REQUEST FOR PROPOSAL

NUMBER - 11-18

METROPOLITAN NASHVILLE PUBLIC SCHOOLS
On behalf of
THE METROPOLITAN NASHVILLE BOARD OF PUBLIC EDUCATION

This solicitation document serves as the written determination of the Director of Purchasing, that the use of competitive sealed bidding is neither practicable nor advantageous to the Metropolitan Nashville Public Schools (MNPS). Therefore, this solicitation will facilitate the entering into of contract(s) by the competitive sealed proposals process.

RFP Title:
Evaluation of Special Education Services in MNPS

Purchasing Staff Contact:
Gary Appenfelder
(615) 259-8533
Gary.appenfelder@mnps.org

June 30, 2011

This proposal solicitation document is prepared in a Microsoft Word (Office for Windows) format. Any alterations to this document made by the proposer may be grounds for rejection of proposal, cancellation of any subsequent award, or any other legal remedies available to the Metropolitan Nashville Public Schools.

NOTICE TO PROPOSERS

There may be one or more amendments to this RFP. Amendments to this RFP will be added to the RFP posting on the MNPS web site and will be transmitted by email to companies so requesting. If your company desires to receive copies or notices of any such amendments and other communications issued specific to this RFP, you must provide the information requested below to the MNPS Purchasing Department. Please send this information by e-mail to *purchasing@mnps.org*. **MNPS will send amendments and other related communications only to those firms which complete and return this information.**

RFP number 11-18

Company name _____

Mailing address _____

_____

_____

Phone number _____

Fax number _____

Contact person _____

Email address _____

Emailed amendments will be sent in a Microsoft Word (Office for Windows) format. Any alterations to the document made by the proposer may be grounds for rejection of proposal, cancellation of any subsequent award, or any other legal remedies available to the Metropolitan Nashville Public Schools.

Amendments will be posted on the MNPS Purchasing web site **(http://www.mnps.org/Page69506.aspx)** and attached to the solicitation listing as a PDF or WORD file. Check the Current Contract Opportunities web page for the particular proposal solicitation and for any posted amendments.

Table of Contents

1) Introduction/Overview 4
A. Purpose 4
B. Objective 4
C. Scope of Services 4
D. Background 5
E. Inquiries 5
F. Method of Source Selection ..... 5~~6~~
G. Pre-Proposal Conference 6
H. Minimum (general) criteria to be determined "*Responsive*" 6
I. Minimum (general) criteria to be determined "*Responsible*" 6
J. Projected Timetable ..... 6~~7~~
2) Constraints on the Contractor 7
3) Functional Requirements 7
4) Contractor Personnel Requirements ..... 7~~8~~
5) Contractor Responsibilities 8
6) MNPS Departmental Responsibilities 8
7) MNPS's Right to Inspect 8
9) Assistance to Small Businesses as Subcontractors and Suppliers 8
A. Incentive for Small Business Participation ..... 8~~9~~
B. Assistance in Locating Small Businesses ..... 8~~9~~
C. Definition of Small Business 9
D. Documentation Requirements 9
E. Progress Payments to the Contractor 9
F. MNPS Remedies for Misrepresentation 9
10) Instructions for Proposal 10
A. Compliance with the RFP 10
B. Acknowledgment of Insurance Requirements 10
C. Delivery of Proposals 10
D. Evaluation of Proposals (Procedure) ..... 10~~11~~
E. Ambiguity, Conflict, or Other Errors in the RFP 12
F. Proposals and Presentation Costs ..... 12~~13~~
G. Rejection of Proposals ..... 12~~13~~
H. Acceptance of Proposals 13
I. Requests for Clarification of Proposals 13
J. Validity of Proposals 13
K. Protests 15
11) Evaluation Criteria 13
- **Tab I, Business Plan** 14
- **Tab II, Experience and Qualifications** 14
- **Tab III, Compensation and Cost Data** 15
- **Tab IV, Past performance and References** 15
- **Tab V, Small Business Participation** 15

Request for Proposals
RFP Title:

Evaluation of Special Education Services in MNPS

All Submitted Proposals become Public Record after Award.
Submission of a Proposal is an official waiver of confidentiality, not withstanding any statements to the contrary that may be contained within the Proposal.

1) Introduction/Overview

A. Purpose

Metropolitan Nashville Public Schools (MNPS) is requesting sealed proposals from qualified firms for the purchase of the following products and services:

A comprehensive evaluation of MNPS services for students with disabilities during the 2011-2012 school year, through direct observation. Evaluation will include an assessment of (a) how both general and special education teachers are spending their time in classrooms that instruct either or both students with disabilities and students without disabilities, and (b) how students with disabilities are spending their time in general education and special education classrooms.

Objective

The objective to be met through the award of the Request for Proposal is to enter into a one (1) year contract with the selected supplier to achieve the Purpose listed above.

B. Scope of Services

1. Determine the current state of special education services within MNPS by measuring (a) how teachers are spending their time in inclusive classrooms and in special education self-contained classrooms through direct observation and rating scales, and (b) how students with disabilities are spending their time in general education classes through direct observation, rating scales, and record review.

2. Analyze the quality of instructional services provided to students with disabilities in K-12 grades, both in the special education self-contained classrooms and general education classroom, comparing how the needs of students with disabilities are met in a general education environment with how they are met in a special education self-contained setting.

3. Determine to what extent the district goals for students with disabilities are met through special education services provided by MNPS.

C. Background

1. MNPS is a vast and diverse school system, serving students from more than 80 different countries and of more than 70 different languages. MNPS has evolved over the years into one of the most racially, ethnically, and socio-economically diverse school districts in the country. The district is comprised of 139 schools, including 72 elementary schools, 34 middle schools, 21 high schools, two Academies, three alternative schools, four special education schools, and five charter schools. MNPS is also proud to have 12 high schools implementing theme-based academies and a Middle College High School that offers dual high school and college enrollment.
2. The District serves over 9,000 students with disabilites in grades K-12.
3. A student is identified as eligible for special education services through a process as outlined in IDEA. For each eligible student, the Individual Education Program (IEP) team (which includes the parents) reviews all of the most current information on the student. In order to determine eligibility, the IEP team must determine that the student meets both of the following conditions:
   a. He/she meets the standards established by the Tennessee State Department of Education for one or more categories of disability,

   b. His/her needs cannot be met in a typical preschool/kindergarten program without special education services. This decision is based on whether the child's educational achievement or performance is significantly different from other children in a general education classroom.

D. Inquiries

Direct questions related to this RFP to Gary Appenfelder, and submit such questions in writing (email to purchasing @mnps.org; letter, fax to 615-214-8656). Include the RFP number, page, and paragraph number for each question.

If you mail the questions to the Purchasing Department, do not place the RFP number on the outside of the envelope containing questions, as it may be improperly identified as an envelope with a sealed proposal and may not be opened until after the official RFP due date.

The only official answer or position of MNPS will be the one stated in writing.

E. Method of Source Selection

MNPS is using the Competitive Sealed Proposals method of source selection, for this procurement.

Award(s), if made, will be made to the ***Responsive*** and ***Responsible*** Offeror(s) whose proposal is most advantageous to MNPS, taking into

consideration price and the other factors set forth in this Request for Proposal (RFP). MNPS will not use any other factors or criteria in the evaluation of proposals received.

MNPS may, as it deems necessary, conduct discussions with ***Responsive*** and ***Responsible*** Offeror(s) for the purpose of clarification to assure full understanding of, and responsiveness to solicitation requirements.

F. Pre-Proposal Conference

If a Pre-Proposal Conference is deemed necessary, the date, time and location of the conference will be communicated by email to prospective proposers and posted on the MNPS posting site.

G. Minimum (general) criteria to be determined "*Responsive*"

1. Does the proposal submitted conform in all material respects to the solicitation?
2. Specific examples include: Were minority-owned and/or woman-owned business enterprises (MWBE) considered for subcontract work and contacted in a timely manner for this contract proposal (Good Faith Effort)? Was sufficient documentation provided with the proposal to demonstrate that Good Faith Efforts were made?
3. Does the proposer take significant exceptions to the MNPS standard contract terms?

H. Minimum (general) criteria to be determined "*Responsible*"

1. Does the Offeror demonstrate an understanding of MNPS's needs and proposed approach to the project?
2. Does the Offeror possess the ability, capacity, skill, and financial resources to provide the service?
3. Can the respondent take upon itself the responsibilities set forth in the RFP (and resultant contract) and produce the required outcomes timely?
4. Does the Offeror have the character, integrity, reputation, judgment, experience, and efficiency required by the contract?
5. Has the Offeror performed satisfactorily in previous contracts of similar size and scope; or, if the prime contractor has not performed a contract of similar size and scope, has it (and/or its team members) otherwise demonstrated its capability to perform the contract MNPS seeks to establish through this RFP?
6. Does the Offeror propose to perform the work at a fair and reasonable cost?

I. Projected Timetable

The following projected timetable should be used as a working guide for planning purposes. MNPS reserves the right to adjust this timetable as required during the course of the RFP process.

Event	Date
RFP Issued	June 30, 2011
Deadline for submittal of questions	July 8, 2011
Pre-Proposal Conference	TBD
Amendment Issued for Pre-Proposal Questions	July 11, 2011
Proposals Due	July 15, 2011
Evaluation of Criteria Begins	July 18, 2011
Complete Evaluation of Proposals	July 29, 2011
Complete Contract Negotiations/Execute Contract	ASAP

2) Constraints on the Contractor

A. Contractor must provide a certificate of insurance that includes coverage for child abuse and molestation in the minimum amount of $1,000,000.

3) Functional Requirements

A. Data is to be collected through a combination of direct observations, rating scales, record review, and progress monitoring.
B. Assessments will be conducted across all tiers (Elementary Schools, Middle Schools and High Schools) and disability categories throughout the school year.
~~A.~~C. Upon conclusion of data collection and analysis, a report of project results will be completed and submitted to the MNPS Executive Director of Exceptional Education on or before April 23, 2012 for review and approval. Additional copies of the report will be printed and submitted upon request by MNPS. The report shall include:
   1. An analysis of all data collected in the evaluation, in combination with evidence from relevant educational research, including best practices.
   2. Recommendations for program improvement tied to the primary goals of MNPS and improvement on methods of meeting the needs of students with disabilities.
   3. At least one interim report will be provided on or before December 15, 2011..

4) Contractor Personnel Requirements

A. The Contractor shall provide a single point of contact for MNPS.
B. Detailed resumes for all management and key personnel shall be submitted with the proposal.
C. Contractor shall comply with Public Chapter 587 of 2007, as codified in Tennessee Code Annotated Section 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.

5) Contractor Responsibilities

A. Evaluator(s) will provide all data collection instruments and materials, and other protocols that are to be used in the project, to the MNPS Executive Director of Exceptional Education for review and approval, on or before September 1, 2011.
B. Evaluators will travel to specific schools or a central location for data collection, as arranged by the MNPS designee.
C. Evaluator(s) will present the findings from the report to two designated constituent groups, as requested.
D. Contractor must be able to provide services during the hours and on the days of regularly scheduled school days, as determined by designated tiers.
E. Contractor will appoint a representative to meet monthly with the Executive Director of Exceptional Education to review overall progress.

6) MNPS Departmental Responsibilities

A. Contractor will randomly select at least ten (10) Elementary Schools, eight (8) Middle Schools and four (4) High Schools to conduct observations for the evaluation..
B. MNPS will communicate with all participating internal and external stakeholders to arrange meeting times, location, and send invitations with collaboration from evaluators, as needed.
C. The MNPS Executive Director of Exceptional Education will act as the primary MNPS contact for the Contractor.
D. Provide access to students' cumulative records, if needed to complete the project, and in compliance with the MNPS Policy on Student Records (SP 6.101).

7) MNPS's Right to Inspect

MNPS shall have the right to inspect any facility or project site where the services performed under the resultant contract are performed.

9) Assistance to Small Businesses as Subcontractors and Suppliers

A. Incentive for Small Business Participation

MNPS provides an incentive to Proposers to maximize the usage of small businesses in the performance of the contract. In the evaluation of proposals, MNPS rewards Proposers for committing to use small businesses as subcontractors by considering the minimum percentage of total contract dollars of committed small business subcontractor participation. In addition, if the Proposer is a small business, MNPS rewards the Proposer for the amount of work it commits to self perform.

B. Assistance in Locating Small Businesses

Proposers who desire assistance in locating potential small business subcontractors and suppliers are encouraged to contact the BAO by email at BAO@nashville.gov or call the BAO at (615) 880-2814.

C. Definition of Small Business

A "small business" means a United States business which is independently owned and operated and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field. In addition, in order to qualify as a small business for purposes of this RFP, a business must meet the standards set forth in Metro's Small Business Standards included as an Attachment to this RFP.

D. Documentation Requirements

Proposer must complete the *List of Proposed Small Businesses* Exhibit to this RFP and submit the Exhibit with the Proposal to make a commitment to use subcontractors that claim small business status. Changes to the list of proposed small businesses must be submitted in writing and approved in advance by MNPS. Proposer must confirm that any small businesses to be included in its proposal meet the small business standards set forth by Metro. Proposer shall likewise notify its proposed small businesses that MNPS requires 1) that the subcontractor be registered to do business with Metro, and 2) have been approved as a small business through the submission to Metro of documentation to confirm small business status including a copy of their two most recently submitted business tax returns as well as IRS form 941-Employer's Quarterly federal tax return. This information will be reviewed by Metro and used to confirm the small business status. Small business status must be approved by Metro ***prior*** to proposal submission. ***While Metro commits to having documents reviewed and status granted as quickly as possible after the receipt of the necessary documentation, to be safe, documents should be submitted no later than four days before the bid/proposal is due to allow time for status to be granted.***

E. Progress Payments to the Contractor

As a condition of progress payments to the contractor, MNPS will require that Contractor submit evidence of participation of and Contractor's payment to all small businesses participating in any resultant Contract. This evidence shall be submitted with each invoice and shall include copies of subcontracts, subcontractors' applications for payment, subcontractors' certified payrolls, and proof of payment to small business subcontractors; and purchase orders, Invoices, and proof of payment to small business suppliers.

F. MNPS Remedies for Misrepresentation

If, during the course of the Contract, Contractor fails to maintain the level of small business participation committed to in the Contractor's Proposal, or if any material representation made in Contractor's proposal concerning the small business status of any Subcontractor or Contractor's involvement in the ownership, operation or management of any subcontractor claiming status as a small business is shown to be false. MNPS may, at its sole option and in addition to any other remedies available under the Contract, at law or in equity, terminate the Contract. Further, in the event that MNPS terminates the contract, the Contractor shall pay MNPS's full re-procurement costs, including, without limitation, any costs associated with re-procurement delays. MNPS will institute debarment proceedings against any Proposer that misrepresents in a proposal any material fact concerning the small business status of itself or any subcontractor or Proposer's involvement in the ownership, operation, or management of any subcontractor claiming status as

a small business. In addition, MNPS may, at its sole discretion, assess a charge representing the cost of all audit and legal time and expense incurred by MNPS as a result of the Contractor's failure to maintain the level of small business participation committed to in the Contractor's proposal.

10) Instructions for Proposal

A. Compliance with the RFP

Proposals must be in strict compliance with this Request for Proposals. Failure to comply with all provisions of the RFP may result in disqualification.

B. Acknowledgment of Insurance Requirements

By signing its proposal, Offeror acknowledges that it has read and understands the insurance requirements for the proposal. Offeror also understands that the evidence of required insurance must be submitted within fifteen (15) working days following notification of its offer being accepted; otherwise, MNPS may rescind its acceptance of the Offeror's proposal. The insurance requirements are attached.

C. Delivery of Proposals

All proposals are to be delivered before **3:30 PM CT** on July 15, 2011 to:

Metropolitan Nashville Public Schools
Purchasing Department
Attention: Gary Appenfelder
2601 Bransford Avenue
Nashville, TN 37204

MNPS WILL NOT accept any proposals received after 3:30 P.M. CT on July 15, 2011 or delivered to a location other than that listed above. Late or incorrectly delivered proposals will be returned to the Offeror at their expense or destroyed after 30 days.

Proposers must **submit one (1) original**, and three **(3) exact duplicate, numbered copies** of the proposal response and **one (1)** electronic copy of the complete proposal response including any attachments, on a WINDOWS PC compatible CD.

Proposals will be opened publicly in a manner to avoid public disclosure of contents; only names of the Proposers will be read aloud.

List the RFP Number on the outside of the box or envelope and note, "Request for Proposal enclosed".

D. Evaluation of Proposals (Procedure)

1. MNPS will first examine proposals to eliminate those which are clearly non-responsive to the stated requirements. Therefore, Offerors should exercise particular care in reviewing the Proposal Format required for this RFP.

2. Proposers who are determined to be non-responsive and/or non-responsible will be notified of this determination. The remaining proposers will also be notified.

3. The evaluation committee will then score all responsive and responsible proposals based upon the evaluation criteria detailed herein. Upon completion of the initial scoring, the committee may recommend a single finalist or enter into a short-listing process with those offerors whose proposals are determined to be in the competitive range.

4. The detailed evaluation process that follows the initial scoring may result in, but not limited to, a series of requests of the offerors for clarifications, additional discussions, presentations, amended proposals, contract negotiations, best and final offers, and/or detailed reference checks. This process may involve multiple short-listing rounds for the purpose of achieving contracts that are in the best interests of MNPS as determined by the evaluation committee.

5. The method used for scoring objective criteria (e.g. cost, small business participation, time of completion, etc.) shall be based on comparison of all responsive and responsible proposals.

6. Other criteria scores may be adjusted upward or downward during discussions. This movement will result from further detailed review of short listed proposals and consideration of additional information received through discussions and written submittals. However, the points assessed for any evaluation criterion will not exceed the total points available for that criterion.

7. If, during discussions, MNPS discovers modification of requirements is necessary, the RFP will be amended. Subsequent scorings may be based on comparison of only the short listed proposers.

8. If, at any time during the evaluation process, it is determined that a proposal is non-responsive or non-responsible, that proposal will be removed from consideration for award and all proposers notified of this decision.

9. MNPS reserves the right to contact any and all references to obtain, without limitation, information regarding the Offeror's performance on previous projects. A uniform sample of references will be checked for each short-listed offeror.

10. The MNPS Director of Purchasing reserves the right to withdraw this RFP at any time and for any reason and to issue such clarifications, modifications, and/or amendments as he/she may deem appropriate.

11. Receipt of a proposal by the MNPS Purchasing Department, or a submission of a proposal to the MNPS Purchasing Department, offers no rights upon the Offeror nor obligates MNPS in any manner.

12. The Director of Purchasing reserves the right to waive minor irregularities in proposals, provided that such action is in the best interest of MNPS. Any such waiver shall not modify any remaining RFP requirements or excuse the Offeror from full compliance with the RFP specifications and other contract requirements if the Offeror is awarded the Contract.

13. In order to complete the evaluation process faster, list the name, address, phone number, fax number, and email address of the person capable of answering any questions that may arise during the evaluation process.

(Please Print or Type)

Company Name: _____

Attention: _____

Address: _____

City/ST/Zip: _____

Phone: _____

Fax: _____

Email: _____

E. Ambiguity, Conflict, or Other Errors in the RFP

1. If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposal, it shall immediately notify the MNPS Purchasing Department of such error in writing and request modification or clarification of the document. The Purchasing Department will make modifications by issuing a written amendment to the RFP and will give written notice to all parties who have received this RFP from MNPS.

2. The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal or it shall be waived.

F. Proposals and Presentation Costs

MNPS will not be liable in any way for any costs incurred by any Offeror in the preparation of its proposal in response to this RFP, nor for the presentation of its proposal and/or participation in any discussions or negotiations.

G. Rejection of Proposals

The Director of Purchasing reserves the right to accept or reject, in whole or in part, any or all proposals submitted. The Purchasing Agent shall reject the proposal of any Offeror that is determined to be non-responsive. The unreasonable failure of an Offeror to promptly supply information in

connection with respect to responsibility may be grounds for a determination of non-responsibility.

H. Acceptance of Proposals

The Director of Purchasing shall accept all proposals that are submitted properly. However, the Director of Purchasing, or designee, reserves the right to request clarifications or corrections to proposals.

I. Requests for Clarification of Proposals

Requests by the Evaluation Committee for clarification of proposals shall be distributed by the Purchasing Department in writing (or email).

J. Validity of Proposals

All proposals shall be valid for a period of ninety (90) days from the opening date of the Request for Proposal.

J. Protests

Any actual or prospective offeror who is aggrieved in connection with the Request for Proposal or award of a contract may protest to the Director of Purchasing. The protest shall be submitted in writing in accordance with FMp 2.140 (Procedure for Protest and Appeal for Metropolitan Nashville Board of Public Education and Metropolitan Nashville Public Schools) within ten days after such aggrieved person knows or should have known of the facts giving rise thereto.

11) Evaluation Criteria

A. Proposal Evaluation Committee

A committee appointed by the MNPS Director of Purchasing will evaluate proposals. Other agencies and consultants of MNPS may also examine documents. The committee will make recommendation(s) to the Director of Purchasing to consider.

B. Response Format

The information listed below shall be submitted with each proposal and should be submitted in the order shown. Each section should be clearly labeled, with pages numbered and separated by tabs. Failure by an offeror to include all listed items may result in the rejection of the proposal.

C. Evaluation Criteria (Factors)

The factors to be considered in the evaluation of proposals are listed below. While MNPS believes all these items to be of importance, their relative weight is indicated by the points each evaluation criteria will receive. Within each evaluation criteria, subsets of the criterion may be defined to clarify the point distribution for that evaluation criterion. Award(s) will be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to MNPS. No other factors or criteria will be used in the evaluation.

- **<u>Tab I, Business Plan</u>**

  Total points available for this criterion are 30 points.
  - Open with a cover letter indicating the underlying philosophy of your firm in providing the requested service. Express your understanding of the contract scope and the desired deliverables.
  - Provide a detailed plan of your firm's proposed approach (including major tasks and sub-tasks). For example, specific cross section of teachers, students, tiers, to be observed, etc.
  - Address the Scope, Functional Requirements, Constraints, Responsibilities and Personnel Requirements of this solicitation and how you will meet them.
  - Include a proposed quality assurance plan your firm will conduct to ensure the performance of contract deliverables and validity of findings.
  - Describe in detail the methods and techniques to be used for collecting, analyzing and displaying data and conclusions.
  - Identify potential risks associated with the execution of this contract and how your firm proposes mitigating those risks.
  - Indicate exceptions, if any, to the general terms and conditions contained in the attached pro forma contract. The evaluation score will reflect MNPS's assessment of the impact for these considerations. MNPS may reject the proposal as non-responsive if the requested changes are unacceptable.
  - Describe in detail the proposed method of validating the project results/conclusions.
  - Describe your plan to provide administrative oversight of the services.

- **<u>Tab II, Experience and Qualifications</u>**

  Total points available for this criterion are 25 points.
  - Include the description of the proposed team, including key personnel and subcontractors, and the role to be played by each member of the proposed team
  - Include the résumés of all managers, senior level supervisors, and key personnel (indicate if they are a subcontractor) who will be involved in providing the required services.
  - For each team member, what license(s), certification(s) and other relevant credentials does he/she have that would convey his/her ability to fulfill the requirements stated herein?
  - For each team member, what previous similar projects with large urban school districts has he/she participated in?
  - Describe in detail why your firm is qualified to provide the services requested by this RFP.
  - Estimated number of hours each person will contribute to the project/contract.
  - Address your firm's financial health to completely perform the contract. Include financial statements that show at least the 3 most recent years of financial performance. Identify any areas of concern or limitations that MNPS should consider.

- **<u>Tab III, Compensation and Cost Data</u>**

  Total points available for this criterion are 20 points.
  - Compensation is to be expressed as a firm fixed price for the entire project. If progress payments are proposed, provide a description of the deliverables/milestones associated with the payments.
  - Include a complete price/cost breakdown (hourly rates, number of hours, types of materials and price for each, travel costs, etc.) to support the total project price. Include an estimated number of days-on-site.
  - Identify potential cost overrun risks associated with the execution of this contract and how your firm proposes mitigating those risks.

- **<u>Tab IV, Past performance and References</u>**

  Total points available for this criterion are 20 points.
  - Provide a listing of previous school district customers (not to exceed 10) that purchased your services and were of similar size and scope. The services provided to these clients should have characteristics as similar as possible to those requested in this RFP.
  - Describe the scope of work provided to each customer. Also provide a description of the processes actually used, the actual time required to complete the project and the size of the student population studied.
  - Provide the statistical (or equivalent) evidence of your firm's success (positive impact) with each customer.
  - Information provided for each client shall include the following:
    a) Client name, address, email, and current telephone number
    c) Time period of the project or contract
    d) Contracted/quoted amount and final billing amount (explain any cost variance)

    Failure to provide complete and accurate client information, as specified here, may result in the disqualification of your proposal and will be reflected in the scoring.

- **<u>Tab V, Small Business Participation</u>**

  Total points available for this criterion are 5 points.
  - The *List of Proposed Small Businesses* must be completed and signed by a company officer empowered to bind the Proposer to the provisions in this RFP and any contract awarded pursuant to the PRP. The Proposer must submit a *List of Proposed Small Businesses* OR a statement that no Small Businesses are proposed.
  - The maximum points available for this criterion are listed above. No more than 1 point will be granted for each 1% of total contract value for small business utilized.

Attachment A

Affidavits

State of _____ County of _____

As used herein, "Offeror" will include bidders and proposers.

Compliance with Laws: After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the _____ (Title) of _____ (Offeror), and that Offeror is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Offeror has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Offeror is current on its payment of all applicable gross receipt taxes and personal property taxes.

Contingent Fees: In accordance with MNPS's Procurement Policy, it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a MNPS contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned (Affiant) states that the Offeror has not retained anyone in violation of the foregoing.

Nondiscrimination: Contractor, after being first duly sworn, affirms that by its employment policy, standards and practices it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, religion, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with handicaps and/or disabilities. It is the policy of the Metropolitan Nashville Public Schools not to discriminate on the basis of age, race, sex, color, religion, national origin or handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, contractor certifies and warrants it will comply with this policy.

And Further Affiant Sayeth Not:

By: _____

Title: _____

Address: _____

_____

Sworn to and subscribed before me on this ___ day of _____, 200___.

_____
Notary Public
My commission expires: _____

Attachments B

Guidelines for Assistance to Small Businesses

A Small Business satisfies all of the following criteria:

(a) A United States business which is independently owned and operated, and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation;

(b) Either has no more than the following number of employees or has no more than the following annual sales volume for the applicable industry; and

INDUSTRY	ANNUAL SALES VOLUME	MAXIMUM NUMBER OF EMPLOYEES*
Agriculture, Forestry, Fishing	**$500,000**	**9**
Architectural/Design/Engineering	**$2,000,000**	**30**
Construction	**$2,000,000**	**30**
Educational	**$1,000,000**	**9**
Finance, Insurance, Real Estate	**$1,000,000**	**9**
Information Systems/Technology	**$2,000,000**	**30**
Manufacturing	**$2,000,000**	**99**
Marketing/Communications/Public Relations	**$2,000,000**	**30**
Medical/Healthcare	**$2,000,000**	**30**
Mining	**$1,000,000**	**49**
Retail Trade	**$750,000**	**9**
Service Industry	**$500,000**	**9**
Transportation, Commerce, and Utilities	**$1,000,000**	**9**
Wholesale Trade	**$1,000,000**	**19**

(c) Meets the following additional criteria:

1. Has demonstrated capability to perform independently a substantial portion of the contract they seek, or a substantial portion of the subcontract for which they are proposed by a bidder or offeror, as specified by the Purchasing Agent;
2. Not share or jointly use office space, production, marketing and sales, business support systems, personnel, or equipment with any business not classified by Metro as a small business (i.e., a large business);
3. Has existed as a legal business entity for a minimum of one year (twelve months of continuous business enterprise), performing independently and satisfactorily and achieving a minimum of $35,000.00 sales income (collected sales dollars not simply booked sales);
4. Not be owned, controlled, or directed by individuals or groups of individuals who own, control, or direct a large business involved in the same category of work as the business for which small business status is sought;
5. If a supplier, be an authorized regular distributor with normal wholesale agreements for the Product or products to be supplied; and

6. If a construction contractor, be licensed as required by the state to perform the work for which it has submitted a bid or has been proposed by a prime as a subcontractor.

*NOTE: Employee means a person (or persons) employed on a full-time (or full-time equivalent), a permanent basis. Full-time equivalent includes employees who work 30 hours per week or more. Full-time equivalent also includes the aggregate of employees who work less than 30 hours a week, where the work hours of such employees add up to at least a 40 hour work week.

The totality of the circumstances, including factors relevant for tax purposes, will determine whether persons are employees of a concern. Temporary employees, independent contractors or leased employees are not employees for these purposes. The owner(s) are excluded from this classification.

SMALL BUSINESS STATUS

If Firms desire to claim the status as a small business, they must

1) Be registered to do business with Metro at https://smartrac.nashville.gov/newvendorlogin.aspx , and
2) Have been approved as a small business through the submission to Metro of documentation to confirm small business status including a copy of their two most recently submitted business tax returns as well as IRS form 941-Employer's Quarterly federal tax return.

This information will be reviewed Metro's BAO and used to confirm the small business status. Small business status must be approved by Metro ***prior*** to submission. ***While Metro commits to having documents reviewed and status granted as quickly as possible after the receipt of the necessary documentation, to be safe, documents should be submitted no later than four days before the proposal opening date to allow time for status to be granted.***

Attachments C
List of Proposed Small Businesses for RFP _____

Proposer Name:_____

Notice: Small businesses listed must be registered with Metro and small business status must be approved by Metro ***prior*** to proposal submission. Registration can be completed online at: https://smartrac.nashville.gov/newvendorlogin.aspx

	Small Business Name	Small Business Address, Phone Number and email address	Industry of Work to be Performed by this Small Business (*see Instructions below this table)*	Phase in project when Small Business is ***anticipated*** to perform work	Minimum Amount & *Percentage* of total contract dollars to be spent with this Small Business
1.					
2.					
3.					
4.					
5.					
6.					

TOTAL_____

INSTRUCTIONS:

- If the proposer is a small business, the proposer should also be included in this list.
- If more than six (6) Small Businesses are to be listed, please attach an additional sheet.
- For the "Industry of Work to be Performed by this Small Business" column, you must enter an Industry listed here: Agriculture, Architectural/Design/Engineering; Educational; Information Systems/Technology; Marketing/Communications/Public Relations; Medical/Healthcare; Forestry, Fishing; Mining; Construction; Manufacturing; Wholesale Trade; Retail Trade; Finance, Insurance, Real Estate; Transportation, Commerce, and Utilities; Service Industry

Submission of a proposal shall constitute Proposer's representation that neither Proposer nor an officer, agent or employee of Proposer, or the spouse, parent or child of an officer, agent or employee of Proposer, is involved in the ownership, operation or management of any subcontractor claiming status as a small business for purposes of this Proposal and Contract.

_____

Name and Title of Person submitting this form

Attachments D
MNPS Pro Forma Contract

CONTRACT BETWEEN METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY BY AND THROUGH THE METROPOLITAN BOARD OF PUBLIC EDUCATION

AND

CONTRACTOR

FOR

PURCHASE OF PROFESSIONAL SERVICES

This contract is entered into on this ___ day of _____, 20__, by and between **METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY BY AND THROUGH THE METROPOLITAN BOARD OF PUBLIC EDUCATION** ("MBPE") and [***insert complete name, address and zip code of contractor***] ("Contractor"). This contract consists of the following:

a) This contract,
b) [***insert title and number of RFP/ITB***],
c) [***insert titles and numbers of RFP/ITB amendments***],
d) Contractor's Bid/Proposal dated [***insert date***]

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

a.) any properly executed amendment or change order to this contract, (most recent with first priority),
b.) this contract,

1. Duties and Responsibilities of Contractor.

Contractor agrees to provide and MNPS agrees to purchase the following services: [***insert detailed scope of work***]

2. Term.

a) The term of this contract begins [***insert beginning date***] and ends [***insert ending date***].
b) In no event shall the term of this contract exceed five years.

3. Delivery. All delivery of services shall be made pursuant to a written purchase order issued by MNPS, which assumes no liability for any services delivered without such purchase order.

4. Compensation. Contractor shall be paid $0.00, per to be billed on the following basis: **(pick one, if applicable)**

a) Single Payment following completion,
b) Monthly, beginning

c) Quarterly, beginning
d) Other, (explain)

Contractor shall submit a written report with invoice to MNPS each month setting forth the services provided in the billing period. Such report shall include, but not be limited to, a description of the type(s) of service(s) provided during the month, date, time, names of Contractor's personnel performing the service and duration of service, agendas, sign-in sheets, attendance rosters. Invoices and monthly reports are to be submitted to [***insert title of MNPS person with Contractor oversight***] for review and approval. Payment of invoices may be withheld if documentation is not sufficient. Payment will be authorized only for the approved portion of each invoice. MNPS may request additional documentation or explanation regarding services at any time and Contractor shall respond to such requests promptly with such additional information as MNPS may require. Failure to provide such additional information or explain why it cannot be provided within thirty days of receipt of the request from MNPS may be cause for termination of this contract.
There will no other charges or fees for the performance of this contract. All payments by MNPS shall be made within sixty days of receipt of invoice.
This contract shall not exceed $0.00.

5. Contractor Performance Evaluation:

a) [***insert title of MNPS person responsible for Contractor oversight***] will be responsible for performing and documenting Contractor's performance evaluation during the term of this Contract.

b) Contractor performance will be evaluated based on:
   i) [***insert first criterion***]
   ii) [***insert second criterion***]
   iii) [***insert third, fourth, etc. criteria***]

6. Taxes. MNPS shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to MNPS.

7. License. Contractor warrants and represents that it is the owner of or otherwise has the right to and does hereby grant MNPS a license to use any software provided for the purposes for which the software was obtained.

8. Copyright, Trademark, Service Mark, or Patent Infringement.

a) Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against MNPS to the extent that it is based on a claim that the products or services furnished infringe a Copyright, Trademark, Service Mark, or Patent. Contractor shall further indemnify and hold harmless MNPS against any award of damages and costs made against MNPS by a final judgment of a court of last resort in any such suit. MNPS shall provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable Contractor to do so. No costs or expenses shall be incurred for the account of Contractor without its written consent. MNPS reserves the right to participate in the defense of any such action. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any

such action, but no such settlement or compromise shall be binding upon MNPS unless approved by the Metro Department of Law Settlement Committee and, where required, the Metro Council.

b) If the products or services furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

i) Procure for MNPS the right to continue using the products or services.

ii) Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to MNPS, so that they become non-infringing.

iii) Remove the products or discontinue the services and cancel any future charges pertaining thereto.

iv) Provided, however, that Contractor will not exercise option b) iii) until Contractor and MNPS have determined that options b) i) and b) ii) are impractical.

c) Contractor shall have no liability to MNPS, however, if any such infringement or claim thereof is based upon or arises out of:

i) The use of the products or services in combination with apparatus or devices not supplies or else approved by Contractor.

ii) The use of the products or services in a manner for which the products or services were neither designated nor contemplated.

iii) The claimed infringement in which MNPS has any direct or indirect interest by license or otherwise, separate from that granted herein.

9. Termination—Breach. Should Contractor fail to fulfill in a timely and proper manner its obligations under this contract or if it should violate any of the terms of this contract, MNPS shall have the right to immediately terminate the contract. Such termination shall not relieve Contractor of any liability to MNPS for damages sustained by virtue of any breach by Contractor.

10. Termination—Funding. Should funding for this contract be discontinued, MNPS shall have the right to terminate the contract immediately upon written notice to Contractor.

11. Termination—Notice. MNPS may terminate this contract at any time upon thirty (30) days written notice to Contractor.

12. Compliance with Laws. Contractor agrees to comply with any applicable federal, state and local laws and regulations.

13. Federal Economic Stimulus Funding. If this Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act), the Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required. The Contractor (and any subcontractor) shall comply with the following:

a) Federal Grant Award Documents, as applicable.

b) Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at www.whitehouse.gov/omb/recovery_default/, as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at www.whitehouse.gov/omb/financial_offm_circulars/.

c) Office of Tennessee Recovery Act Management Directives (posted on the Internet at www.tnrecovery.gov).

d) The Recovery Act, including but not limited to the following sections of that Act:

i) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

ii) Section 1512 – Reporting and Registration Requirements. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.

iii) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:

(1) gross mismanagement,
(2) gross waste,
(3) substantial and specific danger to public health or safety,
(4) abuse of authority, or
(5) violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any pre-dispute arbitration agreement. No pre-dispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.
Requirement to Post Notice of Rights and Remedies: The Contractor and any subcontractor shall post notice of the rights and remedies as required under Section 1553. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at www.recovery.gov, for specific requirements of this section and prescribed language for the notices.)

iv) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:

(1) to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and

(2) to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.

v) Section 1514 – Inspector General Reviews. Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

vi) Section 1515 – Access of Offices of Inspector General to Certain Records and Employers. With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:

(1) to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and

(2) to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.

vii) Section 1606 – Wage Rate Requirements. All laborers and mechanics employed by pursuant to this Contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.

For purposes of this Contract, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.

viii) Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods. None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

e) The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.

f) If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section 13, "Federal Economic Stimulus Funding."

14. Assignment—Consent Required. The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for rights to money due to Contractor under this contract, neither this contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of MNPS. Any assignment or transfer shall not release Contractor from its obligations hereunder.

15. Notices. Notice of assignment of any rights to money due to Contractor under this contract MUST be mailed or hand delivered to the attention of the CHIEF ACCOUNTANT, ACCOUNTING DEPARTMENT, BUSINESS OFFICE, METROPOLITAN BOARD OF PUBLIC EDUCATION, 2601 BRANSFORD AVENUE, NASHVILLE, TN 37204, with a copy to the recipient for Metro notices listed below.

a) All other notices to MBPE shall be mailed or hand delivered to:

Dept:
Attn:
Addr:
Phone: ( )
Email Addr:

b) Notices to Contractor shall be mailed or hand delivered to:

Contractor:
Attn:
Addr:
Phone: ( )
E-mail Addr:
Contractor's Federal Tax I.D. Number: ___-_____ **OR (PICK ONE)**

Contractor's Social Security Number: ___-___-_____

c) Contractor designates the following as the Contractor's agent for service of process and will waive any objection to service of process if process is served upon this agent:

Designated Agent:
Att'n:
Addr:
Phone:
Email Addr:

16. .Maintenance of Records. Contractor shall maintain documentation for all charges against MNPS. The books, records, and documents of Contractor, insofar as they relate to work

performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by MNPS or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

17. MNPS Property. Any MNPS property, including but not limited to books, records and equipment, that is in Contractor's possession shall be maintained by Contractor in good condition and repair, and shall be returned to MNPS by Contractor up on termination of the contract. All goods, documents, records, and other work product and property produced during the performance of this contract are deemed to be MNPS property.

18. Modification of Contract. This contract may be modified only by written amendment executed by all parties and their signatories hereto.

19. Partnership/Joint Venture. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall be come liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

20. Waiver. No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

21. Criminal Background Checks. Contractor shall comply with Public Chapter 587 of 2007, as codified in Tennessee Code Annotated Section 49-5-413, which requires all contractors to facilitate a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee prior to permitting the employee to have contact with students or enter school grounds when students are present.

22. Employment. Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

23. Insurance. During the term of this Contract, Contractor shall maintain commercial general liability (cgl), automobile liability, sexual abuse/molestation and professional liability insurance and, if necessary, commercial umbrella insurance with limits not less than one million dollars ($1,000,000.00), each occurrence. The METROPOLITAN BOARD OF PUBLIC EDUCATION, 2601 BRANSFORD AVENUE, NASHVILLE, TN 37204 shall be included as an additional insured on commercial general liability and automobile insurance liability policies. Commercial general liability and automobile liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to MBPE. There shall be no endorsement or modification to make insurance excess over other available insurance. Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than $500,000. A certificate of insurance, in a form satisfactory to MNPS, evidencing said coverage shall be provided to MNPS prior to commencement of performance of this Contract. **Throughout the term of**

this contract, Contractor shall provide an updated certificate of insurance upon expiration of the current certificate.

24. Contingent Fees. Contractor hereby represents that Contractor has not been retained or retained any persons to solicit or secure a Metropolitan Board of Public Education contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under MNPS contracts.

25. Gratuities and Kickbacks. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, or agree to accept from another person, a gratuity or an offer of employment in connection with decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigating, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under MNPS contracts.

26. Indemnification and Hold Harmless. Contractor shall indemnify and hold harmless MNPS, its officers, agents and employees from:

    a) Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and Contractor shall pay MNPS any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this contract.

    b) Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

    c) MNPS will not indemnify, defend or hold harmless in any fashion the Contractor from any claims, regardless of any language in any attachment or other document that the Contractor may provide.

    d) Contractor shall pay MNPS any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.

27. Attorney Fees. Contractor agrees that in the event either party takes legal action to enforce any provision of the contract or to obtain a remedy for any breach of this contract, and in the event MNPS prevails in such action, Contractor shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for MNPS.

28. Entire Contract. This contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

29. Force Majeure. Neither party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

30. Governing Law. The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.

31. Venue. Any action between the parties arising from this agreement shall be maintained in the courts of Davidson County, Tennessee.

32. Severability. Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

33. Non-Discrimination. It is the policy of MNPS not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in MNPS' contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; not shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Metro or in the employment practices of MNPS' Contractors. Accordingly all Contractors shall, upon request, be required to show proof of such nondiscrimination and to post, in conspicuous places, that are available to all employees and applicants, notices of nondiscrimination.

34. Confidentiality of Records. All educational records created, disclosed or maintained pursuant tot the terms of this contract are confidential and shall be created, disclosed and maintained pursuant to the provisions of Family Educational Rights and Privacy Act, also known as FERPA (20 U.S.C.A §1232g), its regulations and Board policy.

35. Compliance with the Americans with Disabilities Act. The contractor will be required to provide assurances that it does not discriminate on the basis of disability in admission to,

access to, or operations of its program, services, or activities, including hiring or employment practices. The contractor will insure that qualified applicants and participants with disabilities in its services, programs, or activities have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

36. Effective Date. This contract shall not be binding upon the parties until it has been signed first by the Contractor and then by the authorized representatives of the Metropolitan Board of Public Education and has been filed in the office of the Metropolitan Clerk. When it has been so signed and filed, this contract shall be effective as of the date first written above.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

BY AND THROUGH THE METROPOLITAN BOARD OF PUBLIC EDUCATION:

Director of Purchasing, MNPS:

_____

RECOMMENDED:

Department Head, MNPS

_____

Department: _____

APPROVED AS TO AVAILABILITY OF FUNDS:

_____

Account Number

_____

Chief Financial Officer, MNPS

_____

Chair, MBPE

_____

Director of Finance

APPROVED AS TO INSURANCE:

_____

Director of Insurance

APPROVED AS TO FORM AND LEGALITY:

_____

Metropolitan Attorney

FILED IN THE OFFICE OF THE METROPOLITAN CLERK:

_____

Date Filed: _____

CONTRACTOR

BY: _____

Title: _____

Sworn to and subscribed to before me, a Notary Public, this ___ day of _____, 200__, by _____, the _____ of Contractor and duly authorized to execute this instrument on Contractor's behalf.

_____

Notary Public

My Commission Expires:

_____