

**ALLEGHANY COUNTY PUBLIC SCHOOLS  
INVITATION FOR BID IFB ACSB-041219AHS**

Issue Date: April 14, 2019

Issuing Agency: Alleghany County Public Schools (ACPS)  
Financial Services Department  
P.O. Drawer 140, 100 Central Circle  
Low Moor, Virginia 24457

Title: Alleghany High School – New Tech Phase II

Period of Contract: August 15, 2019

Sealed bids will be received by the Alleghany County Public Schools (“ACPS”) at the address shown above until 2:00 pm on May 15, 2019, for furnishing contracting services as described herein at which time such bids will be publicly opened and read aloud. Bids received after the required date and time will not be accepted and will be returned unopened. IF BIDS ARE MAILED, MAIL DIRECTLY TO ISSUING AGENCY AT THE ADDRESS SHOWN ABOVE. IF BIDS ARE HAND DELIVERED, DELIVER TO THE ATTENTION OF MR. BENJAMIN TRUETT AT THE ADDRESS SHOWN ABOVE.

All inquiries, questions, and requests for information should be directed to Mr. Benjamin Truett (540) 960-1066 [btruett@alleghany.k12.va.us](mailto:btruett@alleghany.k12.va.us) or Mr. Granville Grant (540) 342-6001 [ggrant@spectrumpc.com](mailto:ggrant@spectrumpc.com) no later than 10 business days prior to the date set for receipt of bids. Inquiries submitted after this date may not receive a response.

**Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia 2.2-4343.1 or against a Bidder because of race, religion, color, sex, national origin, age, disability, status as a disabled veteran, or any other basis prohibited by state law relating to discrimination in employment.**

In compliance with this Invitation For Bid and all conditions imposed herein and hereby incorporated by reference, the undersigned offers and agrees to furnish the services in accordance with this bid document. ACPS reserves the right to reject any and all bids and to waive any informalities or non-material irregularities therein or take any other action deemed in the best interest of ACPS.

**Bidder Information:**

Name and Address of Firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FEI/FIN No.

\_\_\_\_\_

Telephone No.

Fax No.

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

By: \_\_\_\_\_

*Signature in Ink*

Printed Name: \_\_\_\_\_

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

E-mail Address: \_\_\_\_\_

### Mandatory Pre-bid Conference

Mandatory Pre-bid Conference will be held on April 26, 2019 at 3:30 PM at Alleghany High School Auditorium, 210 Mountaineer Dr, Covington, VA 24426

Bidding Documents (Drawings and Project Manual) may be examined at Valley Construction News (Roanoke).

Bidders and other interested parties may purchase complete sets of Bidding Documents (electronic and/or hard copy) from TRASCO [www.trascoplanroom.com](http://www.trascoplanroom.com) - 128 West Kirk Avenue, Roanoke, VA, (540-345-1533).

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## **I. PURPOSE:**

Alleghany County Public Schools is seeking sealed bids for Alleghany High School – New Tech Phase II.

## **II. STATEMENT OF NEEDS:**

### **Specific Requirements**

Modifications to several classrooms with installation of new folding partitions and associated finishes.

## **III. RESPONSE PREPARATION AND SUBMISSION INSTRUCTIONS:**

### **A. IFB Responses**

To be considered for selection, Bidders must submit a complete, signed, and sealed response package to this IFB that includes:

- 1) Three original, printed copies, including all completed Attachments.
- 2) If applicable - one original printed copy from which all proprietary material has been removed. Such copy shall be certified in writing by the Bidder as free of proprietary material as outlined herein. Note, this copy is subject to public disclosure in accordance with the *Virginia Freedom of Information Act*.
- 3) For bids for non-transportation related construction contracts in excess of \$100,000.00 in accordance with the Virginia Public Procurement Act, a bid bond or certified check or cash escrow equal to five percent (5%) of the total amount of the bid shall accompany each bid. The bid bond shall be issued by a company authorized and licensed to transact business as a surety in the Commonwealth of Virginia and shall be made payable to Alleghany County Public Schools. Bid bonds shall be returned to all but the three (3) lowest bidders within ten (10) days after the date of the bid opening. Bid bonds will be returned to the three (3) lowest bidders within five (5) days after the execution of a contract and performance bond and labor and material payment bonds have been approved by Alleghany County Public Schools.
- 4) By submitting a bid, Bidder acknowledges and agrees that ownership of all data, materials, and documentation originated, prepared for, and submitted to ACPS pursuant to the IFB shall belong exclusively to ACPS and be subject to public inspection, copying, and disclosure as public records in accordance with the *Virginia Freedom of Information Act*, notwithstanding any express or implied claim of copyright or reservation of rights. Trade secrets or proprietary information submitted by the Bidder may not be subject to

disclosure under the *Virginia Freedom of Information Act* provided, however, that the Bidder shall: (i) invoke the protections of 2.2-4342.F of the *Code of Virginia* (1950), as amended, in writing, prior to or upon submission of the data or other materials, (ii) specifically identify the data or materials to be protected; and, (iii) state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only specific words, figures, or paragraphs that constitute trade secrets or proprietary information. The classification of an entire bid document, line item prices, and/or bid prices as proprietary or trade secrets is not acceptable and may result in rejection of the bid.

- 5) If the work requires a Virginia contractor’s license, no bid will be deemed to be accepted or considered unless proper evidence of the required Virginia Contractor’s License is submitted with the bid.
  
- 6) A bidder authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 shall include in its bid the identification number issued to it by the State Corporation Commission. Any Bidder that is not required to be authorized to transact business in the in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise described by law shall include in its bid a statement describing why the Bidder is not required to be so authorized.

**B. Specific Instructions**

In addition to information and/or documents specifically required by this IFB, Bidders are also required to submit the following items:

<b>Cover Sheet and Addenda:</b> Complete and sign the IFB Cover Sheet and Addenda Acknowledgements (if any).
<b>Proprietary Information:</b> Note all proprietary information, if any, contained within your bid response per the guidelines found in the IFB.
<b>Price:</b> Complete the Bid Form provided.
<b>Bidder Data Sheet:</b> Provide a complete Contractor Data Sheet provided in the IFB.
<b>Additional Information:</b> Place any additional information that you wish to present that is pertinent to this IFB but not required by it.

Bids shall remain valid for forty-five (45) days after the actual date of the opening thereof. No Bidder may withdraw his bid unless the Bidder gives notice in writing of his claim or right to withdraw within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice and otherwise comply with the requirements of the Virginia Public Procurement Act, including, without limitation, section 2.2-4330A., Code of Virginia (1950), as amended.

## **IV. GENERAL TERMS AND CONDITIONS:**

### **A. Virginia Public Procurement Act**

This solicitation is subject to the applicable provisions of the Virginia Public Procurement Act, 2.2-4300, et seq., Code of Virginia (1950), as amended (“VPPA”), which are hereby incorporated into the Contract for this procurement in their entirety. Terms and conditions of this IFB not in conflict with the VPPA shall control. The procedure for filing contractual claims is as follows:

Contractor’s claims, disputes and other matters relating to the acceptability of the work, the interpretation or the requirements of the Contract, or the performance or furnishing of the work, including, without limitation, requests for changes in the amount to be paid under the Agreement or increases in the time, shall be submitted to ACPS’s designated representative in writing with a request for a formal decision. Contractor shall deliver written notice with supporting data for each such claim, dispute, or other matter promptly, but in no event later than 5 calendar days after the start of the occurrence or event giving rise thereto. Contractor’s failure to submit written notice of such claim, dispute, or other matter with supporting data to ACPS’s designated representative within the time specified shall be deemed to be and shall constitute a waiver by Contractor of any and all claims for such matters and shall be an absolute bar to any future claim or suit against ACPS for damages or relief of any kind based upon such occurrence or event. ACPS’s designated representative shall deliver a decision regarding such claim or dispute within 60 days of receipt of receipt of such claim. In reviewing any such claim or dispute, ACPS may request any additional information or documentation from Contractor or other parties and may utilize appropriate assistance from other sources. Any final decision in writing by ACPS shall be issued to Contractor within ninety (90) calendar days from the later of: (i) receipt of the written claim; or (ii) receipt of any additional information requested from the Contractor. Failure of ACPS to render a decision within ninety (90) days shall be deemed a final decision denying the claim and shall not result in the Contractor being awarded the relief claimed or in any other relief or penalty.

### **B. Applicable Laws And Courts**

This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia without giving effect to its choice of law provisions and any litigation with respect thereto shall be brought only in the courts of the County of Alleghany or the United States District Court for the Western District of Virginia and not elsewhere. By mutual agreement, the agency and the Contractor may resolve any issues in controversy arising from the award of a Contract or any contractual dispute using Alternate Dispute Resolution (ADR) procedures (*Code of Virginia 2.2-4366*).

Contractor hereby represents and warrants that:

- A. It is qualified to do business in the Commonwealth of Virginia and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing ACPS, the Commonwealth of Virginia, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, state, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- D. It shall obtain at its expense, all licenses, permits, insurance, and governmental approval, if any, necessary to the performance of its obligations under this Contract.

**C. Anti-Discrimination**

By submitting and signing their bid, the Bidder certifies to Alleghany County Public Schools that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and Section 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*.

If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia 2.2-4343.1E*).

In every Contract over \$10,000 the provisions in 1) and 2) below apply:

- 1) During the performance of this Contract, the Contractor agrees as follows:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity

employer.

- c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- 2) The Contractor will include the provisions of 1) above in every Subcontract or purchase order over \$10,000 so that the provisions will be binding upon each Subcontractor or vendor.

**D. Ethics In Public Contracting**

By submitting their bids, Bidders hereby certifies that it has familiarized itself with Article 4 of Title 11 of the Virginia Public Procurement Act, sections 2.2-4367 through 2.2-4377, Code of Virginia (1950), as amended, and that all amounts received by it, pursuant to the Contract, are proper and in accordance therewith. Bidders certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, supplier, manufacturer, or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

**E. Immigration Reform And Control Act Of 1986**

By submitting their bids, Bidders certify that they do not and shall not during the performance of this Contract knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

**F. Debarment Status**

By submitting their bids, Bidders certify that they are not currently debarred by the Alleghany County Public Schools or the Commonwealth of Virginia from submitting bids on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

**G. Mandatory Use Of Form And Terms And Conditions**

Failure to submit a bid on the official IFB form provided for that purpose may be a cause for rejection of the bid. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid; however, Alleghany County Public Schools reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid.

## **H. Clarification Of Terms**

If any prospective Bidder has questions about the specifications or other solicitation documents, the prospective Bidder should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

## **I. Payment**

### **1) *To Prime Contractor:***

- a. Invoices for items ordered, delivered, and accepted shall be submitted by the Contractor directly to the payment address shown on the IFB/Contract. All invoices shall show the IFB number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after satisfactory invoice or delivery, whichever occurs last as determined by ACPS. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

### **2) *To Subcontractors:***

- a. Pursuant to 2.2-4354 of the Virginia Public Procurement Act, a Contractor awarded a Contract under this solicitation is hereby obligated to take one of the two following actions within seven days after receipt of amounts for work performed by any Subcontractor under the Contract:
  - Pay the Subcontractor(s) for the proportionate share of the total payment received from ACPS attributable to work performed by the Subcontractor(s) under the Contract; or
  - Notify ACPS and the Subcontractor(s) in writing of the Contractor's intention to withhold all or part of the Subcontractor's payment with the reason for nonpayment.
- b. The Contractor is obligated to pay the Subcontractor(s) interest at the rate of one percent per month (unless otherwise provided for under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from Alleghany County Public Schools, except for

amounts withheld as stated in (2) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a Subcontractor may not be construed to be an obligation of Alleghany County Public Schools.

Unless otherwise provided in under the terms of the Contract, interest shall accrue at the rate of one percent per month.

- c. Contractor shall include in its Subcontracts a provision requiring each Subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Subcontractor.

Prior to receiving any payments under this Agreement, Contractor shall provide its federal employer identification number to ACPS.

#### **J. Precedence Of Terms**

The General Terms and Conditions, Applicable Laws and Courts, Anti-discrimination, Ethics in Public Contracting, Immigration Reform and Control Act of 1986, Debarment Status, Mandatory Use of Form and Terms and Conditions, Clarification of Terms, Payment shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

#### **K. Qualifications Of Bidders**

All Bidders shall be licensed Contractors in the Commonwealth of Virginia. Alleghany County Public Schools may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder to perform the services/furnish the goods and the Bidder shall furnish to Alleghany County Public Schools all such information and data for this purpose as may be requested. Alleghany County Public Schools reserves the right to inspect Bidders physical facilities prior to award to satisfy questions regarding the Bidders capabilities. Alleghany County Public Schools further reserves the right to reject any bid if the evidence submitted by, or investigations of, such Bidder fails to satisfy Alleghany County Public Schools that such Bidder is properly qualified to carry out the obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.

#### **L. Testing And Inspection**

Alleghany County Public Schools reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specification.

## **M. Assignment Of Contract**

Any Contract pursuant to this IFB shall not be assignable by the Contractor in whole or in part without the prior written consent of the Alleghany County Public Schools.

## **N. Changes To The Contract**

Changes can be made to the Contract in any one of the following ways:

- 1) The parties may agree in writing to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.
- 2) No verbal agreement or conversation with any officer, agent or employee of ACPS either before or after the execution of the Contract or follow on negotiations shall affect or modify any of the terms, conditions, specifications, or obligations contained in the Contract. No alterations to the terms and conditions of the Contract shall be valid or binding upon ACPS unless made in writing and signed by an authorized official. All Contract changes shall be in writing. In any event and in all circumstances, Contractor shall be solely liable and responsible for any Contract changes, deviations, etc., made without first receiving written authorization to deviate from the Contract.

Alleghany County Public Schools may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes within the scope of the Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor may be compensated for any additional costs incurred as the result of such order and shall give Alleghany County Public Schools a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to Alleghany County Public School's right to audit the Contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the Contractor to proceed with the work and to keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present Alleghany County Public Schools with all vouchers and records of expenses incurred and savings realized. Alleghany County Public Schools shall have the right to audit the records of the Contractor, as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this

provision must be asserted by written notice to Alleghany County Public Schools within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Contract price or time for performance shall be resolved in accordance with the procedures for claims in the Contract, if any. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by Alleghany County Public Schools or with the performance of the Contract generally.

#### **O. Default**

In case of failure to deliver goods or services in accordance with the Contract terms and conditions, Alleghany County Public Schools, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which Alleghany County Public Schools may have.

#### **P. Taxes**

Sales to Alleghany County Public Schools are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes.

#### **Q. Insurance**

By signing and submitting a bid under this solicitation, the Bidder certifies that if awarded the Contract, it will have the following insurance coverage at the time the Contract is awarded. For construction contracts, if any Subcontractors are involved, the Subcontractor will have workers' compensation insurance in accordance with 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Bidder further certifies that the Contractor and any Subcontractors will maintain these insurance coverage's during the entire term of the Contract and that all insurance coverage's will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

#### **MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

- 1) Worker's Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. All Bidders shall properly complete and submit with their bids the required from evidencing worker's compensation coverage attached as Attachment 2.
- 2) Employers Liability - \$500,000.

- 3) Commercial General Liability - \$1,000,000 per person and/or per each occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage.
- 4) Automobile Liability - \$1,000,000 per person and/or per each occurrence to include bodily injury and property damage (if motor vehicle is to be used in the contract).
- 5) Professional Errors and Omissions Liability - \$1,000,000 per each occurrence.
- 6) Umbrella Liability - \$5,000,000 per each occurrence.
- 7) Builders Risk Insurance.

Except where not permitted by law or regulation, any insurance policies specified herein shall name the Alleghany County Public Schools, its officers, agents, board members, and employees as additional insureds with regard to work performed under this Agreement or any subsequent contract.

Included with the certificate of insurance shall be an endorsement from the insurer that certifies that Contractor has a policy in effect and that, as applicable, Alleghany County Public Schools, its officers, agents, board members, and employees as additional insureds.

Insurance certificates and endorsements shall provide generally that ACPS must be notified at least 30 days prior to any impending change or cancellation of the insurance policies.

Where conflict exist between this section and Section 00 81 10 Supplemental General Conditions, the most stringent with coverage and higher limit shall apply.

#### **R. Drug Free Workplace**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every Subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor.

For the purpose of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance, marijuana and tobacco during the performance of the Contract.

#### **S. Nondiscrimination Of Contractors**

A Bidder shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, national origin, age, disability or faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternate provider.

#### **T. Contractor Personnel**

The successful Bidder will be required to provide certification that all of its employees who will have direct contact with students on school property during regular school hours or during school sponsored activities have not been convicted of a felony or any offense involving the sexual molestation or physical abuse or rape of a child and otherwise comply with all applicable federal, state, and local laws and regulations.

### **V. SPECIAL TERMS AND CONDITIONS:**

#### **A. Availability Of Funds**

It is understood and agreed between the parties herein that Alleghany County Public Schools shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement. ACPS reserves the right to negotiate with the lowest responsive and responsible Bidder when such Bidder's bid exceeds funds available for the purchase. The conditions and procedures under which such negotiation may be undertaken are that ACPS shall determine that the lowest responsive and responsible bid exceeds funds identified and available for this purchase and notify such Bidder in writing of ACPS's desire to negotiate. Thereafter, negotiations with the apparent low Bidder may be held to obtain a Contract within available funds involving discussions of reduction of quantities, or other cost saving mechanisms. Any such negotiated Contract shall be subject to the ACPS's final approval.

#### **B. Audit**

The Contractor shall retain all books, records, papers, and other documents relative to this

Contract for five (5) years after final payment. Alleghany County Public Schools its authorized agents, and/or state auditors shall have full access to and the right to examine and copy any of said materials during said period.

### **C. Cancellation Of Contract**

Alleghany County Public Schools reserves the right to cancel and terminate any resulting Contract, in part or in whole, with or without cause, and without penalty, upon **30** days written notice to the Contractor. Any Contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation. If the Contract is terminated without cause, Contractor shall be paid for work satisfactorily completed up to the date of such termination, as determined in the sole and exclusive discretion of ACPS. In the event ACPS places the enforcement of all or part of the terms, conditions, or requirements of the Contract in the hands of an attorney for enforcement, including the filing of a suit upon the same, Contractor agrees to pay all of ACPS's reasonable attorney's fees and costs related to any such proceeding. All costs and charges incurred by the ACPS, together with the cost of completing the work under Contract, may be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the Contract, then Contractor shall be liable and shall pay to ACPS the balance.

### **D. Independent Contractor**

When providing the services specified under this Contract the Contractor shall not be deemed an "employee" or "agent" of Alleghany County Public Schools. The Contractor shall act as an independent Contractor and is responsible for obtaining and maintaining appropriate liability insurance, payment of all FICA, state and federal taxes, and complying with other similar requirements, which are customary in the industry. In addition, the Contractor certifies that they are not an employee, nor do they currently employ employees of Alleghany County Public Schools.

### **E. Indemnification**

Contractor agrees to indemnify, defend, and hold harmless Alleghany County Public Schools, its officers, agents, board members, and employees from any and all liabilities, claims, damages, personal injury, death, property damage, and actions of any kind or nature, whether at law or in equity, including reasonable attorney's fees arises out of or results from the services or work under the Contract or any action or omission by Contractor or any of its Subcontractors or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of Alleghany County Public Schools.

## **F. Renewal Of Contract**

Non-applicable.

## **G. Prime Contractor Responsibilities**

The Contractor shall be responsible for completely supervising and directing the work under this Contract and all Subcontractors that he may utilize, using his best skills and attention. Subcontractors who perform work under this Contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his Subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

## **H. Contract Performance**

Performance and Labor and Material Payment Bonds. For qualifying Contracts as required by and in accordance with the Virginia Public Procurement Act, upon award of a Contract for work in excess of \$100,000 resulting from this IFB, the successful Bidder shall furnish with the executed Contract to Alleghany County Public Schools the following bonds as acceptable to ACPS:

- 1) A performance bond in the sum of the Contract amount conditioned upon the faithful performance of the Contract in the strict conformity with the plans, specifications, and conditions of the Contract shall be presented by the Contractor to Alleghany County Public Schools with the fully executed Contract and prior to the start of any work. The performance bond shall be issued by a company authorized and licensed to transact business as a surety in the Commonwealth of Virginia and shall be made payable to Alleghany County Public Schools. The performance bond shall remain in existence for the duration of the Contract performance time period.
- 2) A labor and material payment bond in the sum of the Contract amount for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime Contractor to whom the Contract is awarded or to any Subcontractors, in furtherance of the work provided for in the Contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in furtherance of the work. The labor and material payment bond shall be issued by a company authorized and licensed to transact business as a surety in the Commonwealth of Virginia and shall be made payable to Alleghany County Public Schools. The labor and material payment bond shall remain in existence for the duration of the Contract performance time period.

## **I. Identification Of Proposal Envelope**

If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid should be returned in a separate envelope or package, sealed and identified as follows:

From: \_\_\_\_\_

Name of Bidder	Due Date	Time
_____	_____	
Street or Box Number	IFB / IFB Number	
_____	_____	
City, State, Zip Code	IFB Title	

Name of Contract/Purchase Officer: Mr. J. Keven Rice

The envelope should be addressed as directed on Page 1 of the solicitation.

If a bid not contained in the special envelope is mailed, the Bidder takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Bids may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other bids should be placed in the envelope.

**J. Subcontracts**

No portion of the work shall be subcontracted without prior written consent of Alleghany County Public Schools. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish Alleghany County Public Schools the names, qualifications and experience of their proposed Subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its Subcontractor(s) and shall assure compliance with all requirements of the Contract.

**K. Treatment Of Property And Equipment**

If Alleghany County Public Schools permits the Contractor to purchase real property or equipment with grant funds, Alleghany County Public Schools retains a residual financial interest, enabling Alleghany County Public Schools to recover the assets or determine final disposition. This will be accomplished on a case-by-case basis, according to the federal grant guidelines applicable to the grant that is funding the service(s).

**L. Ownership Of Intellectual Property**

All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this Contract shall become the sole property of Alleghany County Public Schools. On request, the Contractor shall promptly provide an

acknowledgement or assignment in a tangible form satisfactory to Alleghany County Public Schools to evidence the School's sole ownership of specifically identified intellectual property created or developed in the performance of this Contract.

**M. Ownership, Proprietary Information, Duplication, And Disclosure**

The Contractor agrees that proprietary information disclosed by Alleghany County Public Schools to the Contractor for the purpose of a Contract shall be held in confidence and used only in the performance of the Contract. No item designed for or by Alleghany County Public Schools shall be duplicated or furnished to others without prior written consent of Alleghany County Public Schools. All products and materials including but not limited to papers, data, reports, forms, records, materials, creations, or inventions relating to this Contract are sole and exclusive property of Alleghany County Public Schools. All such materials shall be delivered to Alleghany County Public Schools in usable condition at any time requested.

**N. Acknowledgment Of Publication**

The Contractor agrees that all reports, forms, papers, articles, materials, creations, or inventions created, developed, and used as a result of funds from a Contract as a result of this IFB shall bear an acknowledgement showing the item was funded (in part or whole) by Alleghany County Public Schools and any grant/cooperative agreement that Alleghany County Public Schools may have with other state or federal agencies. All materials and acknowledgement shall be reviewed and approved by Alleghany County Public Schools prior to publication.

**O. Method Of Payment**

Upon satisfactory completion of work or services and receipt of complete and accurate invoice, all as determined in the sole discretion of Alleghany County Public Schools, ACPS shall make payments in accordance with the pricing schedule agreed to as part of the award of this Contract. Invoices must be submitted in accordance with the Contract to:

Alleghany County Public Schools  
Financial Services Department  
P.O. Drawer 140  
100 Central Circle  
Low Moor, Virginia 24457

Failure of the Contractor to submit invoices within the prescribed time frame may forfeit the Contractor's right to payment from Alleghany County Public Schools.

**P. Pricing Schedule**

Per Document 00 41 10 Bid Form – Stipulated Sum

**Q. Authorization to Transact Business in Virginia**

Pursuant to 2.2-4311.2 of the Code of Virginia (1950), as amended, Contractor shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia (1950), as amended, or as otherwise required by law. Contractor shall not allow its existence or its certificate of authority or registration to transact business in the Commonwealth to lapse if so required under Title 13.1 or Title 50, or to be revoked or cancelled at any time during the term of the Contract. ACPS may void this Contract if Contractor fails to remain in compliance with the provisions of this section.

**R. Attachments**

Attachment 1 – Bidder Data Sheet

Attachment 2 – Evidence of Workers’ Compensation Coverage

Attachment 3 – Authority to Transact Business in Virginia

Attachment 4 – Performance Bond Form

Attachment 5 – Labor and Material Payment Bond Form

Attachment 1

**BIDDER DATA SHEET**

Note: The following information is required as part of your response to this solicitation. Failure to complete and provide this sheet may result in finding your bid non-responsive.

1. Qualification: The Bidder must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

2. Bidders's Primary Contact:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

3. Years in Business: Indicate the length of time you have been in business providing this type of good or service:

\_\_\_\_\_ Years \_\_\_\_\_ Months

4. Bidders's Information:

FIN or FEI Number: \_\_\_\_\_ If Company, Corporation, or Partnership

Social Security Number: \_\_\_\_\_ If Individual

Commonwealth of Virginia Contractor License Number: \_\_\_\_\_

5. Indicate below a listing of at least four (4) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods or services. Include the length of service and the name, address, and telephone number of the point of contact.

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Project: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Monetary Value: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Project: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Monetary Value: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Project: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Monetary Value: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Project: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Monetary Value: \_\_\_\_\_

I certify the accuracy of this information.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Attachment 2

**EVIDENCE OF WORKER'S COMPENSATION COVERAGE**

**COMMONWEALTH OF VIRGINIA  
WORKERS' COMPENSATION**

Certificate of Coverage

Section 2.2-4332, Code of Virginia (1950), as amended, requires construction Contractors and Subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia, its departments, institutions or agencies. This same requirement applies on behalf of local governments.

Evidence of coverage must be provided prior to commencement of work.

This form must be returned to the organization contracting the work.

The undersigned organization stipulates that it:

A. has workers' compensation insurance and is in compliance with the Worker's Compensation statutes of the Commonwealth of Virginia \_\_\_\_ Yes \_\_\_\_ No.

Insurance Company \_\_\_\_\_

Policy expiration date \_\_\_\_\_

or

B. is self insured for workers' compensation \_\_\_\_ Yes.

Signed by: \_\_\_\_\_

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

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA**

Pursuant to Virginia Code Section 2.2-4311.2 (effective July 1, 2010) each Bidder organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Code of Virginia, (1950), as amended, or as otherwise required by law, is required to include in its bid its Virginia State Corporation Commission (SCC) Identification Number. Any bidder that is not required to be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity under title Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the Bidder is not required to be so authorized.

Please complete the following:

A. \_\_\_\_\_ Bidder is a Virginia business entity organized and authorized to transact business in Virginia and such bidder's SCC Identification Number is \_\_\_\_\_.

B. \_\_\_\_\_ Bidder is an out-of-state (foreign) business entity authorized to transact business in Virginia and such Bidder's SCC Identification Number is \_\_\_\_\_.

C. \_\_\_\_\_ Bidder does not have an Identification Number issued to it by the SCC and such Bidder is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

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Please attach additional sheets of paper if you need more space to explain why such Bidder is not required to be authorized to transact business in Virginia.

**ALLEGHANY COUNTY PUBLIC SCHOOLS  
CONTRACTOR'S PERFORMANCE BOND**

Project: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

that

\_\_\_\_\_

as Principal, (hereinafter referred to as "Contractor"),

and

(Insert full name or legal title and address of Surety)

as Surety, a corporation duly organized under the laws of the state of \_\_\_\_\_ and legally authorized to do business in the Commonwealth of Virginia (hereinafter referred to as "Surety"), are held and firmly bound unto the ALLEGHANY COUNTY PUBLIC SCHOOLS, Administrative Services Department, P.O. Drawer 140, 100 Central Circle, Low Moor, Virginia 24457 as Obligee (hereinafter referred to as "ACPS"), in the amount of

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ .00), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has entered into an agreement with ACPS, as successful bidder or proposer for the

\_\_\_\_\_ (name of project)

in accordance with contract documents for the work including, without limitation and as applicable, the Advertisement, Invitation For Bids, Contract Between Owner and Contractor, Plans and Specifications, General Conditions, Supplementary Conditions, and any and all other contract documents, if any, dated \_\_\_\_\_, all of which contract documents being herein collectively referred to as the "Contract" and are expressly incorporated herein by reference and made a part of this bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor shall promptly and faithfully perform the Contract, in strict conformity with each and every requirement of the Contract, and each and every of the covenants, promises, agreements, warranties, plans and specifications, and provisions to be performed by the Contractor set forth therein, and shall complete the same within the time period specified therein, all as may be

amended from time to time by the parties thereto, and fully defend, indemnify and save harmless ACPS from all costs and damages which it may suffer by reason of the Contractor's failure to do so, including, without limitation, reasonable attorney's fees, and fully reimburse and repay the ACPS all costs and expenses which it may incur in making good any such default, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, as stated herein.

a. The Contractor shall well and truly perform, and carry out and abide by all the terms, conditions and provisions of said Contract and complete the work therein specified in accordance with the terms thereof and in the event the Contractor fails to perform the Contract as aforesaid, it shall be the duty of the Surety herein to assume responsibility for the performance of said Contract and to complete the work therein specified in accordance with the terms thereof; and the Surety herein shall and does hereby agree to defend, indemnify the ACPS and hold it harmless of, from, and against any and all liability, loss, cost, damage or expense including reasonable attorney fees, and the cost of any other professional services which ACPS may incur or which may occur or be imposed upon it by reason of any negligence, default, breach and/or misconduct on the part of the said Contractor, and its agents, servants, subcontractors and/or employees, in, about, or on account of such work and performance of said Contract and shall repay to and reimburse to the ACPS, promptly upon demand, all sums of money including reasonable attorney's and other professional fees, each and every, reasonably paid out or expended by the ACPS on account of the failure and/or refusal of said Contractor to carry out, do, perform, and/or comply with any of the terms and provisions of said Contract within the time and in the manner therein provided, including, without limitation, any warranty, maintenance obligation, or guarantee specified therein.

b. Any alteration, modification, omission, or addition which may be made in or to the terms of the Contract, including, without limitation, the amount to be paid or the work to be done under it, or the giving by the ACPS of any extension of time for the performance of the Contract or any other forbearance of any nature whatsoever on the part of either the ACPS or the Contractor to the other shall not in any way affect or release the Contractor and the Surety, or either of them, their heirs, executors, administrators, successors or assigns with regard to their obligations and liability hereunder, and notice of such alteration, extension or forbearance is hereby expressly waived by Surety.

The delay, omission, or failure by ACPS to call upon the Surety in any instance shall in no event release the Surety from any obligation hereunder.

c. Contractor and Surety covenant and agree that this bond shall continue in full force and effect and shall not be canceled or expire or be deemed to be canceled or have expired until: (i) all of Contractor's obligations under the Contract have been satisfactorily completed, including, without limitation, any and all maintenance, warranty, and guarantee obligations; and, (ii) ACPS receives from Surety written notice evidencing compliance with the requirements of this bond at least 30 calendar days prior to any cancellation or expiration.

d. The obligations evidenced hereby shall constitute the joint and several obligations of the

e. Contractor, the Surety, and their respective heirs, executors, administrators, successors and assigns.

f. IT IS NOT INTENDED BY ANY OF THE PROVISIONS OF ANY PART OF THIS BOND TO CONFER A BENEFIT UPON ANY OTHER PERSON OR ENTITY NOT A PARTY TO THIS PERFORMANCE BOND OR TO AUTHORIZE ANY PERSON OR ENTITY NOT A PARTY TO THIS BOND TO MAINTAIN A SUIT PURSUANT TO THE TERMS OR PROVISIONS OF THIS BOND OTHER THAN THE ALLEGHANY COUNTY PUBLIC SCHOOLS OR ITS SUCCESSORS OR ASSIGNS.

g. Any suit or action hereunder shall be brought in a Virginia court of competent jurisdiction in and for Alleghany County, Virginia, or in the United States District Court for the Western District of Virginia, Roanoke Division, and not elsewhere.

h. The provisions of this bond shall be governed by and are intended to be consistent with and implement the laws of the Commonwealth of Virginia, including, without limitation, the requirements of the Virginia Public Procurement Act, as amended. In the event of any conflict, inconsistency, discrepancy, or omission as between this bond and applicable provisions of the Virginia Public Procurement Act, as amended, the provisions of the Virginia Public Procurement Act, as amended, shall be determinative and controlling. The Contractor, for itself and its successors and assigns, and the Surety, for itself and its successors and assigns, do hereby expressly waive any objection that might be interposed as to the right of ACPS to require a bond containing the provisions contained herein, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon upon the ground that there is no law authorizing the ACPS to require the provisions herein to be placed in this bond.

SIGNED and SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

		Contractor
WITNESS:		By: (Seal)
		(Type Name and Title)
		Surety
WITNESS:		By: (Seal)
		Attorney-In-Fact
		(Type Name and Title)

**(SURETY: Attach Power of Attorney)**

**ALLEGHANY COUNTY PUBLIC SCHOOLS  
CONTRACTOR'S LABOR AND MATERIAL PAYMENT BOND**

Project: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

that

\_\_\_\_\_

as Principal, (hereinafter referred to as "Contractor"),

and

(Insert full name or legal title and address of Surety)

as Surety, a corporation duly organized under the laws of the state of \_\_\_\_\_ and legally authorized to do business in the Commonwealth of Virginia (hereinafter referred to as "Surety"), are held and firmly bound unto the ALLEGHANY COUNTY PUBLIC SCHOOLS, Administrative Services Department, P.O. Drawer 140, 100 Central Circle, Low Moor, Virginia 24457 as Obligee (hereinafter referred to as "ACPS"), in the amount of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_.00), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has entered into an agreement with ACPS, as successful bidder for the

\_\_\_\_\_

\_\_\_\_\_

(name of project)

in accordance with contract documents for the work including, without limitation and as applicable, the Advertisement, Invitation For Bids, Contract Between Owner and Contractor, Plans and Specifications, General Conditions, Supplementary Conditions, and any and all other contract documents, if any, dated \_\_\_\_\_, all of which contract documents being herein collectively referred to as the "Contract" and are expressly incorporated herein by reference and made a part of this bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Contractor and its successors or assigns, or any or either of them shall promptly pay or cause to be paid all persons for all labor or materials furnished or supplied in furtherance of the work provided for in the Contract, then these obligations shall be null and void, otherwise they shall remain in full force and effect, subject, however, to the following conditions:

a. Surety, for value received, for itself and its successors and assigns, hereby further specifically stipulates and agrees that any alteration which may be made in any of the terms of the Contract, including, without limitation, any modification, assignment, waiver, omission, addition, or change in the work to be performed or the amount to be paid, or the giving by ACPS of any modification, change in, or extension of time for the performance of the Contract, or any other forbearance of any nature whatsoever on the part of either the ACPS or the Contractor to the other shall not in any way release the Contractor and the Surety, or either of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, and any notice of such alteration, extension, or forbearance is hereby expressly waived by Surety.

b. A claimant under this bond shall include one who has and fulfills contracts to supply labor or materials, or both, to the prime Contractor to whom the Contract was awarded, or to any subcontractors, in furtherance of the work provided for in the Contract, or who may otherwise be allowed by law to file a claim against the Contractor and/or the Surety. "Labor and materials" hereunder shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

c. Surety and Contractor hereby jointly and severally agree with ACPS that every claimant under this bond who has a direct contractual relationship with the contractor and who has performed labor or furnished material in accordance with the Contract in furtherance of the work provided in the Contract and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, or as otherwise allowed by law, may bring an action on this payment bond to recover any amount due him for such labor or material. The Contractor and Surety expressly agree that ACPS shall not be liable for the payment of any judgment, costs, or expenses resulting from any such claim or suit and that neither Contractor nor Surety shall cause ACPS to be named as a party in any such suit. Surety shall defend, indemnify, and hold ACPS harmless from and against any and all liability, loss, cost, damage or expense, including reasonable attorney fees, or other professional services which ACPS may incur or which may occur or be imposed upon ACPS by reason of any such claim or suit.

d. Surety and Contractor hereby jointly and severally agree with ACPS that every claimant under this bond who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the Contractor, may bring an action on this bond only if such claimant has given written notice to the Contractor within 90 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, or as otherwise allowed by law, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Such notice to the Contractor shall be in accordance with the requirements of the Virginia Public Procurement Act, as amended. The Contractor and Surety expressly agree that ACPS shall not be liable for the payment of any judgment, costs, or expenses resulting from any such claim or suit and that neither Contractor nor Surety shall cause ACPS to be named as a party in any such suit. Surety shall defend, indemnify, and hold ACPS harmless from and against any and all liability, loss, cost, damage or expense, including reasonable attorney fees, or other professional services which ACPS may incur or which may occur or be imposed upon ACPS by reason of any such claim or suit.

e. Any action on this payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

f. Any suit or action hereunder by any claimant under this bond shall be brought in a Virginia court of competent jurisdiction in and for Alleghany County, Virginia or in the United States District Court for the Western District of Virginia, Roanoke Division, and not elsewhere.

g. Contractor and Surety covenant and agree that this bond shall continue in full force and effect and shall not be canceled or expire or be deemed to be canceled or have expired until: (i) all of Contractor's obligations under this bond have been satisfactorily completed; and, (ii) ACPS receives from Surety written notice evidencing compliance with all applicable requirements of this bond at least 30 calendar days prior to any proposed cancellation or expiration.

h. The obligations evidenced hereby shall constitute the joint and several obligations of the Contractor, the Surety, and their respective heirs, executors, administrators, successors and assigns.

i. Without giving effect to Virginia choice of law provisions, the provisions of this bond shall be governed by and are intended to be consistent with and implement the laws of the Commonwealth of Virginia, including, without limitation, the requirements of the Virginia Public Procurement Act, as amended. In the event of any conflict, inconsistency, discrepancy, or omission as between this bond and applicable provisions of the Virginia Public Procurement Act, as amended, the provisions of the Virginia Public Procurement Act, as amended, shall be determinative and controlling. The Contractor, for itself and its successors and assigns, and the Surety, for itself and its successors and assigns, do hereby expressly waive any objection that might be interposed as to the right of the ACPS to require a bond containing the provisions contained herein, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon by any person, firm, or corporation, including subcontractors, materialmen and third persons, for work, labor services, supplies or material, performed, rendered or furnished as aforesaid, upon the ground that there is no law authorizing ACPS to require the provisions herein to be placed in this bond.

SIGNED and SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

		Contractor
WITNESS:		By: (Seal)
		(Type Name and Title)
		Surety
WITNESS:		By: (Seal)
		Attorney-In-Fact
		(Type Name and Title)

**(SURETY: Attach Power of Attorney)**