its seal, logos, or marks not less than thirty (30) calendar days prior to submission for publication. The Contractor shall remove the School District's name, seal, logos, or marks and any other information identifying the School District from the publication if the School District does not expressly consent to the Contractor's requested use. The Contractor shall not issue, publish, or divulge any Materials developed or used in the performance of this Contract or make any statement to the media relating to the Contract without the prior consent of the School District.

d. *Data Ownership*. The School District retains and reserves its ownership of, and all right, title and interest in, any and all data provided by the School District to the Contractor under or in connection with this Contract. The Contractor acknowledges and agrees that the School District grants to the Contractor a limited, revocable, nonexclusive right and license to use any such School District data, which may include personally identifiable information subject to FERPA, solely for the Contractor's use in carrying out the Work set forth in this Contract and solely in conformity with FERPA and other Applicable Law. At any time during and after the expiration or earlier termination of the Term, the School District may request that the Contractor deliver to the School District all or any portion of any data provided by the School District; promptly upon receipt of any such request the Contractor shall, without any charge to the School District, deliver to the School District the requested data in a usable format reasonably specified by the School District. School District data includes any information and data developed by the Contractor, *e.g.*, by populating a database, as part of or associated with the Work set forth in this Contract. The Contractor shall not destroy nor permit the destruction of any School District data during the Term, except upon the prior express written consent of the School District. Upon the expiration or earlier termination of the Term, the Contractor shall promptly and in any event not later than ten (10) business days after request by the School District, return to the School District all School District data then in the possession or control of the Contractor. Once the Contractor has returned all School District data, it shall promptly destroy and dispose of any remaining copies of the data in its possession or in the possession of any Subcontractor.

e. *Security*. The Contractor will establish and maintain physical, administrative, technical, electronic and operational security measures to protect the confidentiality, integrity and availability of Confidential Information or any other information which identifies students, employees or officers of the School District and systems consistent with best practices and industry standards and with Applicable Law applicable to the Contractor and the Work ("Security Programs"). The School District may conduct, at the School District's expense, vulnerability scanning against networks, systems, and Internet Protocol addresses where the School District data reside.

f. *Data Breach.* The Contractor shall disclose to the School District any suspected or known occurrence of any misuse or wrongful disclosure of Confidential Information or any other information which identifies students, employees or officers of the School District, including but not limited to system breaches that may adversely affect the School District or the School District's students, employees or officers (a "Data Breach") promptly and timely, in any case within no more than twenty-four (24) hours of becoming aware of the Data Breach. To the extent that the Data Breach resulted from acts or omissions of the Contractor or its Subcontractors, Contractor shall be responsible for all actual, necessary, and appropriate costs incurred by the School District or the Contractor arising from, relating to or in connection with the Data Breach.

17. ***Materials; Intellectual Property***.

a. *Computer Applications, Software, Programs, etc*. The Contractor shall ensure that all of its computer applications, programs, tapes and software developed under this Contract comply with any pertinent specifications or requirements set by the School District and with all Applicable Law, including but not limited to FERPA and the Americans with Disabilities Act.

b. *License; Preexisting and Independently Developed Materials*. For the duration of the Term, as the Parties may agree to extend it, the Contractor hereby grants and shall require its Subcontractors, if any, to grant

to the School District the irrevocable, royalty-free right to reproduce, distribute copies of, adapt, display, perform, translate, and publish throughout the universe, in any medium now known or hereafter invented, all Materials and works of authorship, including without limitation studies, media, curricula, and other things of any nature developed or delivered to the School District pursuant to this Contract. For avoidance of doubt, subject to the license granted in this subsection 17.b., each Party otherwise retains ownership of all of its pre-existing and independently developed intellectual property.

18. ***Conflict of Interest***.

a. *Disclosure of Conflict of Interest*. The Contractor represents, warrants and covenants that it has no public or private interest, which does or may conflict in any manner with the performance of the Work and that neither it, nor any of its directors, officers, members, partners, employees, or Subcontractors has or shall, during the Term acquire, directly or indirectly, any such interest. The Contractor shall disclose promptly and fully to the School District's Responsible Official all interests which constitute or may constitute such a conflict.

b. *Improper Gift; Improper Relationship*. The Contractor represents, warrants and covenants that it has not directly or indirectly offered or given and shall not directly or indirectly offer or give any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any School District employee who participated in the decision to authorize or enter into this Contract. The Contractor warrants that, to its knowledge, neither a School District employee or officer who participated in the decision to enter into this Contract, nor any member of the employee's immediate family, receives more than $1,000 per year from the Contractor, has a direct or indirect investment worth $1,000 or more in the Contractor or is a director, officer, partner, trustee or employee of the Contractor.

c. *School District Employees Not to Benefit*. The Contractor shall not make any payment or give anything of more than nominal value to any School District official or employee except in accordance with Applicable Law and School District policy. The Contractor shall comply with the School District's Vendor Code of Ethics, and also, to the extent applicable, with the School District's Code of Ethics for School District officers and employees. The Contractor shall disclose to the School District the name of each School District official or employee who receives payment from the Contractor, the amount such official or employee receives and the services rendered by the official or employee in consideration of the payment.

19. ***Default; Notice and Cure; Remedies***.

a. *Event of Default*. Each of the following constitutes an Event of Default by the Contractor under this Contract:

i. Failure by the Contractor or any Subcontractor to comply with any term, covenant or condition set forth in this Contract.

ii. The Contractor's (a) filing for bankruptcy, (b) making any assignment for the benefit of creditors, (c) consent to the appointment of a trustee or receiver, (d) insolvency, as defined by Applicable Law, or (e) the filing of an involuntary petition against the Contractor under the Federal Bankruptcy Code or any similar state or federal law which remains undismissed for a period of forty-five (45) days.

iii. Default by the Contractor under any other agreement the Contractor may have with the School District.

iv. Any material misrepresentation by the Contractor in (a) this Contract, (b) any other document submitted to the School District by the Contractor, or (c) otherwise by the Contractor directly or indirectly to the School District in connection with the School District's decision to execute, deliver and perform this Contract.

v. Failure of the Contractor to provide, within five (5) business days, assurance reasonably acceptable to the School District that it can perform the Work in conformity with the terms of the Contract if (a) the School District has a reasonable basis to believe at any time during the Term that the Contractor will not be able to perform the Work, and (b) the School District demands in writing assurance of the Contractor's

performance.

vi. Misappropriation by the Contractor of any funds provided under this Contract or failure by the Contractor to notify the School District upon discovery of any misappropriation.

vii. Indictment of or other issuance of formal criminal charges against the Contractor, or any of its directors, employees, agents or Subcontractors or any of the directors, employees or agents of a Subcontractor or any criminal offense or any other violation of Applicable Law directly relating to this Contract, the Work or the Materials, or which adversely affects the Contractor's performance of this Contract in accordance with its terms, whether or not a court of law or other tribunal ultimately accepts a verdict or plea of guilty or no contest regarding the charged offense.

viii. Debarment or suspension of the Contractor or any director, agent, employee or Subcontractor of the Contractor, or any Person controlling, under common control with, or controlled by, the Contractor under a federal, state or local law, rule or regulation by any duly authorized federal, state or local governmental entity, including but not limited to the School District.

ix. Failure by the Contractor to comply with any term, covenant or condition set forth in Section 4 above, or the breach of any of the Contractor's representations and warranties set forth in subsection 22.f., below.

b. *Notice and Cure*. If the Contractor commits or permits any Event of Default, the School District shall notify the Contractor of its determination that an Event of Default has occurred. The Contractor shall have ten (10) business days from receipt of that notice, or such additional cure period as the School District may authorize in its sole discretion, to correct the Event of Default; provided, however, that no such notice from the School District or period of cure shall be required before invoking the remedies described in subsection 19.c. below if: (i) the Contractor has temporarily or permanently ceased performing the Work; (ii) an emergency has occurred relating to the Work, and that emergency requires immediate exercise of the School District's rights or remedies, as determined by the School District in its sole discretion; (iii) the School District has previously notified the Contractor more than once in the preceding twelve (12) month period of any Event of Default under this Contract; (iv) an Event of Default occurs as described in subsection 19.a. vi., vii., or viii. above; or (v) the Contractor breaches any of its obligations under Sections 2 or 9 above. Nothing set forth in this subsection 19.b. shall limit the School District's rights under subsection 19.c.

c. *Remedies*. If the Contractor does not cure the Event of Default within the period allowed by the School District, or if the Contractor commits or permits an Event of Default for which subsection 19.b. above provides no notice or period of cure, then the School District may, without further notice or demand to the Contractor, and without waiving or releasing the Contractor from any of its obligations under this Contract, invoke and pursue any or all of the following remedies:

i. terminate this Contract by giving the Contractor a Termination Notice.

ii. perform, or cause a third party to perform, this Contract, in whole or in part. The Contractor shall be liable to the School District, as damages, for all expenses incurred by the School District or a third party pursuant to this subsection 19.c.ii., together with interest at the prime rate of interest as published from time to time by the *Wall Street Journal*, plus five percentage points (5.0%). The School District shall not in any event be liable for inconvenience, expense, loss of profits or other damage incurred by the Contractor due to the School District's performance or paying such costs or expenses.

iii. withhold payment of, or offset against, any funds payable to or for the benefit of the Contractor.

iv. collect, foreclose or realize upon any bond, collateral, security or insurance provided by or on behalf of the Contractor.

v. any other legal or equitable remedy available to the School District, including but not limited to a legal action for breach and damages against the Contractor.

d. *Specific Performance*. The Contractor's Work and Materials represent unique services and things, not otherwise readily available to the School District. Accordingly, the Contractor acknowledges that, in addition to all other remedies, the School District shall have the right to enforce the terms of this Contract by a decree of specific performance or an injunction, or both, restraining a violation, or attempted or threatened violation, of any term, covenant or condition set forth in of this Contract.

e. *Concurrent Pursuit of Remedies*. The School District may exercise any or all of the remedies set forth in this Section 19, each of which the School District may pursue separately or in conjunction with any other remedy or remedies, as the School District shall determine. The School District may in its sole discretion elect not to exercise any of the above remedies and may permit the Contractor to continue to perform the Work. No extension or indulgence granted by the School District to the Contractor shall operate as a waiver of any of the School District's rights in connection with this Contract.

20. ***Termination for Convenience***. The School District may terminate this Contract for its convenience, that is, for any reason or for no reason at all, at any time, in its sole discretion, by providing a Termination Notice upon fourteen (14) days prior written notice to the Contractor of the School District's termination of this Contract, without penalty, cost or liability to the School District. If the School District terminates this Contract, the School District shall pay the Contractor for any Work satisfactorily completed before the effective date of termination, but in no event shall the Contractor have any right to receive costs caused by or related to loss of profits for Work that the Contractor did not perform because of the early termination, or for loss of profits for services the Contractor could have performed for other Persons absent its engagement under this Contract.

a. *Contractor Actions upon Termination*. Upon receipt of a Termination Notice from the School District under Sections 6, 19, or 20 above, the Contractor shall take immediate action to effect the orderly discontinuance of the Work. The Contractor shall collect, assemble and transmit to the School District, at the Contractor's sole expense, all Materials developed under this Contract. The Contractor shall clearly label and index to the satisfaction of the School District all such Materials, and shall deliver all such Materials to the School District within thirty (30) days after receipt of a Termination Notice, or in such shorter period as the School District may specify in its Termination Notice.

21. ***Notices.*** Except as expressly provided to the contrary in any other Section of this Contract, the Parties shall give all notices, waivers, consents and approvals required under this Contract in writing. The Parties shall deem any notices, waivers, consents and approvals duly given (a) when received or refused if delivered by hand with receipt given or refused; (b) on the next business day if delivered by a nationally recognized overnight courier service (*e.g.*, Federal Express, United Parcel Service), or refused upon courier's attempt to deliver; (c) upon receipt or refusal of delivery if sent by certified or registered United States mail, return receipt requested; or (d) upon proper transmission of an electronic mail. Any notice sent by electronic mail must be clearly labeled in the subject line identifying the electronic mail communication as a legal notice under the Contract and shall be in all capital letters. In each case the Parties shall send notices to the other Party's representative as set forth in and at the address set forth in Section 6 of the Agreement for Services. Each Party may change its designee for receipt of notice in Section 6 of the Agreement for Services by giving notice thereof to the other Party in conformity with this Section 21. Further, each Party must report any changes in the contact information for its designee to the other Party in a timely manner.

22. ***Representations and Warranties***. Effective as of the execution and delivery of this Contract and throughout the Term, the Contractor makes the following representations, warranties and covenants to the School District:

a. The Contractor has all necessary power and authority to execute, deliver and perform this Contract and has completed all actions necessary in order duly to authorize the execution, delivery and performance of this Contract, including duly authorizing the Person who signs this Contract to do so on its behalf.

b. This Contract, when executed and delivered, shall constitute a legal, valid, and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms.

c. The Contractor is financially solvent, can and shall pay all its debts as they mature, and

possesses sufficient working capital to carry out the Work.

d. The Contractor owns or has duly and validly licensed from a third party the Materials and any other materials used by the Contractor in carrying out the Work and the Contractor's use or delivery thereof to the School District in connection with this Contract, and any use thereof by the School District as contemplated by this Contract, does not and shall not violate any third party's copyright, patent, trade secret or other proprietary right.

e. The Contractor is and shall be, at all times during the Term, duly qualified to transact business in the Commonwealth and professionally competent and duly licensed to carry out the Work, if the performance of the Work requires any license or licenses.

f. The Contractor and any other Person controlling, controlled by, or under common control with the Contractor are not currently indebted to the City or the Commonwealth for or on account of any delinquent taxes, or other indebtedness or obligations, including but not limited to any taxes imposed, levied, authorized, or assessed by the Commonwealth or the City, including any tax imposed, levied, authorized, or assessed for or on behalf of the School District, for which no written settlement agreement or payment plan with the City or the Commonwealth, as the case may be, has been executed and delivered and the payments are current.

g. Neither the Contractor nor any of its principals or Subcontractors, nor any other Person controlling, controlled by, or under common control with, the Contractor, are under suspension or debarment, have received official notice of commencement of proceedings for debarment or have been declared ineligible for contracts, bids, RFPs or contract awards by the Commonwealth, the City, any Federal agency or any school district.

The Contractor shall provide immediate written notice to the Responsible Official if at any time during the Term the Contractor learns that any of these representations, warranties or covenants was or has become erroneous.

23. ***Definitions***. Except as expressly provided to the contrary elsewhere in these Standard Terms and Conditions or in the Agreement for Services, capitalized terms shall have the meanings specified in this Section 23. In the event of a conflict between a definition in these Standard Terms and Conditions and the Agreement for Services, the definition in the Agreement for Services shall apply. In the event of a conflict between a definition in any exhibit, addendum or attachment to the Agreement for Services and a definition in these Standard Terms and Conditions, the definition in these Standard Terms and Conditions shall apply.

a. *Agreement for Services*. "Agreement for Services" means the instrument headed "Agreement for Services," which forms a part of this Contract and which contains the signatures of the School District and the Contractor, and sets forth certain of the terms, covenants and conditions specific to the Contractor's engagement.

b. *Applicable Law*. "Applicable Law" means and includes all federal, state, and local statutes, ordinances, resolutions and regulations, including the rules and regulations of any government authority, School District rules, regulations and policies applicable to the School District, the Contractor and the Work, and includes all applicable case law, court orders, injunctions and consent decrees.

c. *Board of Education*. "Board of Education" means the Board of Education as established in Article XII of the Home Rule Charter.

d. *Certified.* "Certified" means a contractor certified by a certifying agency approved by the School District at the discretion of Procurement Services.

e. *City*. "City" has the definition set forth above in subsection 4.a.

f. *Commission*. "Commission" has the definition set forth above in subsection 4.a.

g. *Commonwealth*. "Commonwealth" has the definition set forth above in subsection 1.l.

h. *Compensation*. "Compensation" has the definition set forth in Section 4 of the Agreement for

Services.

i. *Contract*. "Contract" has the definition set forth in the preamble of the Agreement for Services, which includes the instruments integrated into and forming a part of this Contract, *i.e*., the Agreement for Services, Exhibit "A", Exhibit "B", if any, these Standard Terms and Conditions and any other Exhibit incorporated into this Contract as set forth in the Agreement for Services.

j. *Control.* "Control" means, for purposes of determining whether a business is a Minority-owned Business Enterprise or Women-owned Business Enterprise, that the minority group member owners or women owners: (1) possess and exercise the legal authority and power to manage business assets, goodwill and daily operations of the business; and (2) actively and continuously exercise this managerial authority and power in determining the policies and directing the operations of the business.

k. *Diversity Policy.* "Diversity Policy" means Policy 612: Business Diversity in the Procurement of Materials and Contracted Services and 612 Administrative Procedure as adopted by the Board of Education on January 30, 2020, by its Board Action Item Number 1 and any subsequent revision adopted by the Board of Education. .

l. *Event of Default*. "Event of Default" means those events defined and identified above in subsection 19.a.

m. *FERPA*. "FERPA" has the definition set forth above in subsection 16.b.

n. *Materials*. "Materials" means any and all reports, records, documents, documentation, information, supplies, plans, original drawings, specifications, computations, sketches, renderings, arrangements, videos, pamphlets, advertisements, statistics and other data, computer tapes, computer programs, software, and other tangible work product, materials or goods prepared, supplied or developed by the Contractor as part of or in connection with the Work, or for the Contractor by a Subcontractor in connection with the Work, and deliverable or delivered to the School District by the Contractor or its Subcontractor pursuant to this Contract.

o. *Meaningful and Substantial Participation.* "Meaningful and Substantial Participation" means a participation level for the Contractor that meets or exceeds the targeted ranges of participation established for a bid or proposal, which reflects the availability of bona fide M/WBEs for work of the nature of the Work set forth in this Contract.

p. *Minority-owned Business Enterprise (MBE) or Women-owned Business Enterprise (WBE)*. An entity certified as a Minority-owned Business Enterprise (MBE) or Women-owned Business Enterprise (WBE) by a third-party certification agency recognized by the School District.

q. *M/WBEs*. A Minority -owned Business Enterprise or Women-owned Business Enterprise.

r. *Party; Parties*. A "Party" means either the School District or the Contractor; the "Parties" means the School District and the Contractor.

s. *Person*. "Person" means any individual, association, partnership, limited partnership, joint venture, corporation, limited liability company or other form of entity or association recognized at law.

t. *Responsible Official*. "Responsible Official" means the School District official named in Section 7 of the Agreement for Services.

u. *Subcontract; Subcontractor*. "Subcontract" means a contract made between the Contractor and a Subcontractor providing for the completion of some part or parts of the Work or Materials by a Subcontractor. "Subcontractor" means a Person performing under a contract with the Contractor a part of the Work or Materials that the Contractor has agreed to carry out pursuant to this Contract.

v. *Tax Policy*. "Tax Policy" has the definition set forth above in subsection 4.a.

w. *Term*. "Term" has the definition set forth in Section 3 of the Agreement for Services.

x. *Termination Notice*. "Termination Notice" means a notice given to the Contractor by the School District of its intent to terminate the Contract under the terms of Sections 6, 19 or 20 and the effective date of the termination of the Contract.

y. *Work*. "Work" has the definition set forth in Section 1 of the Agreement for Services and includes any relevant exhibits or addenda forming part of this Contract.

Unless otherwise expressly defined in this Contract, words that have well-established technical meanings or definitions in the field of public primary and secondary education have the same well-established meanings or definitions when used in this Contract.

24. ***Miscellaneous***.

a. *Applicable Law; Venue*. The Parties, and any court or other tribunal, shall construe and enforce this Contract under the laws of the Commonwealth, regardless of its conflict of laws provisions, and without the aid of any canon, custom or rule of law requiring construction against the draftsperson. In the event that the Parties cannot amicably resolve any dispute and a Party resorts to legal action, that Party shall file suit only in the state or federal courts sitting in Philadelphia, Pennsylvania.

b. *Headings*. Section headings in this Contract serve for reference only and shall not in any way affect the meaning or interpretation of this Contract.

c. *Order of Precedence*. In the event of conflict or variation between the Standard Terms and Conditions or the Agreement for Services and any other exhibit, addendum or attachment, the Standard Terms and Conditions or the Agreement for Services, as the case may be, shall govern. In the case of conflict or variation between the Standard Terms and Conditions and the Agreement for Services, the Agreement for Services shall govern.

d. *Severability*. If a court holds any term, covenant or condition of this Contract invalid, such holding shall not affect or impair the validity of any other terms, covenants or conditions of this Contract, which the Parties hereby deem severable and which shall remain in full force and effect.

e. *Survival*. Any and all provisions of this Contract which contemplate performance by a Party after the expiration or earlier termination of this Contract shall survive and be enforceable after such expiration or termination, including without limitation provisions relating to ownership of Materials and indemnification.

f. *Waiver*. No one shall or may find, hold or determine that a Party has waived any term, covenant or condition set forth in this Contract, any Event of Default, or any remedy set forth in this Contract, unless that Party has set forth its waiver in a writing signed by that Party.

g. *Further Assurances*. The Contractor shall execute and deliver all such further instruments and documents and take all such other actions as may reasonably be required to carry out the Work as set forth in this Contract.

h. *No Third Party Beneficiaries*. This Contract is intended for the benefit of the Parties hereto and the Parties do not intend to create, and no Party, court, tribunal or Person shall construe anything set forth in this Contract to create, any contractual relationship with, or to give a claim, right, cause of action or remedy in favor of, any third party against either Party. The Parties do not intend that anything in this Contract benefits any third party, including but not limited to any Certified M/WBEs and other Certified diverse, small, or disadvantaged businesses.

i. *Entire Agreement; Amendment*. This Contract includes all exhibits, schedules and addenda, if any, referred to herein, all of which the Parties hereby incorporate by reference, unless otherwise specified herein. This Contract constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous oral and written agreements and statements concerning the subject matter of this Contract, all of which the Parties

have fully integrated herein. This Contract supersedes any prior or contemporaneous course of conduct, performance or dealing between the Parties. The Contractor has not, does not and shall not rely on any statement or representation of the School District other than those expressly set forth in this Contract. No amendment or modification changing this Contract's scope or terms shall have any force or effect unless executed and delivered in writing and signed by both Parties.

j. *Counterparts; Electronic Signatures*. The Parties may execute and deliver this Contract in any number of counterparts, each of which the Parties shall deem an original, and all of which shall constitute, together, one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission shall have the same legal effect as delivery of an original signed copy of this Contract. This Contract and any true, correct, and complete counterpart thereof may be executed either (a) on paper with an ink signature or (b) by due, secure electronic method, and any true, correct, and complete counterpart may be transmitted by e-mail or other electronic means. For avoidance of doubt, any true, correct, and complete counterpart may be converted from paper to electronic form, or from electronic form to paper, and such converted true, correct, and complete counterpart shall be deemed an original for transmission, execution, delivery and retention pursuant to the Electronic Signatures in Global and National Commerce Act, Title 15, United States Code, Sections 7001 *et seq*.

k. *Interpretation; Number, Gender*. The words "herein" "hereof" and "hereunder" and other words of similar import refer to this Contract as a whole, and not to any particular Section, subsection or clause in this Contract. Whenever the context requires, the Parties shall construe words used in the singular to include the plural and vice versa, and pronouns of any gender to include the masculine, feminine and neuter genders.

Federal Grant-Funded Agreements Contractor Requirements and Pennsylvania Department of Education Contractor Requirements

This project may be funded with Federal or Pennsylvania Department of Education grant funds. Therefore, the Respondent acknowledges and agrees that the Respondent shall abide by the Federal Grant-Funded Agreements Contractor Requirements and/or Pennsylvania Department of Education Contractor Requirements (collectively the "Contractor Requirements"), as applicable, which are available at https://www.philasd.org/generalcounsel/forms/ and hereby incorporated into and made a part of the Contract to the same extent as if it were attached hereto. The Contractor, by execution of the signed Bid, acknowledges their consent to the incorporation of the Contractor Requirements, as applicable, into the Contract.

Business Diversity in the Procurement of Materials and Contracted Services

BID NO. NG10834

NOTICE TO BIDDERS

This Invitation to Bid is issued under the Board of Education Policy 612: Business Diversity in the Procurement of Materials and Contracted Services (for the purposes of this Appendix, the "Policy"). . A fundamental requirement of the Policy is that all contractors, vendors and consultants who contract with the District provide a full and fair opportunity for the participation of Minority and Woman-Owned firms (M/WBE's) in the performance of the contract. Ranges of participation have been established that represent meaningful and substantial participation for this contract based upon the availability of bona fide M/WBE firms. The range of participation is:

MWBE Range: Best Efforts

The Business Diversity in the Procurement of Materials and Contracted Services and Participation Form are included with the bid documents. The form must be completed and submitted with the bid. Bidders are advised to carefully review the instructions. Failure to comply may result in disqualification.

This range of participation for this bid may be amended or adjusted. Notification of any change will be made available through public addenda, and posted on the Office of Procurement Services Website.

All questions about the Business Diversity in the Procurement of Materials and Contracted Services and Bidder compliance should be directed to ***Richard Brown, Project Manager, in the Small Business Development Department at (215) 400-4380 or via email at rkbrown@philasd.org***

Business Diversity in the Procurement of Materials and Contracted Services

SECTION 1. THE POLICY

The School District's Business Diversity in the Procurement of Materials and Contracted Services Policy applies to all School District and Intermediate Unit contracts, as designated by the School District and approved by the Board, including but not limited to, contracts for the design, development, construction, operation and maintenance of school buildings and other buildings and structures owned, leased or used by the School District or its contractors, assignees, lessees and licensees (the "Facilities"); contracts for professional services and contracts for the purchase of goods, services, supplies and equipment for the School District and the Facilities. Through adoption and implementation of the Policy, the School District seeks to achieve the objective of better promotion of prime contract and subcontract opportunities for MWBEs, as approved by the School District or certified by the OEO, Southeastern Pennsylvania Transportation Authority ("SEPTA"), or any other certifying agency designated by the School District in its discretion.

The Policy fundamentally requires that all contractors, vendors and consultants who contract with the School District, satisfy the School District that they shall: (i) not discriminate against any person in regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability; and (ii) provide a full and fair opportunity for the participation of MWBEs in the work under School District contracts. Contractors must demonstrate "meaningful and substantial" participation by MWBEs in all phases of a contract, under criteria adopted by the School District. "Meaningful and substantial" means the range of participation that reflects the availability of bona fide MWBEs for the work in the Philadelphia Metropolitan Statistical Area. The School District measures participation in the actual dollars received by MWBEs.

"Minority" as used in this Policy, means:

Black American, *i.e.*, all persons having origins in any of the Black African racial groups;

Hispanic/Latino American, *i.e.*, all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin;

Asian Pacific Island American, *i.e.*, all persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands; and

Native American, *i.e.*, all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

A. Procedures for Implementation

1. Articulation of the Policy, Staffing and Reporting

The School District Office of General Counsel and the Procurement Services' Office of Small Business Development have developed this language for the bid (the "Solicitation Language"), in order to set forth clearly the objectives of the Policy. School District employees shall include this Solicitation Language in all bids/RFPs and similar procurements, *e.g.*, bids/RFPs. The School District shall publicize and articulate the Policy to the public in general, and to each Person, Proposer, bidder contractor, lessee or licensee doing business with the School District.

The School District may employ additional staff or contract with other public or private entities to assist in the implementation of the Policy. School District staff shall provide the Board with quarterly reports on the levels MWBE participation in all contracting activities.

2. Promotion of MWBEs

The School District recognizes the importance of having meaningful and substantial MWBE participation in all contracts. To that end, the School District shall take steps to ensure that it affords to MWBEs a fair and equal opportunity to participate. Those steps may include but are not limited to: (i) making public contracting opportunities; (ii) advertising in newspapers and periodicals published by community-based organizations and

MWBEs; and (iii) designing bid & RFP packages in such a way as to promote rather than discourage MWBE participation.

3. Contracting Requirements

Prior to the dissemination of any bid or other form of public solicitation (a "Solicitation"), the School District shall determine the projected range of MWBE participation in the Work procured (the "Participation Range"), and may include this information, along with the names and addresses of bona fide MWBEs potentially available for contracting or joint-venture opportunities with the Solicitation. Each Proposer shall submit with its Proposal or other form of response: (i) a plan that meets the Participation Range set forth in the Solicitation and lists the names, addresses, dollar amounts and scope of work delegated, subcontracted or otherwise allocated to the MWBE to carry out (the "Participation Plan"); or (ii) a brief narrative explaining its reasons for not submitting a Plan which meets the Participation Range set forth in the Solicitation. Submission of the Participation Plan is an element of responsiveness and failure to submit a completed Participation Plan or a narrative explaining the reasons that the Participation Ranges could not be met may result in the rejection of a Proposal, bid or other form of response.

If the Participation Range in a Proposal, bid or other form of response meets or exceeds the level determined by the School District as meaningful and substantial, the School District shall presume the Proposer's Proposal complies with the Policy. If, however, the proposed Participation Range falls below the meaningful and substantial level, then the Proposer must prove to the satisfaction of the School District that it did not discriminate in the solicitation of potential subcontractors, joint venture partners or both.

4. Sanctions

The Parties shall incorporate the Proposer's Participation Plan as a part of each Contract between the School District and a Contractor, and the Proposer's Participation Plan shall be enforceable like any other contractual term, covenant or condition, in the manner set forth in the Contract. Sanctions for breach of a Participation Plan shall include, among others, suspension or cancellation of the Contract, and in some cases debarment from future contracting opportunities with the School District.

BIDDER RESPONSIBILITIES

THE POLICY

The Policy seeks to provide equal opportunity for all businesses and to ensure that the School District does not use its funds, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The School District is committed to fostering an environment in which all businesses freely, fairly and equitably participate in business opportunities, flourish without any impediments of discrimination, and participate in School District contracts and contracting opportunities on an equitable basis. In accordance with the contracting requirements of the School District, the Policy applies to bids/RFPs for supplies, services & equipment, design & construction contracts, and contracts for professional services.

CERTIFICATION REQUIREMENTS

The School District shall credit toward participation ranges only firms certified by an approved certifying agency prior to bids/RFP opening. Approved agencies include OEO, SEPTA, other state and city certification offices, State Departments of Transportation, the Small Business Administration, National and Local Minority Supplier Development Councils; National Association of Women Business Owners, and other identified certifying agencies approved by the School District.

PARTICIPATION CREDIT

MWBE subcontractors and manufacturers and suppliers of products are credited toward the participation range at 100%.

Proposers who utilize indirect contracting with MWBE firms to satisfy the participation range may do so, however indirect participation may not exceed twenty five percent (25.0%) of the requirement.

In order to maximize opportunities for businesses, the School District shall credit a firm certified in two or more categories toward only one participation range, *e.g.*, as either an MBE or WBE, but not both. Proposers should note in their Proposal the category; MBE, WBE, or other, for which the Proposer seeks credit.

For an MWBE submitting as the prime contractor, the School District shall credit toward the participation ranges the value of its own work or supply effort.

In listing amounts committed to on the Participation Plan submitted as part of its Proposal, Proposers should list both the dollar amount and percentage of total bid/RFP Compensation for each MWBE commitment proposed. In calculating the percentage, Proposers may apply the standard mathematical rules in rounding off numbers. In the event of an inconsistency between the dollars and percentages listed on the Participation Plan form, the School District shall use and rely on the amount which results in the greater commitment.

RESPONSIVENESS

Proposers must submit documentary evidence of MWBEs solicited by the Proposer and of those MWBE with whom the Proposer has made tentative commitments.

Proposers shall submit with their Proposals documentation of all Proposer solicitations of prospective MWBEs, regardless of whether tentative mutual commitments resulted, as well as all tentative commitments made prior to Proposal submission, on the document entitled "Participation Plan" form. If the Proposer has entered into a joint venture with a MWBE partner, the Proposer must submit a copy of the joint-venture agreement along with the Participation Plan form.

The School District shall reject as non-responsive all Proposals from Proposers who fail to submit the required information on MWBE participation. Proposers should note that the School District shall credit toward the Participation Ranges only tentative commitments made prior to Proposal submission and listed on the Participation Plan form. Since the School District must ensure that all Proposers respond on equal terms, the School District shall reject as non-responsive a Proposal that indicates that the Proposer will make commitments after Proposal opening.

Upon execution and delivery of a definitive Contract, the completed Participation Plana forms and accompanying documents regarding solicitation and commitments with MWBEs become legally binding as part of the Contract. A Proposer should only make actual solicitations of MWBEs whose work or materials are within the scope of the bid/RFP Work. The School District shall not deem mass-mailing of a general nature as MWBE solicitation, but rather treated these mailings as informational notification only. Prospective Proposers should give all solicited MWBE firms a reasonable period of time to ensure that MWBEs can prepare their quotes adequately and diligently.

The Proposer's listing of a commitment with an MWBE as described on the Participation Plan form constitutes a representation that the Proposer has, prior to Proposal submission, made a tentative commitment to contract with the MWBE firm, on receipt of a Contract from the School District.

PROPOSAL REVIEW

Upon receipt of Proposals for this bid/RFP, the School District shall submit Proposer's Proposal for review to the School District's Office of Small Business Development ("SBD") to determine whether the Proposer has submitted a Proposal that meets the Participation Ranges for MWBE set forth in this bid/RFP. If the Proposal meets these ranges, the School District shall rebuttably presume the Proposer to have met the requirements of the Policy.

Contractors shall maintain MWBE percentage commitments throughout the Term of the Contract; these percentage commitments shall apply to the total Contract value, *i.e.*, the Compensation, which shall include approved change orders and amendments. Any change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts must be approved by the School District.

ACCESS TO INFORMATION

The SBD unit or its designee shall have the right to make site visits to the Proposer's place of business and job site, and to obtain documents and information from any Proposer, Contractor, Subcontractor, supplier, manufacturer or other contract participant that may be required in order to ascertain Proposer responsibility and responsiveness. Failure to cooperate with the SBD unit in its review shall result in a recommendation to the School District user Department and bid/RFP evaluation team that the School District deem the Proposer not responsible and reject its Proposal.

RECORDS AND REPORTS

The Contractor shall maintain records relating to its MWBE commitments, *e.g.*, copies of subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs; for a period of at least six years following acceptance of final payment. 24 P.S. § 5-518. The Contractor shall make these records available for inspection by the SBD unit and other appropriate School District officials.

The Contractor shall submit reports and other documentation to the School District as deemed necessary by the SBD unit to ascertain the Contractor's successful discharge of its MWBE commitments.

REMEDIES

The School District deems the Contractor's successful compliance with the requirements of the Policy material to the Contract. Any failure to comply with these requirements constitutes a substantial breach of the Contract. The Contractor understands, acknowledges and agrees that in the event the School District determines that the Contractor has failed to comply with these requirements, the School District may, in addition to any other rights and remedies the they may have under the Contract, any bond filed in connection therewith, or at law or in equity, exercise one or more of the following remedies:

- withhold payment(s) or any part thereof until corrective action is taken;
- terminate the Contract, in whole or in part;
- suspend the Contractor from participating in any future School District Contracts for a specified period; or.
- recover as liquidated damages, one percent of the Compensation under the Contract for each one percent, or fraction thereof, of the commitment shortfall. *Note*: the "Compensation", *i.e.*, the total dollar amount of the Contract, shall include approved change orders, amendments, and for requirements contracts shall be based on actual quantities ordered by the School District.

APPEAL PROCESS

Appeal of any action taken under the Business Diversity in the Procurement of Materials and Contracted Services Policy state the clear reason for appeal and shall be made in writing to:

Throne Cropper, Deputy Chief
Office of Procurement Services
The School District of Philadelphia
440 N. Broad Street, Third Floor
Philadelphia, PA 19130-4015

M/WBE Participation Plan Form Instructions

MWBE Participation Plan Submission & Form Completion Requirements:

The M/WBE Participation Plan Forms must be submitted with all vendor responses to the solicitation. Failure to submit and complete the appropriate MWBE Participation Plans Forms will deem the Prime Contractor's response to this solicitation as non-responsive and subject the response to disqualification.

1. **Prime Contractor Responsibilities:**
    - Complete **Section I**, ensuring all rows are filled, dated, and/or signed with the Prime Contractor's information.
    - If the Prime Contractor is a certified Small Business or Minority and/or Women Owned vendor, include a copy of the valid certification. **Section II is not required should the Prime Contractor be a certified Small Business or Minority and/or Women Owned vendor.**
    - If the Prime Contractor is not already a certified Small Business or Minority and/or Women Owned vendor, specify the approximate percentage and/or dollar amount of the commitment to each certified MWBE subcontractor upon award on the following pages:
        - **Section II.** – "Approximate $ amount of Subcontract" or "Subcontract % of Total Contract Amount"
    - The Prime Contractor is also responsible for completing the **Procurement Vendor Compliance Acknowledgement Form**, following the MWBE Participation Plan Forms.
2. **Subcontractor Responsibilities:**
    - Each Subcontractor must complete **Section II.**, ensuring all sections are filled, dated, signed and returned to Prime to include in the original submission.
    - If a Subcontractor is a certified vendor, include a copy of the valid certification.
    - Failure to complete **Page II.** correctly will deem the entire M/WBE Participation Plan Form and vendor response as non-responsive, subjecting the Prime Contractor's response to disqualification.
3. **Additional Subcontractors:**
    - If needed, use multiple copies of **Section II** for each additional Subcontractor.
    - Multiple certified Small Business/MWBE sub-contractors can be utilized to meet the required MWBE Goal referenced within this Bid/RFP document.
4. **Diversity Certifications:**
    - Include copies of all active and current Small Business and/or MWBE certifications for both the Prime Contractor and/or any Subcontractors, as applicable.
    - All certifications must be current at the time of submission.
5. **MWBE Goal Compliance:**
    - If the MWBE Goal cannot be met, the *Prime Contractor* must:

- Utilize **Section III** to provide an explanation and;
- Submit evidence of Best Efforts for review and compliance by the Office of Procurement Services. This includes completing the table within **Section III** and listing at least three (3) sub-contractors that have been contacted to meet the goal set forth as a percentage or Best Efforts.

- **Note: Section III** is not required if the Prime Contractor and/or Sub-Contractor has met the MWBE Goal by completing **Section I** and/or **Section II**.

OFFICE OF PROCUREMENT SERVICES
OFFICE OF MINORITY AND SMALL BUSINESS DEVELOPMENT
Minority/Women-Owned Business Enterprise (M/WBE) Participation Plan

I. Information in this section refers to the Prime Contractor/Vendor.

Company Name:				Federal Tax ID:	
Address:				Phone Number:	
City:		State:		Zip Code:	
DBA (if applicable):				Fax Number:	
Primary Contact Person:		Primary Contact Email:			
Compliance Contact:		Compliance Contact Email:			
Bid/RFP Number:		Contract Overall MWBE Goal:			

Diversity Business Certification to be used on this contract(s): **Check all that apply and INCLUDE a copy of the certification.**

☐ Minority-Owned Business Enterprise (MBE)
☐ Women-Owned Business Enterprise (WBE)
☐ Federally Certified Disadvantaged Business Enterprise (DBE)
☐ Small Business Enterprise (SBE)
☐ Disabled Owned Business Enterprise (DSBE)
☐ Veterans Business Enterprise (VBE) / Certified Service-Disabled Veterans
☐ Business Enterprise (SDVBE)
☐ LGBT Business Enterprise (LGBTBE)
☐ Diversity Business Certifying Agency: _____
☐ None

Authorized Representative Signature:			
Print Name:			
Title:		Date:	
Certifying Agency		Certification No.	

☐ The School District of Philadelphia NON-Profit Registration Certificate

Date certificate approved:_____ Certificate expiration date._____

Non-profit certification is renewed annually by the vendor..

For School District of Philadelphia, Office of Procurement ONLY:

For School District Employee signature ONLY:_____Date:_____

II.	**This section pertains to the subcontractors involved throughout the entire duration of this contract. Use Section II of this form for each additional subcontractor as needed. Please include copies of all relevant certifications.**

Company Name:				Federal Tax ID:	
Address:				Phone Number:	
City:		State:		Zip Code:	
DBA (if applicable):			Fax Number:		
Primary Contact Person:		Primary Contact Email:			
Compliance Contact:		Compliance Contact Email:			
Description of Services Provided:					
Approximate $ amount of Subcontract:		Subcontract % of Total Contract Amount:			

Diversity Business Certification to be used on this contract(s): **Check all that apply and INCLUDE a copy of the certification**.

☐ Minority-Owned Business Enterprise (MBE)
☐ Women-Owned Business Enterprise (WBE)
☐ Federally Certified Disadvantaged Business Enterprise (DBE)
☐ Small Business Enterprise (SBE)
☐ Disabled Owned Business Enterprise (DSBE)
☐ Veterans Business Enterprise (VBE) / Certified Service-Disabled Veterans
☐ Business Enterprise (SDVBE)
☐ LGBT Business Enterprise (LGBTBE)
☐ Diversity Business Certifying Agency: _____
☐ None – not applicable

Authorized Representative Signature:			
Print Name:			
Title:		Date:	

☐ The School District of Philadelphia NON-Profit Registration Certificate

Date certificate approved:_____ Certificate expiration date:._____

Non-profit certification is renewed annually by the vendor.

For School District of Philadelphia, Office of Procurement ONLY:

For School District Employee signature ONLY:_____Date:_____

THE SIGNER COMMITS TO PROVIDE SERVICES OR SUPPLIES AS DESCRIBED ABOVE AND WILL ENTER INTO A FORMAL AGREEMENT WITH THE BIDDER/PROPOSER CONDITIONED ON THE BIDDER/PROPOSER'S EXECUTION OF A CONTRACT WITH THE SCHOOL DISTRICT OF PHILADELPHIA.

III. M/WBE CONTRACTOR GOOD FAITH EFFORTS FORM

The Prime Contractor/Vendor must complete information in this section if the Prime Contractor(Vendor) proposes no Small Business and/or MWBE commitment.

Bidder/Applicant's Company:			
Authorized Representative:		**Title:**	
Address:			
Phone:		**Email:**	

The Bidder or Prime Contractor has the burden of demonstrating "Good Faith Efforts" to meet the diverse contracting goals. I certify that the following certified Minority/Women Business Enterprises were contacted to obtain a quote for work to be performed on the above-mentioned project/contract. List the certified firm's information: date, name, certification, contact person, contact phone number, type of work to be performed, and the estimated budgeted amount for each vendor, along with results of contact (please use the list below to indicate the result).

Date	Certified Firm Name	Firm's Certification(s)	Firm's Contract Person	Firm's Contact Phone #	Type of Work	Estimated Budgeted Amount for Certified Firm	Results (select from the list below)

To the best of my knowledge and belief, said certified Minority/Women Business Enterprise contractor(s) was/were not selected, unavailable for work on this project, or unable to provide a quote for the following reasons: Please give the appropriate reasons given by each MBE/WBE firm contacted above. See the list below of results based on the contacted certified M/WBE vendor:

A. Firm agreed to sub-contract and will enter into a formal agreement with the bidder

B. Did not have the capability/capacity to perform the work

C. Contract too small

D. Remote location / No presence in that area

E. Received solicitation notices too late

F. Did not want to work with this contractor

G. Other (give reason)

The Prime Contractor attests that it submits the following as evidence of its good faith efforts to find and retain certified minority and women-owned business enterprises in connection with this Bid or Proposal.

Authorized Representative Signature:				
Print Name:				
Title:			Date:	

PROCUREMENT VENDOR COMPLIANCE ACKNOWLEDGEMENT FORM

The Pennsylvania Public School Code authorizes the Board to adopt policies and procedures and to make rules and regulations to manage school affairs and fiscal well-being of the District, including with respect to competitive procurements and vendor responsibility. The School District of Philadelphia requires contracted vendors to comply with the policies and procedures adopted by the Board of Education. The School District of Philadelphia will maintain comprehensive records regarding the entire scope of the procurement process, post-award compliance, and administration of the M/WBE participation and compliance adherence process.

I, _____{*Company Name*}, do hereby acknowledge and agree to the following:

1. I have read, and carefully reviewed this Invitation for Bid (IFB) and understand the benchmarks and measurements to achieve diversity goals as outlined for M/WBE Participation. Board of Education Policy 612 Business Diversity in the Procurement of Materials and Contracted Services further outlines Business Diversity Goal requirements.

2. I understand that the completion and submission of the M/WBE Participation Plan Form and the supplementary documentation to support if applicable is an element of responsiveness to this IFB. Failure to submit this documentation with the proposal and/or evidence of Good Faith Efforts will result in rejection of the IFB.

3. If awarded a contract, I understand and will comply with all contract monitoring, compliance, and enforcement guidelines, including but not limited to recordkeeping and ongoing reporting on contract diversity outcomes that offer the maximum practicable opportunity for qualified and certified M/WBEs and other disadvantaged enterprises to participate throughout all phases of the contract and any subsequent contract amendment. Such as:

    - Monthly and Quarterly post-award compliance reporting via the School District of Philadelphia Oracle Supplier Compliance System to ensure that the vendor meets diversity participation commitments and other contract requirements.

    - Ongoing monitoring of prime contractors' payments to M/WBEs and other contractors utilized through payment reporting and acceptance of payments by sub-contractors.

    - Participating in ongoing training related to vendor compliance and reporting requirements.

4. I understand that non-compliance with vendor compliance reporting and/or diversity participation commitments throughout the life of the contract may result in any of the following events, including but not limited to: withholding of payments, contract termination, suspension, disqualification, debarment, or other sanctions and penalties for failure to comply.

5. I agree to conduct business with the highest levels of ethical standards and agree to comply with all applicable requirements at all times.

Receipt and Acknowledgement

By signing below, I agree that I have read both this acknowledgement statement and the referenced policies in their entirety. I understand that I am subject to these policies whether or not the acknowledgement form is signed. Lack of confirmation of receipt of the acknowledgement form does not exempt a vendor or contractor from Board policy enforcement.

Company Name: _____

Company Representative: _____

Signature: _____

Title: _____ Date: _____

Company's Compliance Officer: _____

Email Address of Company's Compliance Officer: _____

VENDOR CODE OF ETHICS

THE SCHOOL DISTRICT OF PHILADELPHIA
OFFICE OF PROCUREMENT SERVICES

The School District of Philadelphia ("SDP"), through its Office of Procurement Services ("OPS"), is committed to a procurement process that fosters fair and open competition, is conducted under the highest ethical standards and enjoys the complete confidence of the public. To achieve these purposes, OPS requires each vendor who seeks to do business with the SDP to subscribe to this Vendor Code of Ethics.

- ❑ A Vendor's bid or proposal will be competitive, consistent and appropriate to the bid documents.

- ❑ A Vendor will not discuss or consult with other Vendors intending to bid on the same contract or similar SDP contract for the purpose of limiting competition.

- ❑ A Vendor will not disclose the terms of its bid or proposal, directly or indirectly, to any other competing Vendor prior to the closing date for bids or proposals.

- ❑ A Vendor will not make any attempt to induce any individual or entity to submit or not to submit a bid or proposal.

- ❑ A Vendor will completely perform any contract awarded to it at the contracted price pursuant to the terms set forth in the contract.

- ❑ A Vendor will submit timely, accurate and appropriate invoices for goods and/or services actually performed under the contract.

- ❑ A Vendor will properly, accurately and fairly record all financial transactions with the SDP in its books, journals, ledgers and/or other appropriate records.

- ❑ A Vendor will not offer or give any gift, item or service of value, directly or indirectly, to an SDP employee, Board of Education (BOE) member, SDP consultant or contractor employed in connection with the subject matter of the bid or proposal or to any member of their immediate families. This restriction also applies to any family member, employee, BOE member, SDP consultant and/or contractor employed in connection with SDP.

- ❑ A Vendor will not, without the prior written consent of the SDP, initiate, negotiate or render an offer of employment to any SDP employee who is directly concerned with, or personally participating on behalf of the SDP with respect to any procurement or other matter involving the Vendor.

- ❑ A Vendor will not cause, influence or attempt to cause or influence any SDP employee or BOE member: (i) in any member which might tend to impair his/her objectivity or independence of judgment; or (ii) to use or attempt to use his/her official position to secure any unwarranted privileges or advantage for that Vendor or for any other person.

- ❑ A Vendor will comply with the SDP's Anti-Discrimination Policy regarding inclusion of Small Women/Minority Owned Businesses in District contracts.

CONTRACTOR DEBARMENT AND SUSPENSION

All prospective vendors bidding on School District of Philadelphia's requirements must read the terms as set forth below and sign the certification at the end of this section.

1. Contractor Debarment; Suspension

a. Contractor Certification

The Contractor certifies that it is not currently under suspension or debarment by any governmental entity, and if the Contractor cannot certify, then it agrees to submit written explanation of why such certification cannot be made

b. Authority to Debar

The School District shall have the authority to debar a Contractor for cause from consideration for award of contracts for a period of not more than three (3) years or to suspend a contractor from consideration for award of contracts, if there is probable cause for debarment, for a period of not more than three (3) months. Contractor shall be given reasonable notice and opportunity to be heard prior to a final debarment or suspension determination by the School District.

c. Cause for Debarment

The School District is authorized to debar or suspend a Contractor from contracting with the School District for any of the following causes which occurred within the past five (5) years.

i. Conviction, including a plea of guilty or nolo contendere, for Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract in the performance of a contract or subcontract;

ii. Conviction, including a plea of guilty or nolo contendere, under Federal or State statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibilities as a Contractor;

iii. Conviction, including a plea of guilty or nolo contendere, under Federal or State antitrust statutes arising out of the submission of bids or proposals;

iv. Any of the following violations of contract provisions of a character which is regarded by the School District to be so serious as to justify debarment action;

a) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract

b) A recent record of failure to perform, unsatisfactory performance or performance not in accordance with the terms of one or more contracts

v. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

vi. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of, or acquiescence in such activities by a contractor or any affiliate, officer, employee or other individual or entity associated with obtaining, attempting to obtain, or performing a public contract or subcontract;

vii. Violation of Federal or State antitrust statutes;

viii. Violation of any Federal or State law regulating political campaign contributions;

ix. Violation of any Federal or State law regulating hours of labor, minimum wage standard or prevailing wage standards, discrimination in wages or child labor violations;

x. Violation of the Workers' Compensation Act;

xi. Violation of any Federal or State law prohibiting discrimination in Employment;

xii. Debarment by any agency or department of the Federal Government or by any other

State; xiii Three or more occurrences where the Contractor has been declared ineligible for a

contract;

xiv. Unsatisfactory performance, including, but not limited to, any of the fo11owing:

a.) Failure to comply with the terms of a School District contract or subcontract, including, but not limited to, willful failure to perform in accordance with the terms of one or more contracts; a history of failure to perform; or, unsatisfactory performance of one of more contracts.

b.) Offering unbalanced bids.

c.) Failure to complete the work in the time frame specified in the contract.

d.) Being declared in default on prior work or project.

e.) Failure to submit documents, information or forms as required by contract.

f.) Making false statements or failing to provide information or otherwise to cooperate with a contracting agency

xv. Any other act or omission indicating a lack of skill, ability, capacity, quality control, business integrity or business honesty that seriously and directly affects the present responsibility of a Contractor as determined by the School District;

xvi. Any other cause the School District determines to be so serious and compelling as to affect responsibility as a Contractor, including debarment by another governmental entity for any cause set forth above

d. Determination; Decisions

i. The School District shall issue a written decision to debar or suspend after the Contractor has been given notice of the potential adverse action and the opportunity to be heard. Failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered a basis for debarment.

ii. The decision shall:

a.) State the reasons for the action taken;

b.) Inform the debarred or suspended Contractor involved of the right to judicial review.

iii. A copy of the decision shall be delivered by registered mail to the debarred or suspended Contractor and any other person intervening.

iv. The debarment or suspension shall be final and conclusive unless the debarred or suspended Contractor appeals to a court of competent jurisdiction within thirty (30) days after receipt of the decision.

e. Reimbursement; Investigations

The Contractor agrees to reimburse the School District for the reasonable costs of investigation incurred for the investigations of the Contractor's compliance with terms of this Contract or any other agreement between the Contractor and the School District, which result in the suspension, or debarment of the Contractor. Such costs shall include, but not be limited to, salaries of investigators, including overtime, travel, and lodging expenses and expert witnesses and documentary fees. The Contractor shall not be responsible for investigative costs for investigations which do not result in the Contractor's suspension or debarment.

f. Subcontractors; Employees

If the Contractor enters into any subcontract or employs under this Contract any subcontractors/individuals who are currently suspended or debarred by any governmental entity or who becomes suspended or debarred by any governmental entity during the term of this Contract or any extensions or renewals thereof, the School District shall have the right to require the Contractor to terminate such subcontracts or employment.

g. Right of Nondisclosure

Information furnished by a bidder pertinent to determining responsibility of that bidder for contract award shall not be disclosed outside of the School District without prior written consent by the bidder, subject to provisions relating to the retention of contract documents.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion by any Federal or State Funded Agency

By signing and submitting this proposal, the prospective lower tier bidder is providing certification as set out below:

1.) The prospective lower tier participant bidder certifies by submission of this proposal that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State department or agency.

2.) Where the prospective lower tier participant is unable to certify to any of the Statements in this certification, such prospective participants shall attach an Explanation to this proposal.

Signature of Bidder_____

Print Name_____

Position Held_____

Date_____

NON-COLLUSION AFFIDAVIT

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Anti-bid-Rigging Act, 73 P.S. SS 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.

2. The member, officer or employee of the bidder who makes the final decision on prices must execute this Non Collusion Affidavit and the amount quoted in the bid.

3. Bid rigging and other efforts to restrain competition and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.

4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf of each party.

5. Individuals are not permitted to participate in any manner in the preparation or submission of bids on behalf of more than one legal entity. Any individual participating in the submission of a bid as a member of a joint venture will not be permitted to submit a bid in his or her individual capacity. Each bidder shall disclose, on a separate sheet attached to this affidavit, a written description of each and every legal relationship of affiliation that it has with the shareholders, directors, officers, or employees of any other potential bidders for this contract.

6. The term "complementary bid" as used in the Affidavit has the meaning commonly associated with the term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or non-competitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.

7. **Failure to file an affidavit in compliance with these instructions will result in disqualification of the bid.**

NON-COLLUSION AFFIDAVIT

State of_____ **Contract/Bid No:** _____

County of_____

I state that I am_____ of _____
{Title} **{Name of my firm}**
and that I am authorized to make this affidavit on behave of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I further state that:

(1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

(2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain for bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.

(4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.

(5) _____, its affiliate subsidiaries, officers, directors and
{Name of my firm}
employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that_____understands and acknowledges that the above
{Name of my firm}
representations are material and important, and will be relied on by the School District of Philadelphia in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatements in this affidavit is and shall be treated as fraudulent concealment from School District of Philadelphia of the true facts relating to the submission of bids for this contract.

{Contractor signature}

{Name and Company Position}

SWORN TO AND SUBSCRIBED
BEFORE ME THIS_____DAY
OF_____, 20___

Notary Signature: _____