

*NEW HANOVER COUNTY SCHOOLS*

**REQUEST FOR PROPOSAL**

**218-7-21**

**DISTRICT-WIDE SWITCHED ETHERNET WIDE AREA  
NETWORK (WAN)**

USING DIVISION: TECHNOLOGY DEPARTMENT

ISSUE DATE: September 2, 2020

ISSUING AGENCY: New Hanover County Schools

Shauna Allen, CLGPO

Purchasing Officer

2814 Carolina Beach Road

Wilmington NC 28412

**If you are in receipt of this proposal, you must register your contact information to shauna.allen@nhcs.net.**

Sealed proposals subject to the conditions made a part hereof will be received until **2:00 p.m., October 2, 2020** for furnishing equipment, supplies & services described herein.

Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the vendor's sole risk to ensure delivery at the designated office by the designated date and time.

**Delivery Instructions:** (5) copies of the proposal shall be submitted in a sealed envelope and delivered to:

**New Hanover County Schools  
Purchasing Department  
Attn: Shauna Allen  
Purchasing Officer  
2814 Carolina Beach Road  
Wilmington NC 28412**

Include the firm name and RFP #218-7-21 on the envelope.

**Direct all inquiries concerning this RFP to:** Shauna Allen, Purchasing Officer, 2814 Carolina Beach Road, Wilmington NC 28412.

All questions shall be e-mailed to [shauna.allen@nhcs.net](mailto:shauna.allen@nhcs.net). Include the proposal number and description in the subject line of the e-mail. **Questions will be received until 3:00 p.m., September 9, 2020.**

Questions and answers will be posted at [www.nhcs.net](http://www.nhcs.net). The District will make every effort to provide answers prior to September 16, 2020.

E-mail company name and contact information to [shauna.allen@nhcs.net](mailto:shauna.allen@nhcs.net) upon receipt of this proposal document.

Faxed proposals will not be accepted. The New Hanover County School District is seeking to establish price agreements for these items for a period of up to five years. Such an agreement is not an authorization to provide goods or services.

## 1.0 SCOPE OF SERVICES

1.1 New Hanover County Schools ("District") is soliciting Requests for Proposal ("RFP") from firms to secure pricing for the items contained within this proposal for a Switched Ethernet Wide Area Network (WAN) with Transport circuit from Eligible Telecom Carriers at various District locations (Appendix A). The term of service for this proposal is from July 1, 2021 up to June 30, 2024. The prices for the items contained herein shall remain firm for the period to be stated in the agreement. **This proposal must allow for future additional sites to be added at the proposed cost structure as well as no early termination fee if circuit is to be moved and/or facility closed or no longer run by NHCS.**

1.2 The service provider shall provide all fiber cabling, pathways and spaces to accommodate the fiber (i.e. conduit) and Ethernet equipment necessary to connect the District's sites with switched 10/100/1000/10000,50000 Mbps Ethernet connectivity. The service provider must provide the New Hanover County Schools E-Rate discounts on their bill. All E-Rate eligible monthly recurring charges for the service and any one-time costs for installation of the wiring or equipment shall be included in the Service Provider's proposal as separate line items. Proposal must include any taxes that will be applied. The costs of any ineligible E-Rate components that may be required (such as electrical power) shall be broken out separately. All installation of cabling, pathways, etc. shall be to BICSI specification and the design specifications of New Hanover County Schools.

1.3 According to E-Rate guidelines, ownership of the fiber, conduit or equipment will remain the property of the Telecom Carrier and will never transfer to the District and there will be no option to purchase the fiber, conduit or equipment in the future. The District's internal data communications system shall function without dependence on the Service Provider's equipment. Included in the Telecom Carrier's proposal must be all construction costs to bring in the fiber from the street to the District's established Carrier Demarcation point on each campus. Any conduit and trenching from the street to the Major Point of Entry (MPOE) must include replacement of conduit, pavement, and returning the ground to its original condition. All installation of cabling, pathways, etc. shall be to BICSI specification and the design specifications of New Hanover County Schools.

1.4 The District requests the following services for this proposal. The services shall consist of, but not be limited to:

1.4.1 A private secure Layer 2 Switched Ethernet Metropolitan Area Network with an appropriately aggregated service of up to 50Gbps to the Carolina Beach Road Complex and up to 10 Gbps service to each school site if engineering requires an upgrade in the future. Most sites currently connect at 1Gb/s with fiber hand off.

1.4.2 Pricing shall include all recurring and nonrecurring costs that New Hanover County Schools will incur over the term of the contract with the vendor, including startup costs,

installation fees, cabling fees, equipment costs, port fees, telecommunication costs, taxes, etc.

1.4.3 Protocol shall be IEEE 802.3 Native Ethernet frame structure.

1.4.4 Full Duplex operation.

1.4.5 Local handoff shall be 1000Base-TX, 1000Base-SX or 1000Base-LX, 10000Base-SX, 10000Base-LX, CPAK-100G-SR10 based upon the current needs of each individual site.

1.4.6 The system shall be monitored 7x24x365 by a Network Operations Center.

1.4.7 Notification of any planned service outages at least 3 business days in advance.

1.4.8 Service Level Objectives shall be: Network Availability 99.9%, Packet Delivery Rate 99.9%, Network Latency 100ms round trip, Mean Time to repair 4 hours (including local loop).

1.4.9 The connection for 2814 Carolina Beach Road should be compatible with a CPAK-100G-SR10 Cisco branded sfp.

1.5 All vendors must provide information concerning data service, service transition, service outage support, E-Rate eligibility, cost, company information, references, and other services. Provide a section of your proposal that is formatted in the order of this section (Items 1.6. through 1.12.1., below) and list responses to the numbered items.

1.6 The District desires data services up to 50Gbps at the 2814 Carolina Beach Rd location as a hub for the other district sites.

The District desires the ability to leverage QOS to support our current VOIP and video implementations. The vendor should allow the ability to activate QOS on a per circuit basis specific to phone or video traffic prioritizing, or group of circuits based on the school region, or vendor originating service facilities. There should be a dedicated technician provided as a contact for NHCS to provide assistance with portal adds, moves, or changes.

1.6.1 Provide a detailed description of the data service you propose based on the information included in Appendix A.

1.6.2 Provide a diagram of your internal network and how it interconnects with customer locations included in Appendix A with your proposal.

1.6.3 Provide a detailed description of the remote management and monitoring capabilities of the WAN circuits that will be put in place for this service. This service should include customer access to metrics and diagnostic information.

1.6.4 Describe any guaranteed level of bandwidth for the proposed data service. Also, please describe any bursting ability of the WAN connections.

1.6.5 Provide a list of the equipment you will install at District facilities, as well as the space requirements, power and environmental requirements, product specification sheets and special requirements such as service entries into buildings.

1.6.6 Describe the scalability of your data service. Provide the procedure that would be used if more bandwidth would be required by the District. Describe the ability of your service to provide more bandwidth.

1.7 The District desires a minimum of downtime during the transition from the existing Wide Area Network to the new system. The District requires that the district Metro Area Network be built out and ready for service by the beginning of the contract 07/01/2021.

1.7.1 Provide a detailed summary of the process you would use to cut over from our existing Wide Area Network to the proposed Wide Area Network.

1.7.2 Provide an estimated time for this process.

1.7.3 Provide an estimate of Wide Area Network downtime incurred by this process.

1.8 The District requires a timely resolution for service outages. Provide the procedure used in the event of a service outage and any notification service that you can provide to the District.

1.8.1 Provide your method for prioritizing service calls.

1.8.2 Provide qualifications of technicians who will respond to calls for support or repair.

1.8.3 Provide number of support technicians available for support and where they are located relative to New Hanover County Schools.

1.8.4 What are your procedures for providing status information and problem resolution timeframes to the customer?

1.8.5 What are your escalation procedures for trouble tickets? Can you provide a dedicated liaison to assist with completion of escalated tickets?

1.8.6 Provide an escalation list for the account team, with names, telephone numbers, and email addresses.

1.9 The District understands that not all services in a proposal may be E-Rate eligible.

1.9.1 The proposal must be compliant with E-Rate guidelines.

1.9.2 Designate which services in the proposal are eligible for E-Rate discounts.

1.10 Provide costs for all the services you propose, including tariffs, taxes, surcharges, set-up or installation fees and any equipment lease fees.

1.10.1 Specify the length of the proposed contract and any optional contract terms.

1.11 Provide information about your company and its experience with this type of service.

1.11.1 If subcontracting the installation or support services, provide information on the companies providing services.

1.12 Provide at least three (3) references to other customers for whom you have provided WAN services that are comparably sized K-12 school districts. Briefly describe the services provided.

1.12.1 Describe any other features of your proposal that may add value to the District's Wide Area Network and enhance service to its students or employees.

1.13 Given the current discussions concerning Net Neutrality please explain if this will affect our service and if so how.

## **2.0 GENERAL CONDITIONS**

2.1 All proposals must be signed with the firm name and by an officer or employee with authority to bind the quote firm (title of the signer should be indicated.) Obligations assumed by such signature must be fulfilled or firm shall be removed from District's active firm file.

2.2 All proposals shall be submitted in a form that clearly addresses each of the requirements listed. The proposal must include the Vendor's Service Provider Identification Number (SPIN) as issued by the Schools and Libraries Division of USAC as well as the 470 number. The price quoted must include all costs associated with the requirements listed, including all installation costs and taxes, if applicable.

2.3 All prices or notations must be typed or written in ink. Proposals written with pencil will not be accepted. Verify all proposals before submission, as no corrections will be permitted after the proposals are opened.

2.4 The successful vendor(s) shall not be held responsible for delays in performance of the contract caused by strikes, lockouts, labor disturbances, lack of or failure by

transportation, acts of the government or other causes similar to the foregoing which are beyond the control of and are not the fault of the vendor.

However, whenever the vendor shall claim that delays are due to any or all of the above named causes, he/she shall within five (5) days after the occurrence of such cause or causes of delay, request an extension of time from the District. Such requests shall be in writing and shall state the reason or reasons, why timely delivery has been delayed. If the District finds that such cause or causes of delay exist, it shall grant the firm an extension of time equal to the delay resulting from such cause or causes. The District may at its option, rescind the agreement or charge a late fee of 10% of the remaining uninstalled schools combined monthly service cost, per day, if delays in performance are within the control of the vendor or their subcontractors.

**2.5 Background Check Compliance** New Hanover County Schools requires that all contractors that come into contact with District pupils must perform background checks of all contractors and its employees. The background check must be given to the District prior to commencing work on the project.

In no event shall the Contractor or any of its employees come into contact with the District's pupils before the certification is completed and approved by the District.

**2.6** The District reserves the right to accept or reject any or all proposals; one or more items of the proposal and/or waive any irregularities or informalities in any proposal or in the proposal process. "All or nothing" bids will not be accepted.

**2.7** The District reserves the right to evaluate, in its absolute discretion, the total proposal of each firm/contractor so as to select the supplies or equipment which best serves the needs and the best interest of the District.

**2.8 Default by contractor.** The District shall hold the firms(s) responsible for any damage that may be sustained because of failure or neglect to comply with any term or condition listed herein.

If the successful firm(s) fails or neglects to furnish or deliver any of the materials, supplies or services listed herein at the prices named and at the time and place herein stated, or otherwise fails or neglects to comply with the terms of the proposal, the District may, upon 30 day written notice to the firm by certified mail, cancel the Contract in its entirety or cancel or rescind any or all items affected by such default, and may, whether or not the contract is canceled in whole or in part, purchase the materials, supplies or services elsewhere without further notice to the firm.

**2.9** All proposals must be accompanied by a history of the proposing firm and three (3) customer references (including name, address and phone number of contact person) to help indicate the firm's fitness as an acceptable source for this product and ability to service same.

2.10 Any firm may withdraw its proposal, either personally or by written request, at any time prior to the scheduled time for opening of proposals but not after.

2.11 If New Hanover County Schools' will be required to sign a Contract Service Arrangement Agreement, a copy must be provided with response to this request for proposals.

2.12 The contract presented to NHCS should contain the ability to continue with "month to month" services after the contract has concluded. These "month to month" services should retain the prices detailed in the contract. Month to month services should be able to be discontinued at the discretion of NHCS with an undefined time limit.

### **3.0 SELECTION CRITERIA**

All proposals shall be evaluated on the following criteria. Upon conclusion of a successful evaluation, a recommendation will be made to the New Hanover County Board of Education for award of proposal.

#### **3.1 Criteria/Description**

3.1.1 The District will select the most cost-effective means that the price should be the primary factor, but not the sole factor.

3.1.2 The following weighting of the factors listed below will be used in evaluating proposal responses:

<u>FACTOR</u>	<u>WEIGHT</u>
Price	30%
Service Transition	20%
Format and completeness of proposal	10%
Service Outage Support	10%
E-Rate Eligibility	10%
Technical evaluation of proposed services	10%



References	10%
<b>Total</b>	<b>100%</b>

3.1.3 Qualifications of the firm to perform the anticipated Customer Service described in scope of services.

3.1.4 The District Board of Education will award the contract for the Wide Area Network services within 60 working days after the Proposal deadline. The District intends to award the contract under the applicable North Carolina purchasing law.

3.1.5 Previous references and relevant experience with projects of similar size and function from other customers.

3.2 New Hanover County Schools reserves the right to reject any and all proposals and to waive informalities and minor irregularities in any proposals received.

3.3 New Hanover County Schools reserves the right to select the proposal which in its sole judgment best meets the needs, services and costs of the District.

## Appendix A

# **COST PROPOSAL**

## **Switched-Ethernet Wide Area Network**

### INSTRUCTIONS

Indicate the cost for each area in the fields provided.

### ***New Hanover County Schools Sites***

Elementary Schools	Address	Monthly E-rate Eligible Costs	Monthly E-rate Ineligible Costs	Non-Reoccurring E-Rate Eligible Costs	Non-Reoccurring E-Rate Ineligible Costs
Alderman	2025 Independence Blvd. Wilmington, NC 28403				
Bellamy	70 Sanders Rd. Wilmington, NC 28412				

Mosley	3702 Princess Place Dr. Wilmington, NC 28405				
Bradley Creek	6211 Greenville Loop Rd. Wilmington, NC 28409				
Carolina Beach	400 South 4th Street Carolina Beach, NC 28428				
Castle Hayne	925 Roger Haynes Drive Castle Hayne, NC 28429				
Codington	4321 Carolina Beach Rd. Wilmington, NC 28412				
College Park	5001 Oriole Dr, Wilmington, NC 28403				
College Road Early Childhood Center	4905 S College Rd, Wilmington, NC 28412				
Eaton	6701 Gordon Rd. Wilmington, NC 28411				
Forest Hills Elementary	602 Colonial Dr, Wilmington, NC 28403				
<b>Elementary Schools</b>	<b>Address</b>	<b>Monthly E-rate Eligible Costs</b>	<b>Monthly E-rate Ineligible Costs</b>	<b>Non-Reoccurring E-Rate Eligible Costs</b>	<b>Non-Reoccurring E-Rate Ineligible Costs</b>
Freeman	2601 Princess Place Drive Wilmington, NC 28405				
Holly Tree	3020 Web Trace Wilmington, NC 28409				
Howe Pre-K	1020 Meares St. Wilmington, NC 28401				
Johnson Pre-k	1100 McRae St. Wilmington, NC 28401				
Murrayville	225 Mabee Way Wilmington, NC 28411				
Ogden	3637 Middle Sound Loop Rd. Wilmington, NC 28411				
Parsley	3518 Masonboro Loop Rd. Wilmington, NC 28409				

Pine Valley	440 John Mosby Dr. Wilmington, NC 28412				
Porters Neck	416 Edgewater Club Rd, Wilmington, NC 28411				
Snipes	2150 Chestnut Street Wilmington, NC 28405				
Sunset Park	613 Alabama Ave. Wilmington, NC 28401				
Williams	801 Silver Lake Rd. Wilmington, NC 28412				
Winter Park	204 MacMillan Ave. Wilmington, NC 28403				
Wrightsboro	2716 Castle Hayne Rd. Wilmington, NC 28401				
Wrightsville Beach	220 Coral Dr. Wrightsville Beach, NC 28480				
<b>Middle Schools</b>					
Myrtle Grove	901 Piner Rd. Wilmington, NC 28409				
Roland-Grise	4412 Lake Ave. Wilmington, NC 28403				
<b>Middle Schools (con't)</b>	<b>Address</b>	<b>Monthly E-rate Eligible Costs</b>	<b>Monthly E-rate Ineligible Costs</b>	<b>Non-Reoccurring E-Rate Eligible Costs</b>	<b>Non-Reoccurring E-Rate Ineligible Costs</b>
Noble	6520 Market Street Wilmington NC 28405				
Williston	401 S. 10 <sup>TH</sup> St. Wilmington, NC 28401				
Virgo Preparatory Academy	813 Nixon Street Wilmington, NC 28401				
<b>High Schools</b>					
Ashley	555 Halyburton Memorial Pkwy, Wilmington, NC 28412				
Hoggard	4305 Shipyard Blvd. Wilmington, NC 28403				

Laney	2700 N. College Rd. Wilmington, NC 28405				
New Hanover	1307 Market St. Wilmington, NC 28401				
Isaac Bear	630 MacMillan Drive, Wilmington NC				
Wilmington Early College HS	5022 Sea Devil Blvd., Castle Hayne, NC 28429				
SeaTech	5301 Sidbury Rd, Castle Hayne, NC 28429				
JC Roe Center	2875 Worth Dr, Wilmington, NC 28412				
<b>Admin Site</b>					
NHHS Field House	1210 Ann St., Wilmington, NC 28401				
District Office	6410 Carolina Beach Road, Wilmington NC 28412				
CBRC	2814 Carolina Beach Road, Wilmington NC 28412				
Athletic Building	424 S.13 <sup>TH</sup> Street Wilmington, NC 28401				
BOE Center	1805 S. Thirteenth St., Wilmington, NC 28401				
Northern Transportation	4805 Dairy Farm Rd., Castle Hayne, NC 28459				

**The undersigned hereby proposes and agrees to furnish and deliver the goods or services in accordance with the terms, conditions, prices and specifications herein proposed.**

Firm Name:

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Signature:

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Print Name:

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

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

***INSTRUCTIONS TO FIRMS***

1. **READ, REVIEW AND COMPLY:** It shall be the Firm's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Firms or elsewhere in this RFP document.
2. **LATE PROPOSALS:** Late proposals, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Firm's sole responsibility to ensure delivery at the designated office by the designated time.
3. **ACCEPTANCE AND REJECTION:** New Hanover County Schools reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Firm, to accept any item in the proposal. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
4. **BASIS FOR REJECTION:** New Hanover County Schools reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to New Hanover County Schools, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of New Hanover County Schools.
5. **EXECUTION:** Failure to sign the Form of Proposal in the indicated space will render proposal non-responsive, and it shall be rejected.
6. **INFORMATION AND DESCRIPTIVE LITERATURE:** Firm shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this proposal, each Firm must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal or available elsewhere will not satisfy this provision. Proposals that do not comply with these requirements shall be subject to rejection.
7. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute §143-48 and Executive Order #150 (1999), New Hanover County Schools invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
8. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, New Hanover County Schools will maintain confidential trade secrets that the Firm does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Firm, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Firm may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. §132-1.2. Any material labeled as confidential constitutes a representation by the Firm that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. §132-1.2. Firms are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.
9. **PROTEST PROCEDURES:** When a Firm wishes to protest a Contract resulting from this solicitation with an awarded amount of at least \$25,000, a Firm shall submit a written request addressed to the Purchasing Director 2814 Carolina Beach Road, Wilmington, North Carolina 28412. The protest request must be received in the proper office within thirty (30) consecutive calendar days from the date of the Contract award. Protest letters **shall** contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party's claims. **Note:** Contract award notices are sent only to the Firm actually awarded the Contract, and not to every person or firm responding to a solicitation. Proposal status and Award notices can be obtained by calling (910) 254-4417.

10. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.
11. **COMMUNICATIONS BY VENDORS:** In submitting its proposal, the Firm agrees not to discuss or otherwise reveal the contents of its proposal to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this RFP. All Firms are forbidden from having any communications with the using or issuing agency, or any other representative of New Hanover County Schools concerning the solicitation, during the evaluation of the proposals (i.e., after receipt of the proposals and before the award of the Contract), unless New Hanover County Schools directly contacts the Firm(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Firm shall not: (a) transmit to New Hanover County Schools any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Firm's proposal and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the Contract that is the subject of this RFP. Firms not in compliance with this provision may be disqualified, at the option of New Hanover County Schools, from the Contract award. Only those communications with New Hanover County Schools are authorized by this RFP are permitted.
12. **WITHDRAWAL OF PROPOSAL:** A Proposal may be withdrawn only in writing and actually received New Hanover County Schools prior to the date and time proposals are due. A withdrawal request must be on Firm's letterhead and signed by an official of the Firm authorized to make such request. Any withdrawal request made after the date and time proposals are due shall be allowed only for good cause shown and in the sole discretion of New Hanover County Schools.
13. **INFORMAL COMMENTS:** New Hanover County Schools shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of New Hanover County Schools during the competitive process or after award. New Hanover County Schools is bound only by information provided in this RFP and in formal Addenda issued.
14. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by Firm in preparing or submitting offers are the Firm's sole responsibility; New Hanover County Schools will not reimburse any Firm for any costs incurred prior to award.
15. **FIRM'S REPRESENTATIVE:** Each Firm shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
16. **SUBCONTRACTING:** Unless expressly prohibited, a Firm may propose to subcontract portions of the work to identified subcontractor(s), provided that its proposal clearly describe what work it plans to subcontract and that Firm includes in its proposal all information regarding employees, business experience, etc. for each proposed subcontractor that is required to be provided for Firm itself.
17. **INSPECTION AT FIRM'S SITE:** New Hanover County Schools reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Firm prior to Contract award, and during the Contract term as necessary for New Hanover County School's 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.
18. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries or correspondence relating to or in reference to this RFP, and all other reports, charts, displays, schedules, exhibits and other documentation submitted by the Firm shall become the property of New Hanover County Schools when received.

## ***NEW HANOVER COUNTY SCHOOLS TERMS AND CONDITIONS***

1. **PERFORMANCE AND DEFAULT:** If, through any cause, Firm shall fail to fulfill in timely and proper manner the obligations under this contract, New Hanover County Schools shall have the right to terminate this contract by giving written notice to the Firm and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Firm shall, at the option of New Hanover County Schools, become its property, and the Firm shall be entitled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Firm shall not be relieved of liability to New Hanover County Schools for damages sustained by New Hanover County Schools by virtue of any breach of this contract, and New Hanover County Schools may withhold any payment due the Firm for the purpose of setoff until such time as the exact amount of damages due New Hanover County Schools from such breach can be determined. New Hanover County Schools reserves the right to require at any time a performance bond or other acceptable alternative guarantees from a successful Firm without expense to New Hanover County Schools.

In case of default by the Firm, New Hanover County Schools may procure the services necessary to complete performance hereunder from other sources and hold the Firm responsible for any excess cost occasioned thereby. In addition, in the event of default by the Firm under this contract, or upon the Firm filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Firm, New Hanover County Schools may immediately cease doing business with the Firm, immediately terminate this contract for cause, and may act to debar the Firm from doing future business with New Hanover County Schools.

2. **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 Firm to notify, in writing, New Hanover County Schools at once, indicating the specific regulation which required such alterations. New Hanover County Schools reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **SITUS:** The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
5. **GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to conflict of laws rules.
6. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. New Hanover County Schools is responsible for all payments to the Firm under the Contract.
7. **AFFIRMATIVE ACTION:** The Firm will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
9. **INTELLECTUAL PROPERTY INDEMNITY:** Firm shall hold and save New Hanover County Schools, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
10. **ADVERTISING:** Firm agrees not to use the existence of this Contract or the name of New Hanover County Schools as part of any commercial advertising or marketing of products or services. A Firm may inquire whether New



Hanover County Schools is willing to act as a reference by providing factual information directly to other prospective customers.

11. **ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. §143-49(9).
12. **ASSIGNMENT:** No assignment of the Firm's obligations nor the Firm's right to receive payment hereunder shall be permitted.

However, upon written request approved by New Hanover County Schools and solely as a convenience to the Firm, New Hanover County Schools may:

- a. Forward the Firm's payment check directly to any person or entity designated by the Firm, and
- b. Include any person or entity designated by Firm as a joint payee on the Firm's payment check.

In no event shall such approval and action obligate New Hanover County Schools to anyone other than the Firm and the Firm shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, New Hanover County Schools may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Firm's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

13. **INSURANCE:**

**COVERAGE -** During the term of the Contract, the Firm at its sole cost and expense shall obtain from an insurance company duly authorized to do business in North Carolina, and to the satisfaction of New Hanover County Schools, insurance as listed below. The Firm shall initially provide New Hanover County Schools with one copy of a valid, current certificate of insurance. If requested, the Firm shall also, before commencing work or at any time while the contract is in effect, provide to New Hanover County Schools all required insurance policies including all amendments, riders and endorsements. It is the Firm's responsibility to provide New Hanover County Schools with a valid, current insurance certificate as long as the contract is in effect. Should New Hanover County Schools allow the Firm to commence service without the required insurance coverages, the Firm shall not be relieved of his duty to provide such coverages and/or its liability to New Hanover County Schools as a result of such failure to provide insurance. All insurance documentation must be in a form satisfactory to New Hanover County Schools.

- a. **Automobile Liability** - The Firm shall provide and maintain automobile insurance and shall require the same of any subcontractor. This coverage shall apply to all vehicles the contractor owns or uses in performing the contract and all vehicles the Firm operates on New Hanover County School's property. This coverage shall be in the amount of at least \$500,000 per person per occurrence for bodily and personal injury and at least \$100,000 per occurrence for property damage.
- b. **Commercial General Liability** – The Firm shall provide and maintain Commercial General Liability and property damage insurance to cover him and any subcontractor while performing service on New Hanover County School's property with the following limits: \$500,000 of liability for each person for each occurrence and \$100,000 in property damage for each occurrence. This coverage shall include the products-completed operations hazard and shall be written on an occurrence form and shall contain contractual liability coverage.
- c. **Worker's Compensation** – The Firm shall maintain Worker's Compensation insurance for all employees and shall require the same of any subcontractor. This insurance shall be as required by North Carolina General Statutes (NCGS).

d. **Certificate Holder and Additional Insured is New Hanover County Schools.** New Hanover County Schools shall also be named an additional insured on the Firm's Commercial General Liability.

e. The Firm shall provide and maintain at all times while providing services to the New Hanover County Schools and for three years thereafter, Professional Liability Coverage with a limit of \$500,000 per person per occurrence and \$1,000,000 aggregate.

15. **INDEPENDENT CONTRACTOR:** Firm shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Firm represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of, or have any individual contractual relationship with New Hanover County Schools.
16. **KEY PERSONNEL:** Firm shall not substitute key personnel assigned to the performance of this contract without prior written approval by New Hanover County Schools. The individuals designated as key personnel for purposes of this contract are those specified in the RFP or Firm's proposal.
17. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Firm or its employees shall not be subcontracted without prior written approval of New Hanover County Schools. Acceptance of a Firm's proposal shall include approval to use the subcontractor(s) specified therein in accordance with paragraph 16 of Instructions to Firm.
18. **TERMINATION FOR CONVENIENCE:** The State may terminate this contract at any time by 30 days' notice in writing from New Hanover County Schools to the Firm. In that event, all finished or unfinished deliverable items prepared by the Firm under this contract shall, at the option of New Hanover County Schools, become its property. If the contract is terminated by New Hanover County Schools as provided in this section, New Hanover County Schools shall pay for services satisfactorily completed by the Firm, less payment or compensation previously made.
19. **CONFIDENTIALITY:** Any New Hanover County Schools information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Firm under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of New Hanover County Schools.
20. **CARE OF PROPERTY:** The Firm agrees that it shall be responsible for the proper custody and care of any property furnished it by New Hanover County Schools for use in connection with the performance of this contract or purchased by or for New Hanover County Schools for this contract, and Firm will reimburse New Hanover County Schools for loss or damage of such property while in Firm's custody.
21. **PROPERTY RIGHTS:** All deliverable items produced for or as a result of this contract shall be and become the property of New Hanover County Schools, and Firm hereby assigns all ownership rights in such deliverables, including all intellectual property rights, to New Hanover County Schools; provided, however, that as to any preexisting works imbedded in such deliverables, Firm hereby grants New Hanover County Schools a fully-paid, perpetual license to copy, distribute and adapt the preexisting works.
22. **OUTSOURCING:** Any Firm or subcontractor providing call or contact center services to the New Hanover County Schools shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the Firm wishes to relocate or outsource any portion of the work to a location outside the United States, or to contract with a subcontractor for the performance of any work, which subcontractor and nature of the work has not previously been disclosed to New Hanover County Schools in writing, prior written approval must be obtained.

Firm shall give notice to the New Hanover County Schools of any relocation of the Firm, employees of the Firm, subcontractors of the Firm, or other persons performing services under this contract to a location outside of the United States.

23. **COMPLIANCE WITH LAWS:** Firm shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

24. **ENTIRE AGREEMENT:** This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This RFP, any addenda thereto, and the Firm's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

25. **AMENDMENTS:** This contract may be amended only by written amendments duly executed by New Hanover County Schools.

26. **WAIVER:** The failure to enforce or the waiver by New Hanover County Schools of any right or of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

27. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

28. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs and/or other documents as part of Firm's response will be waived and have no effect either on this RFP or on any contract that may be awarded resulting from this solicitation. Firm specifically agrees to the conditions set forth in this paragraph by signature to the proposal.

29. **COMPETITIVE OFFER:** Pursuant to the provision of G.S. 143-54, and under penalty of perjury, the signer of any proposal submitted in response to this RFP thereby certifies that this proposal has not been arrived at collusively or otherwise in violation of either Federal or North Carolina antitrust laws.

30. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.