

Charlotte-Mecklenburg Board of Education

Request for Qualifications (RFQ163-11222023BS)

Program Management/Staff Extension Services

Submission Deadline:

Date: January 12, 2024

Time: 2:00 p.m.

Submission Location:

Charlotte-Mecklenburg Board of Education

3301 Stafford Drive

Charlotte, NC 28208

ATTN: Brian Schultz, Chief Operations Officer

Charlotte-Mecklenburg Board of Education
Request for Qualifications
Program Management/Staff Extension Services

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I. General Information

A. Charlotte-Mecklenburg Board of Education

The Charlotte-Mecklenburg Board of Education (CMBE) is a political subdivision of the State of North Carolina. CMBE serves approximately 141,000 primary and secondary students at 184 schools, one hundred two (102) elementary schools, forty-four (44) middle and K-8 schools and thirty-four (34) high schools. In addition, CMBE operates four (4) centers or special facilities. The existing CMBE inventory includes approximately 23 million square feet of facilities. CMBE updates its Long-Range Facilities Master Plan, which is comprised of the ten (10) year Capital Needs Assessment (CNA) on a continuous basis. The Capital Investment Plan (CIP) is a subset of the CNA. The CIP, once adopted, is generally funded through general obligation bonds. All CMBE real estate and facilities are acquired, built and maintained by the Operations Building Maintenance Department, which is headed by the Chief Operations Officer.

The current CIP funding was approved by the voters of Mecklenburg County on November 7, 2023. The CIP includes thirty (30) projects impacting thirty-five (35) schools across the district and is intended to span the 2024-2028 fiscal years. The total value of the CIP is \$2.5B, including escalation. The first eight projects, valued at just over \$900M, are underway and are not included in the scope of this RFQ.

B. Services Requested from Qualified Respondents

CMBE is seeking a program management firm experienced in managing the balance of its 2024-2028 Capital Investment Plan. The program management firm experienced and capable of managing and directing the design and construction of pre-k-12 programs of approximately \$1.5 billion are encouraged to submit their firm's experience and qualifications to meet this need. The program management firm must hold a North Carolina General Contractor's License. The selected provider will help CMBE manage and execute selected projects from the current CIP, and any other projects as identified by CMBE Operations Department leadership. Selected firm(s) will not be allowed to perform construction or construction-related activities for any project within the program it is helping to manage.

More than one firm may be selected to provide all the services needed for the management of the current CIP. In this event, CMBE will award contracts for a group of projects to include new schools and renovation projects to one or more program management firm(s). Program management firms' management and staff will integrate with the CMBE Operations staff and report to the Executive Director of Facilities Planning and Real Estate and the Chief Operations Officer, who will provide procedural and operational oversight. The selected firm(s) staff shall be housed at 3301 Stafford Drive, Charlotte, North Carolina. Additionally, program management firms will provide direct technical support, as needed, to the CMBE Operations staff. All work will be carried out and project decisions made in collaboration with the project stakeholders. Project stakeholders will include but are not limited to CMBE Executive Cabinet staff, CMBE Operations staff, school staff, community, and contracted management staff.

The retained program manager's staff will work in collaboration with CMBE Operations staff

to recommend the most appropriate approach to designing and completing all projects within budget, on schedule and in compliance with CMBE's Master Specifications and all applicable design and construction related guidelines. Construction projects will require formal bidding as required by North Carolina General Statutes. The selected program management firm(s) will assist Operations staff in the recruitment and selection of qualified architects, engineers, surveyors, and general contractors. The use of local contractors and M/W/SBE firms is important to CMBE. As such, local contractors and professional services providers recommended for selection by the program management firm(s) will strive to meet or exceed any and all CMBE goals for local contracting and inclusion of M/W/SBE firms. Specific project services requirements are described in SECTION II. The selection process and schedule is described in SECTION III.

Interested firms are required to attend a mandatory pre-submittal conference in Conference Room #2 of the CMBE Operations Department located at 3301 Stafford Drive, Charlotte, North Carolina on Wednesday, December 13, 2023, at 9:00am.

C. Services Performed by CMBE

CMBE will provide the following services, either by assignment of existing staff, employment of additional staff, and/or contracting with other consultants. (Note that the Program Managers and any associated Project Managers, hereby referred to as "Program/Project Management team" may assist CMBE in the administration and procurement of these services):

1. Facility and capital planning activities.
2. Preliminary Educational Programming.
3. Placement of orders for furniture, furnishings, and equipment in accordance with budgets and schedules provided by the Program/Project Management team.
4. Land Surveying (boundary, topographic, and special needs).
5. Geotechnical and materials testing services.
6. Services required to purchase and evaluate sites, including but not limited to land planning services, title services, appraisal services, and Phase I & II environmental services.
7. Building system commissioning and functional performance testing.
8. Professional design services, including but not limited to, architectural and engineering services, food equipment design services, interior design services, appraisal services etc.
9. Customary legal services.

Additionally, Program Manager must ensure cooperation and compliance with any and all guidelines and approvals required by CMBE, State of North Carolina, and other regulatory bodies.

D. Bond Oversight Committee

CMBE has appointed an independent Bond Oversight Committee (BOC) to oversee the administration of CIP-related work. The BOC reports to CMBE and is charged with the following: to assess proposed capital projects in relationship to those described in the bond referendum; to make recommendations to CMBE on process, priorities, and projects; and to facilitate the exchange of information to the public in coordination with Capital Improvement budget. Membership of the BOC consists of businesspersons, educators, and parents in Mecklenburg County. Each CMBE member appoints an individual to the BOC.

II. Specific Scope of Services

A. Statement of Needs

It is CMBE's intention that the selected respondent will enter into an agreement to provide staff as needed to manage the CMBE CIP program and other specific CMBE needs and serve as CMBE's agent in managing services for planning, design, construction, and post construction work. Services, which may be required from the successful firm may include but not be limited to the following:

B. Planning and Pre-Design Phase

1. Review bond/capital projects of each school to confirm project scope with CMBE staff and project managers.
2. Schedule construction projects for each school with project managers and CMBE staff.
3. Provide cash flow projections and analysis by project by funding source as required.
4. Prepare monthly status reports to CMBE, BOC, and Mecklenburg County Government.
5. Participate with CMBE staff in replacement or additional hiring of project management staff and companies.
6. Provide computer scheduler/analysts to develop and maintain a comprehensive program schedule to document the sequence and timeframe for each project in the Program and report on progress and status at regular intervals.
7. Work with CMBE to manage project status and reporting.
8. Review, verify progress and accuracy, and process payment requests.
9. Advise CMBE on the bid climate and recommend bidding strategies to maximize use of bond funds.
10. Conduct contractor workshops on bidding, change orders, and the payment process.
11. Assist CMBE with public information and community engagement as required.
12. Review current budget information and assist CMBE to develop an overall program budget, including fees, permits, etc. Assist CMBE to revise budget to reflect actual expenditures and reallocate available funds.
13. Review and revise as appropriate (in conjunction with the Owner), Owner's General and Supplementary Conditions of the Contract for Construction for inclusion into project contract documents.
14. Coordinate and administrate the program, interfacing with internal staff of various departments and representatives of outside organizations.
15. Administer, track, and gain M/W/SBE participation.
16. Determine needs for design, surveying, geotechnical and materials testing services, and related services. Make recommendations and participate in selecting consultants to perform these services. Prepare RFP's and assist in negotiating fees for such services.

17. Develop bid construction packaging strategies, in collaboration with Construction Managers and A/E firms, to attract M/W/SBE participation in efforts to meet CMBE goals. Assist CMBE in refining and expanding its business outreach approach to consultants, contractors, trades, and M/W/SBE firms.
18. Assist CMBE staff in its process that provides cost control and timely, accurate measure of expenditures. Prepare monthly summaries of program expenditures for CMBE review. Maintain status and reconcile with CMBE Finance and Mecklenburg County Finance all obligations, commitments, expenses and available revenue of the Program.
19. Assist CMBE with facility condition and educational adequacy assessment.
20. Assist CMBE with the review and/or revision of educational specifications and standards.
21. Assist CMBE staff with site selection for possible new school sites.

C. Design Phase

1. Assist CMBE in the review and monitoring of project schedule (s).
2. Assist CMBE in refining project budget(s).
3. Provide cash flow projections and analysis by project by funding source as required.
4. Attend and/or conduct meetings necessary for the coordination with all participating parties to include principal or site building administrator.
5. Review the project cost estimate's value engineering assessment at each phase of design, addressing and recommending constructability, possible cost-saving materials, sequencing of construction and/or construction techniques. Compare with the budget submitted by the Architect and recommend revision or action, if required, to maintain project budgets.
6. Assist in ensuring that CMBE Operations Building Maintenance, Instructional Technology, and other relevant departments are engaged and included in determining compliance, material selection, maintenance and operations, and constructability.
7. Assist CMBE in providing procurement planning and a construction delivery strategy that meets CMBE objectives and minimizes disruptions to the educational program.
8. Provide periodic reports that summarize design progress, schedule and cost status, changes and other significant project information.
9. Review, verify progress and accuracy, and process payment requests.
10. Manage overall design and review recommending alternative solutions whenever design details affect construction feasibility or schedules, without assuming any of the project architect's responsibilities or liabilities for design.
11. Develop an occupancy plan and schedule in conjunction with the CMBE and A/E that includes procurement of furniture, furnishings, and equipment in order that adequate delivery times are included in project schedules. Coordinate with all CMBE departments involved in school set up and opening.
12. Assist CMBE with right of way determination and utility and similar easements required to accomplish a project.

13. Assist CMBE with permitting, zoning and any other needed coordination including but not limited to: North Carolina Department of Insurance (NCDOI), North Carolina Department of Public Instruction (NCDPI), North Carolina Department of Transportation (NCDOT), North Carolina Department of the Environment and Natural Resources (NCDENR), National Emission Standards for Hazardous Air Pollutants (NESHAP), Mecklenburg County Land Use and Environmental Services Agency (LUESA), Mecklenburg County Fire, Mecklenburg County Health Department, and departments of the City of Charlotte (including but not limited to Fire, Water, Zoning, City Engineering, Grading/Detention, Urban Forestry, and Charlotte Department of Transportation (CDOT), the towns in Mecklenburg County and associated departments.
14. Manage CMBE code enforcement plan approval process.

D. Bid & Award Phase

1. Assist CMBE in the prequalification of Construction Managers (CM), including M/W/SBE firms.
2. Assist CMBE in preparing legal notices and advertisements for bids.
3. Assist CMS, A/Es, and/or CMs in conducting pre-bid conference(s) and site visit(s).
4. Work with designers to identify and obtain all necessary permits in time to meet planned project schedules.
5. Assist CMBE, A/Es, and/or CMs in evaluating bids, bidder qualifications, preparing Board Action Requests, and writing and processing contracts.
6. Provide assistance in contract(s), purchase order(s), and other document(s) writing and processing.
7. Assist CMBE in the evaluation of M/W/SBE documentation submitted.
8. Assist in ensuring that CMBE has representation at NCDOI, NCDPI, NCDOT, NCDENR, LUESA, Mecklenburg County Fire, Mecklenburg County Public Health Department, and departments of the City of Charlotte (including but not limited to Fire, Water, Zoning, City Engineering, Grading/Detention, Urban Forestry, and CDOT, the towns in Mecklenburg County and associated departments.
9. Assist in CMBE in conducting community meetings and other engagement activities.

E. Construction Phase

1. Coordinate schedule of work with the site building administrator and/or other applicable staff.
2. Manage, process, and administrate construction contracts, including work change, payments, submittals, monitoring of construction, document interpretations, construction quality assurance, and other procedural aspects.
3. Advise CMBE on potential changes, evaluate and/or recommend change orders ensuring best price and procedural completion. Review and process contractual change orders utilizing existing CMBE financial systems.
4. Use standard accounting methods to tabulate, compile and check correctness of all

expenditures associated with the project.

5. Coordinate and attend preconstruction and jobsite meetings with contractors. Expedite the resolution of field, quality assurance, and administrative issues. Review planned construction for coordination with ongoing educational programs and school activities.
6. Review, verify progress and accuracy, and process contractor payment requests.
7. Review and monitor the contractor's construction schedule and advise CMBE regarding the best sequencing to facilitate productivity and occupancy objectives.
8. Report potential budget and schedule variances and recommend, prepare, and implement recovery plans that ensure scheduled occupancies are met.
9. Process designer, contractor, and other consultant payment requests for approval.
10. Monitor construction projects to assure compliance with M/W/SBE program.
11. Provide weekly, monthly, and specifically requested progress reporting to CMBE staff and departments.
12. Prepare and provide monthly progress reporting suitable for providing information to elected officials, media, and the public, including website updates.
13. Establish claims avoidance processes/procedures and provide claims management as required.
14. Maintain liaison with code officials and other government agencies, regulating work throughout the construction period and represent CMBE in resolving any issues that may arise.

F. Final/Post Construction and Occupancy Phase

1. Assist A/E in the preparation of punch lists to assure CMBE Operations department input is included in a consolidated list, and coordinate work completion.
2. Assist in developing and implementing the occupancy plan and schedule.
3. Assist in coordinating the established plan and schedule of occupancy to minimize disruption to educational activities, and ensure all administration, curriculum, and building operations systems are in place and operational when school opens.
4. Ensure building system commissioning work is performed on time and in accordance with CMBE requirements by monitoring agent and all reports in coordination with the project engineer.
5. Schedule systems, equipment instruction operational demonstration sessions with major material and equipment suppliers and CMBE Operations staff to orient and train staff for operation. Ensure all operations manuals and warranties are delivered to CMBE in a timely manner and in the appropriate format.
6. Coordinate and expedite transmittals of, as-built drawings, guarantees, warranties, maintenance manuals and other record documents to Owner.

7. Secure copies of Occupancy certificates for CMBE records. Maintain schedule of when Temporary Certificate of Occupancy (TCO) and Certificate of Occupancy (CO) were obtained.
8. Prepare final project accounting and close-out reports.
9. Conduct warranty inspections of projects during the applicable warranty period. Consult with A/E, commissioning agent, and CMBE staff to obtain corrective work to repair warranty items.
10. Evaluate the performance of A/Es and CMs, and provide evaluation in writing, to CMBE.
11. Obtain and submit final M/W/SBE participation reports at project close-out.
12. Assist CMBE with the coordination and installation of furnishings, fixed equipment and other separately held contracts for each project.
13. Solicit performance evaluations from principal and school staff upon completion of each school project and provide same to CMBE.

III. Instructions for Submitting Statement of Qualifications (SOQ)

A. Instructions to Respondents

Responses must address all questions in the order presented in the RFQ and include all required attachments.

One (1) original of the SOQ must be signed, sealed in one package clearly labeled with “Program Management/Staff Extension Services RFQ” and North Carolina General Contractor’s License number on the outside of the package, and submitted to the address below. Include two (2) flash drives with an electronic version (.pdf format) in the sealed package. The proposing entity's legal name, address, contact person, telephone number, fax number and email address must also be clearly annotated on the outside of the package.

Brian Schultz
Chief Operations Officer
Charlotte-Mecklenburg Board of Education
3301 Stafford Drive
Charlotte, North Carolina 28208

All responses must be received no later than January 12, 2024, by 2:00 pm.

Respondents are responsible for the proper and timely delivery of their proposals to the address listed below no later than the date/time specified. CMBE assumes no responsibility for improper deliveries, lost mail, delivery to the wrong address, or any other situations that cause responses to not be received by the date and time specified.

Any responses received after the stated time and date will not be accepted and will be returned unopened.

Respondents are required to carefully examine RFQ submittal requirements and terms to become thoroughly familiar with requirements that may affect the work to be performed under the contract.

To provide ample opportunity for questions to be addressed in an open forum, a mandatory pre-submittal conference will be held at Building Services at the time/date indicated in Section B (below). To be eligible for award consideration respondents must attend the pre-proposal conference and sign the log of attendees.

Responses not conforming to the instructions provided herein or furnishing false or misleading information will be subject to disqualification at the sole discretion of CMBE.

All costs incurred by respondents in preparing responses shall be borne by the responding firm and are not the responsibility of CMBE.

B. Time Schedule

CMBE's proposed schedule is as follows:

- | | | |
|--|-------------------------------|---------|
| ▪ MANDATORY
Pre-Submittal Conference | December 13, 2023 | 9:00 AM |
| ▪ Additional Questions
(after the pre-submittal conference) | December 15, 2023 | 2:00 PM |
| ▪ Responses to Questions | December 20, 2023 | 4:00 PM |
| ▪ Submission Deadline | January 12, 2024 | 2:00 PM |
| ▪ Short List | January 19, 2024 | |
| ▪ Interviews | January 30 - February 1, 2024 | |
| ▪ Final Selection | February 8, 2023 | |

NOTE: This schedule may be altered at the sole discretion of CMBE.

C. District Rights

CMBE reserves the right to award one (1) or more contracts or no contracts to this solicitation, and to amend the RFQ and the RFQ process, or to discontinue the process at any time. CMBE may request to meet with the Respondent's named representative to request answers and clarifications or it may request that the Respondent answer specific questions in writing, or to make a presentation to CMBE staff or its Board. All Statements of Qualifications (SOQ) and SOQ submitted materials become the property of CMBE and will be considered a part of public record.

CMBE reserves the right to accept or reject any or all responses. CMBE reserves the right to waive any irregularities and technicalities and may, at its sole discretion, request a clarification or other information to evaluate any or all qualifications of a respondent in order to make the award of the contract in the best interest of CMBE.

CMBE reserves the right, before awarding the contract, to require responders to submit additional evidence of qualifications or any other information CMBE may deem necessary. CMBE reserves the right to cancel the RFQ or portions thereof, without penalty.

D. Selection Process

Written SOQ's will be evaluated based on each firm's qualifications, proposed team, approach and methodology, and relevant experience with similar work and a shortlist of firms will be developed. Selection criteria is as follows:

- 25% Firm background, qualifications, and proposed team
- 25% Relevant experience with similar work over the past five years
- 20% Approach and methodology of total management plan
- 15% MWSBE participation
- 15% Demonstrated ability to coordinate with outside governmental organizations

Shortlisted firms will be invited to be interviewed and make a formal presentation. At the interview, shortlisted firms should be prepared to discuss: their approach to assisting CMBE manage the program; firm and staff experience; and staffing for the program. **Note:** Primary project team members responsible for performing the work should be present at the presentation.

Following the interviews and subsequent reference checks, the top firms shall be ranked, and fee negotiations will be entered into with the top ranked firm(s). Upon completion of successful content and fee negotiations, the selection committee will provide a recommendation for the award of contract(s). Following approval, a contract or contracts will be awarded. If successful negotiation cannot be concluded and a fair and reasonable fee reached, then negotiations with the primary firm(s) terminate and begin a new with the next ranked firm(s), and so on.

E. Addenda/Clarifications

If it becomes necessary for CMBE to revise any part of this RFQ, or to provide clarification or additional information after the RFQ documents are released, a written addendum will be sent to each recipient that attends the pre-proposal conference. CMBE will not be bound by any modifications to or deviations from the requirements set forth in the RFQ as a result of oral instruction or communication.

F. Exceptions And Deviations

Any exception a respondent has to the terms and conditions of this RFQ must be clearly stated in writing and contained within the response highlighted on a separate sheet of paper and added to and identified in the Table of Contents as a distinct line item or category following Section III; otherwise, CMBE will consider all items to be offered in strict compliance with the RFQ. Any alternate scopes proposed by the prospective Program Manager will be considered at the sole discretion of CMBE based on merit and best interest to CMBE.

G. RFQ Inquiries

Follow up questions (if any) after the pre-submittal conference, shall be submitted in writing by

December 15, 2023, at 2:00 pm to shawn.turner@cms.k12.nc.us. Responses will be issued in the form of an addendum by December 20, 2023, at 4:00 pm. No employee of CMBE is authorized to interpret any portion of this RFQ or give information as to the requirements of the RFQ other than in accordance with this process.

H. Lobbying

ALL INQUIRIES MUST BE IN WRITING AND DIRECTED THROUGH **SHAWN TURNER**. PROPOSERS ARE HEREBY ADVISED THAT LOBBYING IS NOT PERMITTED WITH ANY SCHOOL DISTRICT STAFF OR SCHOOL BOARD MEMBERS.

LOBBYING IS DEFINED AS ANY ACTION TAKEN BY AN INDIVIDUAL, FIRM, ASSOCIATE, JOINT VENTURE, PARTNERSHIP, SYNDICATE, CORPORATION, OR ANY OTHER GROUP OR INDIVIDUAL WHO SEEKS TO INFLUENCE A GOVERNMENTAL DECISION ON THE AWARD OF THIS CONTRACT.

LOBBYING BY ANY PROPOSER OR INDIVIDUAL ON BEHALF OF A PROPOSER WILL RESULT IN THE REJECTION AND/OR DISQUALIFICATION OF SAID RESPONDENT.

I. M/W/SBE Policy

The CMBE M/W/SBE Policy requires that all contracts awarded be accompanied by a good faith effort to achieve relevant M/W/SBE business participation. Current goals are identified as 21% for construction providers and 14% for all other services; subgoals may be applicable. The successful firm will comply with the M/W/SBE Guidelines. A copy of the M/W/SBE Policy and applicable M/W/SBE appendices are attached as ATTACHMENT A. A complete copy of M/W/SBE Guidelines is available upon request.

J. Written SOQ Preparation and Submission Requirements

To maintain comparability and facilitate a consistent review, proposals shall be submitted in order of this request and organized as follows:

1. **Title/Cover shall clearly state:**
 - a. "Program Management/Staff Extension Services RFQ"
 - b. Submittal Due Date
 - c. Respondent's name, address, fax number and telephone number
2. **Table of Contents**
 - a. Include section names, section numbers and page numbers following the order outlined below.
3. **Cover Letter**
 - a. The person(s) authorized to make representations for the respondent shall sign the letter of transmittal and their title(s), address(es) telephone number(s), fax number(s), and e-mail address(es) shall be provided.
 - b. The cover letter is an opportunity to briefly set forth the reasons the respondent believes

- it should be selected by CMBE.
- c. Cover letter shall not exceed two pages.

4. Firm Overview

- a. Type of organization and company tax organizational structure. State what you do and if you are a sole proprietor, partnership, Limited Liability Company (LLC), or corporation. Any LLCs shall identify the primary offices of the LLC and all other companies associated with such LLC. A joint venture must submit executed copies of the joint venture agreement. The joint venture will submit one response to all questions of this RFQ; each venture partner shall submit separate individual certifications as outlined in this document.
- b. Certification that the submitting firm(s) is (are) legally permitted to conduct business in the State of North Carolina and has a current North Carolina General Contractor's License.
- c. Number of years the firm has been in business, and if a joint venture, for the venture itself as well as each firm of the joint venture. In the case of a joint venture, list which company will be prime.
- d. Location of principal office that will be responsible for administration and implementation of this contract. State the number of years this office has been established at this location.
- e. Identify the individual(s) that will lead the Program Management Staff Extension team and be the chief liaison with CMBE. Submit resumes of experience.

5. Pre-K–12 Program Management Staff Extension Experience and Qualifications

- a. The Program Management firm must demonstrate experience in managing large multiple project pre-K–12 school building programs and have the ability to quickly draw upon a multidisciplinary staff to address the various service needs of CMBE as outlined in this RFQ. Program Management Director should have demonstrated experience in K-12 construction management, preferably in the State of North Carolina. Provide a list of the types of employees in the firm and the number of employees in various categories. The firm must have a demonstrated record of staffing to bring in quality programs/projects on time and on budget and provide examples of this being successfully done. Provide specific details on the staff proposed for this offering that demonstrate their ability to meet this requirement.
- b. Joint ventures or other partnerships should demonstrate successful experience in previous engagement as a joint venture or partnership in program management of prior K-12, higher education, or other similar public program engagements.
- c. Provide a list of three (3) pre-K–12 educational facility programs that include new facilities and major renovations valued at least \$100M per year for which the firm has provided services over the past five years or is currently providing similar services. These must include experience with school districts, preferably in the State of North Carolina. The Program Manager must demonstrate, through references, a positive working relationship with prior clients. Include the following for each program:
- 1) Name of Customer/Owner, contact person, address, telephone number and e-mail address
 - 2) Dates service provided to the district for those services
 - 3) Annual volume of expenditures managed including the average number of projects in design and construction each year

- 4) Type of Projects (new construction, major renovations, etc.) included in the program
- 5) Brief description of program including total dollar volume
- 6) Similarities to the scope of services being requested
- 7) Provide organizational chart on how the program was previously staffed, including any existing joint ventures and/or partnerships
- 8) Description of efforts to meet or exceed M/W/SBE goals and evidence of meeting or exceeding those goals as defined by the entity services were provided to
- 9) Program budget and examples of successful value engineering and management that maintained the budget without sacrificing quality
- 10) Describe program schedule development and maintenance, including specific examples of scheduling challenges and how your firm resolved them
- 11) Describe the steps your company utilized to ensure quality control during the preconstruction and construction process
- 12) Provide specific examples of constructability items experienced and decisions made
- 13) Describe management information system utilized on the program
- 14) Describe how you engage with the maintenance team throughout the process to ensure they are up to date with value engineering and any significant changes that may impact their work
- 15) Describe specific examples of how you ensure items that need to be corrected under warranty are accomplished prior to project turnover to the maintenance team.

- 16) Describe the steps taken to ensure appropriate training for new equipment is conducted with maintenance staff prior to project turnover
- 17) Describe your experience with operating internal and public facing reporting and dash boards
- 18) Describe your experience with energy efficiency and sustainability efforts including construction life cycle

6. Management Plan

- a. Demonstrate experience in planning for pre-K–12 facilities.
- b. Describe your proposed organizational structure and staffing plan. This PM assignment is a staff extension relationship, and the PM is required to integrate existing CMBE personnel in this organizational/staffing plan.
 - 1) Highlight any innovative approach(es) your firm might use in staffing or organizing to accomplish the work.
 - 2) Should your firm be selected, discuss your firm’s approach to the transition with the current program management staff (including CMBE personnel).
 - 3) Provide data to demonstrate approximate ramp-up from start until full program implementation. Ramp-up is defined as when: the proposed staffing plan is completely in place and the annual funds expenditure rate meets an average of \$250M/year.
- c. Describe how your firm will manage the work to deliver the services requested including but not limited to:
 - 1) Managing no fewer than 10 projects in design and/or construction at any one time
 - 2) Turning over 10 projects each year and maintaining a consistent cash flow of expenditure no less than \$250M/year – based on number of projects listed.
- d. Software Systems

- 1) Describe your computerized project management information and scheduling system and the specific experience of the proposed staff that will be assigned to the project.
- 2) Describe your experience with various accounting software systems.
- e. Describe how your firm will handle schedule, quality, cost/budget control.
- f. Describe experience with the following: NCDOT, NCDPI, NCDENR, LUESA, Mecklenburg County Fire, Mecklenburg County Health Department, and departments of the City of Charlotte (including but not limited to Fire, Water, Zoning, City Engineering, Grading/Detention, Urban Forestry, and CDOT), the towns in Mecklenburg County and associated departments
- g. Demonstrate experience with Crime Prevention Through Environmental Design (CPTED) and other school-safety design and construction efforts.
- h. Demonstrate experience with National Emissions Standards for Hazardous Air Pollutants (NESHAP)
- i. Provide experience and/or efforts to ensure compliance with NC sedimentation pollution controls (or similar regulations) in similar programs
- j. Provide evidence of demonstrated experience with A/E and CM firms licensed in the State of North Carolina
- k. Describe your approach and process for budget and cost management that allows accurate real time showing of individual projects and program financial status at any given time.
- l. Describe how your firm has managed working in a Class C working environment.

7. Resources/Staffing/Qualifications

- a. Provide single page resumes of proposed staffing personnel that clearly states:
 - 1) Name
 - 2) Number of years employed by your firm (if fewer than five years identify previous employers over last five years)
 - 3) Proposed position(s) in staffing plan
 - 4) Current project assignment, location, and position, including projected availability date(s)
 - 5) List of projects or programs assigned over past five years showing dollar volume of work managed
 - 6) Education
 - 7) Professional Certifications
 - 8) Professional Associations, Awards and Publications
 - 9) List personnel who reside in the Mecklenburg County area
- b. Provide a matrix of staff proposed for this program that outlines each person's experience working with other staff members of the proposed team, the programs they worked on together, and for how long over the past five years.
 - 1) Please note that CMBE reserves the right to accept and/or reject individuals proposed at any time during the period the contract is in effect.
- c. Identify key sub-consultants, describe their roles on your team, and describe specific past relationships working with their sub-consultants on other work.
- d. Identify proposed M/W/SBE firm(s) intended to be used in your response. Submit the SOQ required documents as noted in Attachment A.

8. Training and Certification Programs

Describe company training and certification programs your firm uses to maintain up-to-date knowledge of today's means, methods, technologies, and delivery systems. Additionally, describe your firm's method of training to ensure you are abreast of changes to North Carolina procurement statutes associated with this work.

9. Litigation and Disputes

- a. Describe any litigation or disputes between the proposer and owners involving claims in excess of \$50,000 in connection with program management services during the last five years. Describe any terminations related to program management and/or CM agent agreements during the last five (5) years.

10. Certificate of Insurance

Provide a current certificate of insurance including:

- a. Worker's Compensation
- b. Comprehensive General Liability Insurance
- c. Automobile Liability Insurance

11. Statement of Any Disclosure of Conflict of Interest

Please review the items below and disclose any conflicts of interest in your response.

- a. A consultant, subconsultant or affiliate to the firm selected to serve as CMBE's Program Manager will be barred from working as a contractor, subcontractor, consultant, subconsultant or affiliate on any project included in this program.
- b. No members, official or employee of CMBE will have any personal interest, direct or indirect, in this agreement nor shall any such member, official or employee, participate in any decision relating to the agreement which affects their personal interests or the interests of any corporation partnership, or association in which they are directly interested.

12. References

- a. Provide contact information for five (5) references to be contacted by CMBE:
 - 1) Name of Customer/Owner
 - 2) Type of Projects (new construction, major renovations, etc.)
 - 3) Contact name, title, address, telephone number, fax number and email address
 - 4) Evidence of client satisfaction

13. Describe other appropriate factors and items that the firm believes will affect its management of the Program such as suitability, how the firm would manage its obligations and interface with CMBE, what types of consultants and other subcontractors would be utilized, and in what roles and how the firm will ensure quality and effectiveness with the overall program management effort.

14. Firms considered for program management staff extension services may be requested to submit a copy of the most recent audited financial statements.

SOQs should not exceed one hundred (100) pages and be in 12-point font (one sided only).

If you intend to respond to this Request, please submit your contact information via e-mail to shawn.turner@cms.k12.nc.us no later than November 30, 2023.

K. Withdrawal of SOQ

Respondents may withdraw their SOQ at any time prior to the specified time for receipt of SOQs by presenting a written request for withdrawal of such in person to CMBE office at 3301 Stafford Drive, Charlotte, NC 28208, with proof that the person presenting this written request is a representative of the firm withdrawing the SOQ.

L. Basis of Award

The SOQ's will be evaluated based on each firm's qualifications, proposed team, approach and methodology, and relevant experience with similar work.

From the SOQ's submitted, certain firms may be selected to make a brief presentation and interview after which a final recommendation will be made.

M. Protest Procedures

When a firm wants to protest a contract award pursuant to this solicitation, they must submit a written request to the Chief Finance Officer of CMBE. This request must be received within (10) ten consecutive calendar days from the date of the contract award and must contain specific sound reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Firms may call the Purchasing Official listed on the first page of this document to obtain a verbal status of contract award. If the Chief Finance Officer can render a decision based on the facts without a meeting, a written response with a decision will be rendered within 10 consecutive calendar days of the receipt of the protest letter. If not, The Chief Finance Officer will schedule a meeting with the protesting party to hear their complaint. This meeting will be held within 30 consecutive calendar days after receipt of the written protest. The Chief Finance Officer will respond to the protesting party in writing with a decision within 30 consecutive calendar days from the date of the protest meeting. All decisions of the Chief Finance Officer shall be the final administrative review.

N. Sample Contract - Attachment B

Please review the sample contract. Any exception a respondent has to the terms and conditions of this sample contract must be clearly stated in writing and contained within the response, highlighted on a separate sheet of paper, and added to and identified in the Table of Contents as a distinct line item or category following Section III; otherwise, CMBE will consider respondent has accepted all terms and conditions. Any alternate language proposed by the prospective Program Manager will be considered at the sole discretion of CMBE based on merit and best interest to CMBE.

ATTACHMENT A

CHARLOTTE-MECKLENBURG SCHOOLS MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE PROGRAM

Request for Qualifications M/W/SBE Participation Guidelines For Contracted Services

In accordance with N.C.G.S. 143-64.31, it shall be the policy of The Charlotte-Mecklenburg Board of Education (CMBE) to promote full and equal access to business opportunities with Charlotte-Mecklenburg Schools. Minority-owned, women-owned, and small business enterprises (collectively “M/W/SBE”) as well as other responsible vendors shall have a fair and reasonable opportunity to participate in CMS business opportunities.

The Superintendent shall implement an M/W/SBE Program which includes aspirational goals for M/W/SBE utilization in proportion to the availability of qualified vendors in particular areas of procurement. An annual report shall be made to CMBE regarding M/W/SBE utilization in comparison to the aspirational goals.

Policy Adopted: 01/12/93
Policy Amended: 07/09/96
Policy Amended: 02/22/05

Requirements

The fundamental requirement of the policy is that all contractors, vendors, and consultants, who contact with CMBE, will: (i) not discriminate against any person in regard to race, color, religion, age, national origin, sex, or disability; and (ii) provide a full and fair opportunity for participation of M/W/SBEs in contracts. Participation shall be measured in terms of the actual dollars received by M/W/SBEs.

“Minority” as used in this policy means African American (all persons having origins in any of the African racial groups); Hispanic/Latino American (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin); Asian American (all subcontinent, or the Pacific Islands); and Native American (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).

“Woman” as used in this policy means a non-minority woman who has 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the.

“Small” as used in this policy means a business enterprise owned, operated, and controlled by one (1) or more eligible owners who have 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the business, and is 25% or less of the applicable size standards established by the Small Business Administration.

“Socially and Economically Disadvantaged” as used in this policy means a minority, woman, or small business enterprise owned, operated, and controlled by one (1) or more eligible owners who have 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the business, and is 25% or less of the applicable size standards established by the Small Business Administration.

Responders responding to this solicitation shall comply with the M/W/SBE Program by making a Good Faith Efforts to utilize the following aspirational goals for M/W/SBE participation under this contract for professional service and construction contracts:

Category	MBE Goal	WBE Goal	*Overall M/W/SBE Goal
Construction	10%	6%	21%
Architecture & Engineering	4%	7%	16%
Professional Services	9%	9%	23%
Contracted Services (other than Architecture, Engineering, and other Professional Services)	5%	4%	14%
Goods	3%	3%	11%

***NOTE: *The overall SBE goal can be achieved by any combination of participation by MBE, WBE and or SBEs.**

Responders will describe how your firm will address the M/W/SBE Objectives. This may include the forms listed below and a commitment to obtain a certain overall percentage.

Each bidder or respondent to the solicitation shall submit with their bid a Minority, Women, and Small Business Identification Form and either Affidavit B or Appendix III

Responders shall include in their proposals, the following documentation:

- Minority, Women, and Small Business Enterprise Identification Form** (including suppliers)
- Appendix III M/W/SBE Utilization Commitment Form – Goods & Other Services**

OR

- Affidavit B** (if self-performing all work with own workforce and upon request, provide sufficient information for Charlotte-Mecklenburg Schools to determine that the Bidder does not customarily subcontract work on this type of project)

The forms ask for the scope of work and the dollar amount. Respondents may not be able to give specific dollar amounts until you know the project scope assigned. However, you may list an overall percentage based on the scopes of work intended to be performed by M/W/SBE consultants and subcontractors.

The overall participation committed for the school is based upon all activities associated with the project including design sub-consultants, lower-tier subcontractors, printing, courier services, suppliers, and other services.

With each pay request the prime contractors will submit Appendix IV listing payments made to all subcontractors. Failure to submit these and all documents as requested is grounds for rejection of the bid.

Compliance Documentation

All written statements, affidavits or intentions made by Respondents shall become a part of the agreement between the Consultant Charlotte-Mecklenburg Schools for performance on this contract. Failure to comply with any of these statements, affidavits or intentions or with the M/W/SBE Program Guidelines shall constitute a breach of contract. A finding by Charlotte-Mecklenburg Schools that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option Charlotte-Mecklenburg Schools whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, Charlotte-Mecklenburg Schools will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

NOTE: Charlotte-Mecklenburg Schools reserves the right to waive any irregularities in M/W/SBE documentation if they can be resolved prior to award of the contract, and Charlotte-Mecklenburg Schools finds it to be in its best interest to do so and award the contract.

Attach AFFIDAVIT B to the Bid

State of North Carolina
County of _____

--AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____
_____ contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____

SEAL

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

**APPENDIX III
M/W/SBE UTILIZATION COMMITMENT FORM
FOR
PURCHASES OF GOODS & OTHER SERVICES**

We, _____, do certify that on the
(Bidder)

(Project Name)

(Project Number) (Dollar Amount of Bid)

If the bidder intends to subcontract, this form must be completed regardless of the amount or lack of M/W/SBE participation attained.

I will expend a minimum of _____% of the total dollar amount of the contract with minority, women, or small business enterprises. M/W/SBEs will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Address	*M/W/SBE Category	Work description	Dollar Value

*M/W/SBE categories: Black, African American (B), Hispanic (H), Asian American (A), Native American Indian (N), Female (F), Small (S), or Socially and Economically Disadvantaged (D)

The undersigned will enter into a formal agreement with Minority/Women/ Small Business Firms for work listed in this schedule conditional upon execution of a contract with The Charlotte-Mecklenburg Board of Education.
Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

SEAL

Title: _____

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public _____

My commission expires _____

ATTACHMENT B - Sample Contract

Contract #:

Lawson Requisition #:

THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

CONTRACT FOR SERVICES

This Contract for Services (“Contract”) is made and entered into this **[Date]** between **The Charlotte-Mecklenburg Board of Education** (“CMBE”), located in Charlotte, North Carolina and **[Contractor Name]** (“Contractor”, also referred to as “Seller” in Standard Terms and Conditions).

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Obligations of Contractor - The Contractor agrees to provide services (the “Services”) to fully, timely and properly complete **[Project Name]** as more particularly described in the Scope of Work document attached hereto and incorporated herein by reference as Exhibit 1.

The term of this Contract shall be **[Term of Contract]**.

This Contract does not grant the Contractor the right or the exclusive right to provide specified services to CMBE. Similar services may be obtained from sources other than the Contractor (or not at all) at the discretion of the CMBE.

The Contractor shall begin work immediately upon issuance of a CMBE purchase order. The Contractor agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract. Furthermore, the Contractor represents and warrants that (i) it is duly qualified and licensed to provide the Services, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by contractors providing similar services under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, (iv) it shall perform the Services in compliance with applicable laws, statutes,

ordinances, codes, orders, rules and regulations, and (v) its reports, if any, shall be complete, accurate, and unambiguous.

2. Obligations of CMBE. CMBE agrees to pay the Contractor for services as follows:

		Budget Account No.:
(i) Contractor’s Fee	\$	
(ii) Travel Not to Exceed	\$	
(iii) Lodging/Food Not to Exceed	\$	
(iv) Other	\$	
(v) Total Not to Exceed		

[If multi-year: The parties acknowledge that CMBE operates on a July 1-June 30 fiscal year and that operating funds are made available to CMBE on a year-to-year basis. Accordingly, see Section 19 of the Standard Terms and Conditions. The mechanism by which CMBE shall confirm that funding is available will be issuance of standard CMBE purchase orders (each, a “Purchase Order”) from time-to-time. The initial Purchase Order for services is expected to be issued on or about **[DATE]** and will reflect the amount of the authorization for the Services for **[Described initial scope]** in the amount of **[Dollar Amount]**. Thereafter, on an as-needed basis as determined by CMBE, CMBE may amend existing Purchase Orders from time to time or issue a new Purchase Order (e.g., at the start of each new fiscal year).]

3. Project Coordinator. **[Primary Contact for CMBE]** is designated as the Project Coordinator for the CMBE. The Project Coordinator shall be the CMBE’s representative in connection with the Contractor’s performance under this Contract. The CMBE has complete discretion in replacing the Project Coordinator with another person of its choosing.
4. Contractor Supervisor. **[Primary Contact for Contractor]** is designated as the Contractor Supervisor for the Contractor. The Contractor Supervisor is fully authorized to act on behalf of the Contractor in connection with this Contract.
5. Terms and Methods of Payment. CMBE will make payment after invoices are approved on a net 30-day basis. CMBE will not pay for services or materials in advance without the Finance Officer's prior approval. Contractor to submit invoices on the following schedule: **[Invoice Schedule]**

6. Additional Provisions.

- a. Standard Terms and Conditions: Contractor agrees to the Standard Terms and Conditions set forth as Attachment A attached hereto and incorporated herein by reference.
 - b. Iran Divestment Act: Contractor certifies that, as of the date listed below, it is not on the Final Divestment List, as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4, in violation of the Iran Divestment Act. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List. The Final Divestment List can be found on the State Treasurer’s website at the address www.nctreasurer.com/Iran and should be updated every 180 days.
 - c. E-Verification: Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
 - d. Federal Uniform Guidance: “Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).” Additional information can be found at:
<http://www.cms.k12.nc.us/cmsdepartments/Finance/procurementservices/Pages/default.aspx>.
7. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic “PDF” to the same and full extent as the originals.

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[SIGNATURES ON NEXT PAGE]

Attachment A

Standard Terms and Conditions

1. **Acceptance.** Seller's acknowledgment of the terms of this purchase order (this "Order"), without timely express written objection, or Seller's shipment or performance of any part of this Order, constitutes an agreement to (i) all terms and conditions set forth or referenced herein and on the face of this Order, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to this Order (including without limitation any request for proposals or invitation for bids or Seller's response thereto) that deal with the same subject matter as this Order, and (iv) any other terms and conditions of a written agreement signed by Seller and The Charlotte-Mecklenburg Board of Education ("CMBE") that deals with the same subject matter as this Order (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Seller and CMBE with respect to the purchase by CMBE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to CMBE shall control. This Order constitutes an offer by CMBE and expressly limits acceptance to the terms and conditions stated herein. No additional or supplemental provision or provisions in variance herewith that may appear in Seller's quotation, acknowledgment, invoice, or in any other communication from Seller to CMBE shall be deemed accepted by or binding on CMBE. CMBE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until CMBE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by CMBE are subject to correction.
2. **Quantities.** Shipments must equal exact amounts ordered unless otherwise agreed in writing by CMBE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. **Prices.** If Seller's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Seller agrees to give CMBE the benefit of such lower price on any such Goods or Services. In no event shall Seller's price be higher than the price last quoted or last charged to CMBE unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.

4. Invoices. It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to CMBE's accounts payable department with a copy to the CMBE Project Coordinator.
5. Freight on Board. All shipments of Goods are FOB destination unless otherwise stated in the Contract Documents.
6. Taxes. Applicable taxes shall be invoiced as a separate item.
7. Payment Terms. Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.
8. Condition and Packaging. Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage, or shipment.
9. Delays in Shipment. Time and date of delivery are of the essence, except when delay is due to causes beyond Seller's reasonable control and without Seller's fault or negligence.
10. Risk of Loss. Seller shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by CMBE or its nominee.
11. Rejection. All Goods and Services shall be received subject to CMBE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Seller's expense or may be accepted at a reduced price. CMBE may require Seller to promptly replace or correct any rejected Goods or Services and, if Seller fails to do so, CMBE may contract with a third party to replace such Goods and Services and charge Seller the additional cost.
12. Compliance with All Laws. Seller warrants that all performance hereunder shall be in accordance with all applicable federal, state, and local laws, regulations, and orders.
13. Registered Sex Offenders. Contractor acknowledges that CMBE Policy ADDA, "Registered Sex Offenders," prohibits anyone registered or required to register as a sex offender from being present on any CMBE Property for any reason, whether before, during or after school hours, or on or off of CMBE Property. Contractor expressly agrees that it, and any of its employees, will comply with this policy and acknowledges that any individuals that violate this policy are subject to removal from CMBE Property by CMS and/or law enforcement officials and may also be subject to criminal prosecution. "CMBE Property" includes all property owned or operated by the Charlotte-Mecklenburg Board of Education, including school campuses and buildings, athletic fields, playgrounds, parking lots, bus stops,

vehicles, school buses, activity buses and any other properties owned or controlled by CMS.

If Contractor, any of Contractor's employees, or any of Contractor's subcontractors or employees of subcontractors will have any direct interaction with students, then Contractor or the subcontractor must (i) on an annual basis conduct a check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all such employees; and (ii) prohibit individuals listed on such registries from being on CMBE Property.

14. Warranties. Seller warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance, or payment by CMBE of the Goods and Services and shall run to CMBE and any user of the Goods or Services. This express warranty is in addition to Seller's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, CMBE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.
15. Indemnification. Seller shall indemnify and hold harmless CMBE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Seller's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Seller's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Seller shall indemnify and save harmless CMBE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Seller, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of CMBE in the performance of the Contract Documents, Seller agrees that it will indemnify and hold harmless CMBE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
16. Insurance. Unless such insurance requirements are waived or modified by CMBE or the Charlotte-Mecklenburg Department of Insurance and Risk Management ("DIRM"), Seller certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to CMBE and authorized to do business in the State of North Carolina:

Automobile - Seller shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. Commercial General Liability - Seller shall maintain commercial general liability insurance that shall protect Seller from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate. Worker's Compensation and Employers' Liability Insurance - If applicable to Seller, Seller shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employers' liability insurance. Seller shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Seller to CMBE and shall contain the provision that CMBE be given 30 days' written notice of any intent to amend or terminate by either Seller or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

17. Termination for Convenience. In addition to all of the other rights which CMBE may have to cancel this Order, CMBE shall have the further right, without assigning any reason therefore, to terminate any work under the Contract Documents, in whole or in part, at any time at its complete discretion by providing 10 days notice in writing from CMBE to Seller. If the Contract is terminated by CMBE in accordance with this paragraph, Seller will be paid in an amount which bears the same ratio to the total compensation as does the Goods or Services actually delivered or performed to the total originally contemplated in the Contract. CMBE will not be liable to Seller for any costs for completed Goods, Goods in process or materials acquired or contracted for, if such costs were incurred prior to the date of this Order.
18. Termination for Default. CMBE may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Seller. In addition to any other remedies available to CMBE law or equity, CMBE may procure upon such terms as CMBE shall deem appropriate, Goods or Services substantially similar to those so terminated, in which case Seller shall be liable to CMBE for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.
19. Contract Funding. It is understood and agreed between Seller and CMBE that CMBE's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of CMBE for any payment may arise until funds are made available to CMBE's Finance Officer and until Seller receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. CMBE shall not be liable to Seller for damages of any kind (general, special, consequential or exemplary) as a result of such termination.
20. Accounting Procedures. Seller shall comply with any accounting and fiscal management procedures prescribed by CMBE to apply to the Contract and shall assure such fiscal

control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.

21. **Improper Payments.** Seller shall assume all risks attendant to any improper expenditure of funds under the Contract. Seller shall refund to CMBE any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Seller shall make such refunds within 30 days after CMBE notifies Seller in writing that a payment has been determined to be improper.
22. **Contract Transfer.** Seller shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of CMBE.
23. **Contract Personnel.** Seller agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in the Contract.
24. **Key Personnel.** Seller shall not substitute for key personnel (defined as those individuals identified by name or title in the Contract Documents or in written communication from Seller) assigned to the performance of the Contract without prior written approval from CMBE Project Coordinator (the individual at CMBE responsible for administering the Contract).
25. **Contract Modifications.** The Contract may be amended only by written amendment duly executed by both CMBE and Seller. However, minor modifications may be made by CMBE Project Coordinator to take advantage of unforeseen opportunities that: (a) do not change the intent of the Contract or the scope of Seller's performance; (b) do not increase Seller's total compensation or method of payment; and (c) either improve the overall quality of the product or service to CMBE without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the Contract must be recorded in writing and signed by both the Project Coordinator and Seller, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.
26. **Relationship of Parties.** Seller is an independent contractor and not an employee of CMBE. The conduct and control of the work will lie solely with Seller. The Contract shall not be construed as establishing a joint venture, partnership, or any principal-agent relationship for any purpose between Seller and CMBE. Employees of Seller shall remain subject to the exclusive control and supervision of Seller, which is solely responsible for their compensation.
27. **Advertisement.** The Contract will not be used in connection with any advertising by Seller without prior written approval by CMBE.

28. Nondiscrimination. During the performance of the Contract, Seller shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
29. Conflict of Interest. Seller represents and warrants that no member of CMBE or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Seller shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
30. Gratuities to CMBE. The right of Seller to proceed may be terminated by written notice if CMBE determines that Seller, its agent or another representative offered or gave a gratuity to an official or employee of CMBE in violation of policies of CMBE.
31. Kickbacks to Seller. Seller shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors, or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a CMBE Contract or in connection with a subcontract relating to a CMBE Contract. When Seller has grounds to believe that a violation of this clause may have occurred, Seller shall promptly report to CMBE in writing the possible violation.
32. Monitoring and Evaluation. Seller shall cooperate with CMBE, or with any other person or agency as directed by CMBE, in monitoring, inspecting, auditing, or investigating activities related to the Contract. Seller shall permit CMBE to evaluate all activities conducted under the Contract. CMBE has the right at its sole discretion to require that Seller remove any employee of Seller from CMBE Property and from performing services under the Contract following provision of notice to Seller of the reasons for CMBE's dissatisfaction with the services of Seller's employee.
33. Financial Responsibility. Seller is financially solvent and able to perform under the Contract. If requested by CMBE, Seller agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by CMBE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, the inability of Seller to meet its debts as they become due or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of a receiver, then CMBE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
34. Governmental Restrictions. In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship, or performance of the items offered prior to their delivery, it shall be the responsibility of the Seller to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. CMBE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

35. Inspection at Seller's Site. CMBE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for CMBE determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.
36. Confidential Information. Student Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to the students' official records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. The Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. 115C-401.1, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the Contract. Employee Personnel Information: If, during the course of Seller's performance of the Contract, Seller should obtain any information pertaining to employees of CMBE's personnel records, Seller agrees to keep any such information confidential and to not disclose or permit it to be disclosed, directly or indirectly, to any person or entity. Other Confidential Information: (a) Seller agrees that it will at all times hold in confidence for CMBE all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by CMBE to Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder (collectively, "Information"). Seller shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Seller shall not, without the prior written consent of CMBE, reproduce any Information; nor disclose Information to any party; nor use any Information for any purpose other than performance for the benefit of Seller hereunder. (b) Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE in connection with the Goods or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.
37. Intellectual Property. Seller agrees, at its own expense, to indemnify, defend and save CMBE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that CMBE's use, possession or sale of the Goods or Services infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
38. No Pre-Judgment or Post-Judgment Interest. In the event of any action by Seller for breach of contract in connection with the Contract, any amount awarded shall not bear

interest either before or after any judgment, and Seller specifically waives any claim for interest.

39. **Background Checks.** At the request of CMBE's Project Coordinator, Seller (if an individual) or any individual employees of Seller shall submit to CMBE criminal background check and drug testing procedures.
40. **Mediation.** If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.
41. **No Third Party Benefits.** The Contract shall not be considered by Seller to create any benefits on behalf of any third party. Seller shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.
42. **Force Majeure.** If CMBE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by CMBE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of CMBE.
43. **Ownership of Documents.** All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by CMBE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Seller pursuant to the Contract shall, at the request of CMBE, be turned over to CMBE. Any technical knowledge or information of Seller which Seller shall have disclosed or may hereafter disclose to CMBE shall not, unless otherwise specifically agreed upon in writing by CMBE, be deemed to be confidential or proprietary information and shall be acquired by CMBE free from any restrictions as part of the consideration of the Contract.
44. **Strict Compliance.** CMBE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
45. **General Provisions.** CMBE's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Seller hereunder, CMBE shall be entitled to recover costs and reasonable attorney's fees. Seller may not assign, pledge, or in any manner encumber Seller's rights under this Order, or delegate the performance of any of its obligations hereunder, without CMBE's prior, express written consent.

46. Contract Situs. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation, and enforcement of the Contract, will be determined in Mecklenburg County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.