



BIDDER: _____

BID NAME: **Pest Control Services**

BID NUMBER: **05-23-001**

BIDS DUE: **Friday, May 19, 2023 at 1:00 p.m. Central**

RETURN SEALED BIDS TO: **Purchasing**
 Waubonsee Community College
 45783 State Route 47
 Dickson Center, Room 228
 Sugar Grove, IL 60554-9903

Responses to this IFB shall be submitted in a sealed envelope to the address above. **Envelopes must be clearly identified with the name of the BID and Due Date/Time.** Proposals received after the date and time specified in this BID will not be considered.

All correspondence or questions concerning this BID should be addressed to purchasing@waubonsee.edu.

To Be Returned with Bid

- BID FORM
- AUTHORIZATION PAGE
- CERTIFICATIONS
- CONFLICT OF INTEREST DISCLOSURE AND NON-COLLUSION FORM
- STATE OF ILLINOIS BUSINESS ENTERPRISE INFORMATION FORM
- BUSINESS ENTERPRISE PARTICIPATION AND UTILIZATION PLAN (All pages)
- REFERENCES

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COLLEGE OVERVIEW

Waubonsee Community College (WCC), located forty-five miles west of Chicago, Illinois, has served more than 300,000 students since its inception. As one of 48 public community colleges in the Illinois Community College System, WCC is governed by a board of trustees composed of seven community members elected from the district at large and a student trustee selected by the student body. WCC serves 22 municipalities, 12 public high school districts and nine private high schools in a five-county, 600-square-mile district. In order to proactively address student and community needs, WCC has cultivated a learning-centered culture that values, and an infrastructure that advances, continuous quality improvement.

Campus Locations

Main Campus

Waubonsee Community College Sugar Grove, Rte. 47 at Waubonsee Drive, Sugar Grove, Illinois 60554

Extension Campuses

Waubonsee Community College Plano Campus, 100 Waubonsee Drive, Plano, Illinois 60545

Waubonsee Community College Aurora Downtown Campus, 18 South River St. Aurora, Illinois, 60506

Waubonsee Community College Fox Valley Campus, 2060 Ogden Ave, Aurora, Illinois 60504

GENERAL REQUIREMENTS

Summary

Waubonsee Community College (WCC) is requesting bids for a three-year contract with two (2) additional one-year renewal options, for pest control services at all four campuses (Sugar Grove, Aurora Downtown, Aurora Fox Valley and Plano) from independent providers with demonstrated professional competence, experience and licensing.

Schedule

- Bid Publication Date May 5, 2023
- Last Day for Submittal of Questions May 16, 2023
- Bids Due May 19, 2023, 1:00 PM
- Recommendation of Award June 21, 2023

Information

1. Bid documents are available for download from the college's purchasing webpage at <https://www.waubonsee.edu/local-businesses-employers-and-vendors/bidrfprfi-opportunities>.
2. Bids may be withdrawn by written request from Bidder or his agent prior to the date and

time established for opening of Bids.

3. All late, faxed or emailed Bids will be rejected.
4. All Bid prices must be good for a period of ninety (90) days from the date of opening.
5. The award of the contract will be made within ninety (90) days after the opening of BIDS to the lowest responsive and responsible bidder whose bid complies with all requirements prescribed herein.
6. Awarded Bidder(s) will be notified and notification will also be posted to the college's purchase webpage.
7. If the Bid is not awarded within ninety (90) days after the opening of bids, a Bidder may file a written request with the Purchasing Manager on the withdrawal of their bid, and the Purchasing Manager will permit such withdrawal.
8. The price bid for each item is the full purchase price, including delivery to destination, rigging expenses, balancing provisions no matter what the cause for imbalance, and includes all transportation and handling charges, premiums on bonds, material or service costs, patent royalties and all other overhead charges of every kind and nature. Unless otherwise specified, prices shall remain firm for the contract period. List all costs individually on a separate sheet.
9. The college reserves the right to award this project to one vendor or split the award based on the best interests of the college.
10. The college reserves the right to reject or accept any or all Bid responses, to extend the bidding period, to waive technicalities in the documents or rebid prior to award of the Contract.
11. The college will issue a purchase order upon award by the college's Board of Trustees. Invoices will be paid monthly for work completed. The college's payment terms are net 30 days.
12. The Prevailing Wage Act requires contractors and subcontractors to pay laborers, workers and mechanics employed on PUBLIC WORKS construction projects no less than the general prevailing rate of wages (consisting of hourly cash wages plus fringe benefits) for work of a similar character in the county where the work is performed.
13. Waubonsee Community College encourage the participation of qualified businesses owned by minorities, females and persons with disabilities in contracts the college awards. This policy shall be furthered by complying with the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/0.01 et seq. and by cooperating with the Illinois Business Enterprise Council.
14. WCC belongs to the following consortiums and Group Purchasing Organizations: E&I (Educational and Institutional Cooperative Purchasing); Sourcewell, US Communities; TCPN/National IPA; Midwest Higher Education Compact Consortium, and the Illinois Public Higher Education Cooperative. If you have pricing agreements with any of these organizations, pricing should minimally reflect these discounts. The college expects to be provided with the best available pricing.
15. All bid responses will become the property of Waubonsee Community College. All materials received or created by the college are considered **public records** and subject to disclosure to third parties in accordance with the Freedom of Information Act (FOIA). These records include but are not limited to bid or proposal submittals, agreement

documents, contract work product, or other information submitted by a vendor to the college.

- a. If the Respondent requests that the college withhold their trade secrets, commercial information or financial information from disclosure to a third party in response to a FOIA request, the Respondent must include in its submittal:
 - i. A written notification specifically identifying such information
 - ii. A statement that disclosure of such information will cause competitive harm to the Respondent
- b. Any content not so marked by the Respondent at the time of submittal will be presumed to be open to public inspection

Instructions

1. Provide one (1) original and one (1) copy of your Bid in a sealed envelope.
2. Bid submittals must include all pages noted on the cover page of this bid document including, but not necessarily limited to, a completed Bid Form, Certification page, Authorization Page, Conflict of Interest and Non-collusion Form, and References.
3. Erasures or changes in bids must be initialed. White-out is NOT permitted.
4. Bidders may not contact any college employee to discuss this IFB. **All correspondence or questions concerning the IFB should be addressed to purchasing@waubonsee.edu.** All questions must be submitted in writing and will be responded to by addendum. Do not expect an immediate answer. Include your email address and/or fax number for any necessary communication.
5. Bidders are responsible for checking the college's purchasing webpage for updates to the IFB and will be required to acknowledge receipt of the addenda in the IFB response.
6. **Bid Deposit** - A Bid Bond is NOT required for this project.
7. **Performance and Payment Bond** - A Performance and Payment Bond is NOT required for this project.
8. **Subcontracting**
 - a. Identify all subcontractors with BID on a separate sheet providing complete contact information and purpose.

SCOPE OF WORK

Summary

Waubonsee Community College (WCC) is requesting bid for a three-year contract with two (2) additional one-year renewal options, for pest control services at all four campuses (Sugar Grove, Aurora Downtown, Aurora Fox Valley and Plano) from independent providers with demonstrated professional competence, experience and licensing.

Schedule

1. Services shall be performed during normal business hours, herein defined as Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding holidays and campus closings.
2. Annual Contract start date: July 1, 2023

General

1. Vendors involved in providing servicing under this project require a minimum of five years' experience.
2. In order for a company to qualify for the bidding process, it must meet the following requirements:
 - a. Possess a valid commercial pesticide application business certificate of registration and licensing from the Illinois Department of Agriculture and the Illinois Department of Public Health
 - b. Employ a minimum of one certified commercial supervisory applicator for every five certified commercial operational applicators employed
 - c. Provide proof of appropriate insurance
 - d. Provide proof of types of licensure for pesticide use

Description of Service

1. The Vendor shall provide state certified technicians which will administer appropriate techniques to minimize, control, eliminate and exclude and/or reduce pest populations.
2. Methods utilized shall include, but are not limited to, insect and rodent baiting, monitoring with (glue traps, pheromone traps and sampling), crack & crevices application of pesticides, application of growth inhibitors, repellent applications, exterior and interior spot treatments, caulking and excluding techniques.
3. All buildings to be serviced must follow **Integrated Pest Management (IPM) Guidelines**. The College follows IPM principles as described on the Environmental Protection Agency (EPA) website at <http://www.epa.gov/opp00001/factsheets/ipm.htm>.
4. Routine service (minimum monthly) to all buildings will include all crawling and flying insects with the exception of termites, carpenter ants and yellow jackets. Migratory rodents such as mice, moles, voles and ground squirrels are also to be included in the scope of services. (In all instances, insects or rodents not listed in the RFP shall be dealt with only after consultation between the Vendor and the College designee.)
5. All wood destroying insects (termites, Carpenter ants, Carpenter bee) will be handled for an additional fee. *Note: The College will not pay for routine inspections for wood destroying insects.*
6. Urban wildlife such as skunks, flying squirrels, ground hogs and raccoons will be handled at the request of the college for an additional fee and not included in this pest control contract.
7. Waubonsee Community College has campuses that are in somewhat rural settings, specifically our Sugar Grove campus and experience high numbers of Box Elder bugs. ***Please include in your response a plan specific to how this issue would be addressed.***

Industry Specific Standards

1. The vendor shall provide all necessary testing/inspections in accordance with the current state adopted codes, and service laws or ordinances, and all rules and regulations of

health, public and/or other authorities controlling or limiting the methods and materials to be used, or the actions of those engaged in this kind of work.

Contractor Personnel

1. Throughout the life of this contract, all Contractor personnel providing on-site pest control service must meet state requirements for training and certification as Commercial Pesticide Applicators. Uncertified individuals working under the supervision of a Certified Applicator will not be permitted to provide service under the terms of this contract.

Job Site Safety

1. The Vendor shall adhere to the Occupational Safety and Health Administration's (OSHA's) most recently published safety and health regulations and general occupational safety and health standards.
2. Material Safety Data Sheets (MSDS) must be furnished on all products/materials, which require them under the provisions of the OSHA Hazard Communications Standard.
3. Application of extermination agents shall be performed in accordance with Illinois' pesticide regulations and Federal and Local laws.
4. Signage will be placed near all equipment used to treat/control pests and rodents clearly identifying them as pest control devices.

Responsibilities

1. If insects or rodents are observed between the established treatments, vendor must respond within 24 hours and treat at no additional cost to the College for Pest Control Services covered under this agreement.
2. All rodent control devices will be supplied by vendor(s) as required and will remain the property of the vendor. Vendor(s) will provide all materials, equipment and supplies to perform the necessary work. All materials, equipment, etc. owned by vendor(s) must be removed from the premises at the completion of each service.

Protection

1. Extreme care shall be taken by Contractor to safeguard all existing facilities, site amenities, utilities, irrigation systems, windows, and vehicles on or around the job site. Damage done to public and/or private property by the Contractor, shall be the responsibility of the Contractor and shall be repaired and/or replaced by Contractor at no additional cost to the college.
2. The Contractor shall use all means to protect existing objects, structures and vegetation.
3. In the event of damage, the Contractor shall immediately make all repairs, replacements and dressings to damaged materials, to the approval of the college, at no additional cost to the college.

Waste and Disposal

1. Contractor shall be responsible for all cleaning required for work under the Contractor's jurisdiction as well as for keeping all work areas, passageways, ramps, stairs and all other areas of the premises free of accumulation of surplus materials, rubbish, debris and scrap which may be caused by the Contractor's operations.
2. Remove rubbish, debris and scrap promptly upon its accumulation and in no event later than the end of each workday. Contractor is responsible for the management and removal of waste materials, including hazardous materials, to be disposed of in accordance with all applicable laws, regulations, codes, rules, and standards.
3. Burning of rubbish or debris is not allowed at the site. Rubbish, debris and scrap is not to be thrown through any window or other opening, or dropped from any great height; it shall be conducted to the ground, to waiting truck(s) or removable container(s) by means of approved chutes or other means of controlled conveyance.
4. Spillages of oil, grease or other liquids that could cause a slippery or otherwise hazardous situation or stain a finished surface shall be cleaned up immediately.
5. If rubbish and debris is not removed, or if surfaces are not cleaned as specified above, the college reserves the right to have said work done by others and the related cost(s) will be deducted from monies due the Contractor.

Campuses / Buildings

Sugar Grove Campus		
Building Name	Number of Stories	Square Footage
Building A	1	18,553
Akerlow Hall	2	50,103
Academic & Professional Center	2 with Mech Room on roof	64,434
Auditorium	2	16,837
Bodie Hall	2	49,508
Campus Operations	1	21,532
Ceramics	1	5,810
Collins Hall	2	74,836
Dickson Center	2 with Mech Room on roof	53,244
Erickson Hall	2	55,860
Field House	2	59,000
Henning Computer Center	1	16,717
Main Plant	1	3,100
Science Building	2	46,837
Student Center	2 with Mech Room on roof	65,367
Von Ohlen	2	31,337
Building W	1	16,000
Water Plant	1	2,821
Weigel Hall	2	40,310
Aurora Downtown Campus		
Aurora Downtown Campus	4	133,000
Aurora Fox Valley Campus		
Aurora Fox Valley Campus	2	32,462
Plano Campus		
Plano Campus	2	33,000

BID FORM

BIDDER (COMPANY) NAME _____

Total Base Bid

Having examined the bid documents, as prepared by Waubonsee Community College, and having inspected the site and the conditions affecting and governing the construction of said Project, the Bidder hereby proposes to furnish all labor and materials, supervision, coordination, transportation, services and equipment for the sum of:

	YEAR ONE July 1, 2023 – June 30, 2024	YEAR TWO July 1, 2024 – June 30, 2025	YEAR THREE July 1, 2025 – June 30, 2026
SUGAR GROVE CAMPUS	\$	\$	\$
AURORA DOWNTOWN CAMPUS	\$	\$	\$
AURORA FOX VALLEY CAMPUS	\$	\$	\$
PLANO CAMPUS	\$	\$	\$
TOTAL ANNUAL COST	\$	\$	\$

EXTRA COST FOR WOOD DESTROYING INSECTS (Years 1 - 3)

(Termites, carpenter ants, carpenter bees, yellow jackets) \$ _____/occurrence

EXTRA COST FOR URBAN WILDLIFE (Years 1 - 3)

(Skunks, flying squirrels, groundhogs, raccoons) \$ _____/occurrence

Questions to be Answered

What is the percentage increase for OPTIONAL YEAR FOUR? _____%

What is the percentage increase for OPTIONAL YEAR FIVE? _____%

Acknowledgement of Addenda

I acknowledge having received addenda # _____.

BID AUTHORIZATION PAGE

All Bidders are required to complete and sign this form.

I HEREBY AUTHORIZE THIS BID, ACKNOWLEDGING THAT I UNDERSTAND AND AGREE TO THE PROVISIONS OF THIS BID. I WARRANT THAT ALL INFORMATION PROVIDED IN THE SUBMITTED BID IS TRUE AND ACCURATE. I FURTHER WARRANT THAT FAILURE TO HAVE READ ALL THE PROVISIONS OF THIS SOLICITATION SHALL NOT BE CAUSE TO ALTER ANY RESULTING CONTRACT OR REQUEST ADDITIONAL COMPENSATION. BY SIGNING THIS DOCUMENT.

Name of Company

Address

City

State

Zip Code

Telephone Number

Fax Number

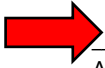
Authorized Signature

Date

Print Name

Title

Email Address



CERTIFICATIONS

All Bidders are required to complete and sign this form. Completed form must be returned with Bid no later than the advertised Bid deadline. Failure to return this completed form may result in disqualification.

Bidders are cautioned to carefully read these certifications prior to signing below. Signing this page shall constitute a warranty by the undersigned that all of the statements, certifications and information set forth within these certifications are true, complete and correct as of the date signed. The undersigned is notified that if the college learns that any of the following certifications were falsely made, any contract entered into with the undersigned shall be subject to termination.

1. Prevailing Wage Act. To the extent required by law, Contractor shall not pay less than the prevailing wage as established pursuant to an Act Regulating the Wages of Laborers, Mechanics, and Other Workman employed under Contract for Public Workers 820 ILCS 130/1 et seq. Our company certifies that it is eligible for bidding on public contracts and has complied with section 11a of the Prevailing Wage Act, 820 ILCS 130.01-12.
2. Human Rights Act. To the extent required by law, Contractor shall abide by the Illinois Human Rights Act, 775 ILCS 10/0.01 et seq.
3. Drug Free Workplace. To the extent required by law, Contractor shall abide with the requirements of the Drug Free Workplace Act 30 ILCS 580.1 et seq.
4. Sexual Harassment Policy. Contractor represents by the signing of this agreement that it has a written sexual harassment policy that is in accordance with 775 ILCS 5/2-105 (A) (4).
5. Non-debarment. By executing this agreement Contractor certifies that it has not been debarred from public contracts in the State of Illinois for violating either 33E-3 or 33E-4 of the Public Contracts Act, 720 ILCS 5/33E-1 et seq.
6. Fair Employment Practice: Company is in compliance with all State and Federal laws regarding Fair Employment Practice as well as all rules and regulations.
7. Our company has an Equal Employment Opportunity and Affirmative Action Program which complies with Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and the Rehabilitation Act of 1973.
8. Our company certifies that it is eligible for bidding on public contracts and is not in violation of either paragraph 33E-3 or 33-E-4 of Public Act 86-150, 720ICLS 5 with regards to bid rigging/bid rotating.
9. When required by law, the bidder and all bidder's subcontractors must participate in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training as required by Illinois Public Act 093-0642.

Authorized Signatory: _____ **Date:** _____

CONFLICT OF INTEREST DISCLOSURE AND NON-COLLUSION FORM

All Bidders are required to complete and sign this form. Completed form must be returned with Bid no later than the advertised Bid deadline Failure to return this completed form may result in disqualification of Bid.

Conflict of Interest Disclosure

Waubonsee Community College is requiring that any and all relationships with the college, its administrators, trustees, committee member, or any other employee of the college be disclosed in writing as a part of any bid submitted. Contact in regards to this Bid with any employee of Waubonsee Community College during the pre-award period, except as noted in the solicitation, is strictly forbidden and is considered sufficient grounds for dismissal from the IFB/RFP process.

Define the relationship with any Waubonsee Community College administrator, trustee, committee members, or their immediate family member, with which your company or any of its owners, officers, trustees, employees does business with, or for which there is an opportunity to influence a related college decision.

Bidder certifies that there is no known conflict of interest with any WCC administrator, trustee, committee member or employee of the college.

Non-Collusion Statement

The undersigned affirms that he/she is duly authorized to execute this contract and that this company, corporation, firm, partnership or individual has not prepared this Bid in collusion with any other Bidder, and that the contents of this Bid as to prices, terms or conditions of said Bid have not been communicated by the undersigned, nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Bid.

The undersigned further affirms that this Bid was prepared independently for this project and that it contains no fees or amounts other than for legitimate execution of this work as specified and that it includes no understandings or agreements in restraint of trade.

Firm Name: _____

By: _____
(Authorized Signatory)

_____ Title

STATE OF ILLINOIS BUSINESS ENTERPRISE FOR MINORITIES, FEMALES, AND PERSONS WITH DISABILITIES ACT INFORMATION

Vendor shall provide the following information on the MBE status of its business so that the College can comply with the Business Enterprise for Minorities (MBE), Females (WBE), Persons with Disabilities Act (DBE), or Veteran Owned Business (VOB), 30 ILCS 575/1, et seq.

Identify Business Certification Status (___ MBE ___ WBE ___ DBE ___ VOB)

- African American
- Alaskan Native/Native American
- Asian American
- Disabled
- Female
- Hispanic American
- Veteran
- Not Applicable

Small Business Certification

- HUBZone small business
- Service-disabled veteran-owned small business
- Small Business
- Small disadvantaged business
- Veteran-owned small business
- Women-owned small business
- Not Applicable

Certifying Organization

- DCMS (Department of Central Management Services) Business Enterprise Program
- CMBDC (Chicago Minority Business Development Council)
- IDOT (Illinois Department of Transportation)
- WBDC (Women's Business Development Center)
- Other (Please Specify)
- Not Applicable

For more information please visit:

<http://www.illinois.gov/cms/business/sell2/bep/Pages/Default.aspx>

BUSINESS ENTERPRISE PROGRAM MINORITIES, FEMALES, PERSONS WITH DISABILITY PARTICIPATION AND UTILIZATION PLAN

The Business Enterprise Program Act for Minorities, Females and Persons with Disabilities (BEP) establishes a goal of **20%** for contracting with businesses that have been certified as owned and controlled by persons who are minorities (MBE), female (FBE, also referred to as WBE), or persons with disabilities (DBE) (collectively, BEP certified vendor(s)). 30 ILCS 575.

Contract Goal to be Achieved by Vendor: This solicitation includes a specific BEP participation goal of **20%** of the total dollar amount awarded to MBEs and FBEs, based on the availability of BEP certified vendors to perform or provide the anticipated services and/or supplies required by this solicitation. At least 50% of that total dollar amount should be awarded to WBEs.

The BEP participation goal is applicable to all bids or offers. In addition to the other award criteria established for this solicitation, Waubensee Community College (College) will award this contract to a Vendor that meets the goal or demonstrates good faith efforts to meet the goal. This goal is also applicable to change orders and allowances within the scope of work provided by the BEP certified vendor. If Vendor is a BEP certified vendor, the entire goal is met and no subcontracting with a BEP certified vendor is required; however, Vendor must submit a Utilization Plan indicating that the goal will be met by self-performance.

Following are guidelines for Vendor's completion of the Utilization Plan. Please read the guidelines carefully. A format for the Utilization Plan is included in this section. Vendor should include any additional information that will add clarity to Vendor's proposed utilization of certified BEP vendors to meet the targeted goal. The Utilization Plan must demonstrate that Vendor has either: (1) met the entire contract goal; or (2) made good faith efforts towards meeting the entire goal. Any submission of good faith efforts by Vendor shall be considered as a request for a full or partial waiver. At the time of bid or offer, Vendor, or Vendor's proposed Subcontractor, must be certified with CMS as a BEP certified vendor.

Failure to complete a Utilization Plan or provide good faith effort documentation shall render the bid or offer non-responsive or not responsible, and subject to rejection and/or disqualification in the College's sole discretion.

1. If applicable where there is more than one prime vendor, the Utilization Plan should include an executed Joint Venture Agreement specifying the terms and conditions of the relationship between the parties and their relationship and responsibilities to the contract. The Joint Venture Agreement must clearly evidence that the BEP certified vendor will be responsible for a clearly defined portion of the work and that its responsibilities, risks, profits and contributions of capital, and personnel are proportionate to its ownership percentage. It must include specific details related to the parties' contributions of capital, personnel, and equipment and share of the costs of insurance and other items; the scopes to be performed by the BEP certified vendor under its supervision; and the commitment of management, supervisory personnel, and operative personnel employed by the BEP certified vendor to be dedicated to the performance of the contract. Established Joint Venture Agreements will only be credited toward BEP goal achievements for specific work performed by the BEP certified vendor. Each party to the Joint Venture Agreement must execute the bid or offer prior to submission of the bid or offer to the College.

2. An agreement between a vendor and a BEP certified vendor in which a BEP certified vendor promises not to provide subcontracting or pricing quotations to other vendors is prohibited. The College may request additional information to demonstrate compliance. Vendor agrees to cooperate promptly with the College in submitting to interviews, allowing entry to places of business, providing further documentation, and to soliciting the cooperation of a proposed BEP certified vendor. Failure to cooperate by Vendor and BEP certified vendor may render the bidder or offeror non-responsive or not responsible. The contract will not be finally awarded to Vendor unless Vendor's BEP Utilization Plan is approved by the College.
3. BEP Certified Vendor Locator References: Vendors may consult CMS' BEP Vendor Directory at www.sell2.illinois.gov/cms/business, as well as the directories of other certifying agencies, but firms must be certified with CMS as BEP certified vendors at the time of bid or offer.
4. Vendor Assurance: Vendor shall not discriminate on the basis of race, color, national origin, sexual orientation or sex in the performance of this contract. Failure by Vendor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the College deems appropriate. This assurance must be included in each subcontract that Vendor signs with a subcontractor or supplier.
5. Calculating BEP Certified Vendor Participation: The Utilization Plan documents work anticipated to be performed, or goods/equipment provided by all BEP certified vendors and paid for upon satisfactory completion/delivery. Only the value of payments made for the work actually performed by BEP certified vendors is counted toward the contract goal. Applicable guidelines for counting payments attributable to contract goals are summarized below:
 - 5.1. The value of the work actually performed or goods/equipment provided by the BEP certified vendor shall be counted towards the goal. The entire amount of that portion of the contract that is performed by the BEP certified vendor, including supplies purchased or equipment leased by the BEP certified vendor shall be counted, except supplies purchased and equipment rented from the Prime Vendor submitting this bid or offer.
 - 5.2. A vendor shall count the portion of the total dollar value of the BEP contract equal to the distinct, clearly defined portion of the work of the contract that the BEP certified vendor performs toward the goal. A vendor shall also count the dollar value of work subcontracted to other BEP certified vendor. Work performed by the non- BEP certified party shall not be counted toward the goal. Work that a BEP certified vendor subcontracts to a non-BEP certified vendor will not count towards the goal.
 - 5.3. A Vendor shall count toward the goal 100% of its expenditures for materials and supplies required under the contract and obtained from a BEP certified vendor manufacturer, regular dealer, or supplier. A Vendor shall count toward the goal the following expenditures to BEP certified vendors that are not manufacturers, regular dealers, or suppliers:
 - 5.3.1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the College to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 5.3.2. The fees charged for delivery of materials and supplies required by the contract (but not the cost of the materials and supplies themselves) when the hauler, trucker, or

delivery service is not also the manufacturer or a supplier of the materials and supplies being procured, provided that the fee is determined by the College to be reasonable and not excessive as compared with fees customarily allowed for similar services. The BEP certified vendor's trucking firm must be responsible for the management and supervision of the entire trucking operation for which it is responsible on the contract, and must itself own and operate at least one fully licensed, insured and operational truck used on the contract.

5.3.3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the College to be reasonable and not excessive as compared with fees customarily allowed for similar services.

5.4. BEP certified vendors who are performing on contract as second tier subcontractors may be counted in meeting the established BEP goal for this contract as long as the Prime Vendor can provide documentation indicating the utilization of these vendors.

5.5. A Vendor shall count towards the goal only expenditures to firms that perform a commercially useful function in the work of the contract.

5.5.1. A firm is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. The BEP certified vendor must also be responsible, with respect to materials or supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials or supplies, and installing the materials (where applicable) and paying for the material or supplies. To determine whether a firm is performing a commercially useful function, the College shall evaluate the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.

5.5.2. A BEP certified vendor does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed through in order to obtain BEP certified vendor participation. In determining whether a BEP certified vendor is such an extra participant, the College shall examine similar transactions, particularly those in which BEP certified vendors do not participate, and industry practices.

5.6. A Vendor shall not count towards the goal expenditures that are not direct, necessary and related to the work of the contract. Only the amount of services or goods that are directly attributable to the performance of the contract shall be counted. Ineligible expenditures include general office overhead or other Vendor support activities.

6. Good Faith Effort Procedures: Vendor must submit a Utilization Plans, subcontract documents, and/or Letters of Intent that meet or exceed the published goal. If Vendor cannot meet the stated goal, Vendor must document and explain within the Utilization Plan the good faith efforts it undertook to meet the goal. Utilization Plans are due at the time of, and must be enclosed and sealed with the bid or offer submission. Copies of subcontract documents and/or Letters of Intent shall be de upon request.

7. Contract Compliance: Compliance with this section is an essential part of the contract. The following administrative procedures and remedies govern Vendor's compliance with the contractual obligations

established by the Utilization Plan. After approval of the Plan and award of the contract, the Utilization Plan becomes part of the contract. If Vendor did not succeed in obtaining BEP certified vendor participation to achieve the goal and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of BEP certified vendor work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the contract goal.

- 7.1.** The Utilization Plan may not be amended after contract execution without the College's prior written approval.
- 7.2.** Vendor may not make changes to its contractual BEP certified vendor commitments or substitute BEP certified vendors without the prior written approval of the College. Unauthorized changes or substitutions, including performing the work designated for a BEP certified vendor with Vendor's own forces, shall be a violation of the utilization plan and a breach of the contract, and shall be cause to terminate the contract, and/or seek other contract remedies or sanctions.
- 7.3.** If it becomes necessary to substitute a BEP certified vendor or otherwise change the Utilization Plan, Vendor must notify the College in writing of the request to substitute a BEP certified vendor or otherwise change the Utilization Plan. The request must state specific reasons for the substitution or change. The College will approve or deny a request for substitution or other change in the Utilization Plan within five business days of receipt of the request.
- 7.4.** Where Vendor has established the basis for the substitution to the College's satisfaction, it must make good faith efforts to meet the contract goal by substituting a BEP certified vendor. Documentation of a replacement BEP certified vendor, or of good faith efforts to replace the BEP certified vendor, must meet the requirements of the initial Utilization Plan. If the goal cannot be reached and good faith efforts have been made, Vendor may substitute with a non-BEP certified vendor or Vendor may perform the work.
- 7.5.** If a Vendor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Utilization Plan, Vendor must obtain the approval of the College to modify the Utilization Plan and must make good faith efforts to ensure that BEP certified vendors have a fair opportunity to submit a bid or offer on the new scope of work.
- 7.6.** A new BEP certified vendor agreement must be executed and submitted to the College within five business days of Vendor's receipt of the College's approval for the substitution or other change.
- 7.7.** Vendor shall maintain a record of all relevant data with respect to the utilization of BEP certified vendors, including but without limitation, payroll records, invoices, canceled checks and books of account for a period of at least three years after the completion of the contract. Full access to these records shall be granted by Vendor upon 48 hours written demand by the College to any duly authorized representative thereof, or to any municipal, state or federal authorities. The College shall have the right to obtain from Vendor any additional data reasonably related or necessary to verify any representations by Vendor. After the performance of the final item of work or delivery of material by the BEP certified vendor and final payment to the BEP certified vendor by Vendor, but not later than 30 calendar days after such payment, Vendor shall submit a statement confirming the final payment and the total payments made to the BEP certified vendor under the contract.

- 7.8.** The College will periodically review Vendor's compliance with these provisions and the terms of its contract. Without limitation, Vendor's failure to comply with these provisions or its contractual commitments as contained in the Utilization Plan, failure to cooperate in providing information regarding its compliance with these provisions or its Utilization Plan, or provision of false or misleading information or statements concerning compliance, certification status or eligibility of the BEP certified vendor, good faith efforts or any other material fact or representation shall constitute a material breach of this contract and entitle the College to declare a default, terminate the contract, or exercise those remedies provided for in the contract or at law or in equity.
- 7.9.** The College reserves the right to withhold payment to Vendor to enforce these provisions and Vendor's contractual commitments. Final payment shall not be made pursuant to the contract until Vendor submits sufficient documentation demonstrating compliance with its Utilization Plan.

APPENDIX B - UTILIZATION PLAN PART 1: COMMITMENT AND SIGNATURE

_____ (Vendor) submits the following Utilization Plan as part of our bid or offer in accordance with the requirements of the BEP Program Status and Participation section of the solicitation for Waubensee Community College's _____ (Project Name).

We understand that all subcontractors must be certified with the CMS BEP Program at the time of submission of all bids and offers. We understand that compliance with this section is an essential part of this contract and that the Utilization Plan will become a part of the contract, if awarded.

Vendor submits the following statement:

- Vendor is a BEP certified firm and plans to fully meet the goal through self-performance.
- Vendor has identified BEP certified subcontractor(s) to fully meet the established goal and submits the attached executed Letter(s) of Intent; or
- Vendor has made good faith efforts towards meeting the entire goal, or a portion of the goal, and hereby requests a waiver (complete Demonstration of Good Faith Efforts checklist below).

Vendor's person responsible for compliance with this BEP goal (*please print clearly*):

Name:

Title:

Telephone:

Email:

Note: Letters of Intent template may be found on the State of Illinois website, <https://www2.illinois.gov/cpo/general/Documents/Letter%20of%20Intent%20Template%20v.14.1.pdf#search=letter%20of%20intent>

APPENDIX B - UTILIZATION PLAN PART II: PARTICIPATION AGREEMENT

Instructions: The Prime Vendor is required to submit a separate, signed and fully completed Participation Agreement from each Business Enterprise Program (BEP) minority-owned, woman-owned or disadvantaged certified vendor. Once signed and submitted with the bid/offer, this Participation Agreement, along with the other Parts of this Utilization Plan, will become a mandated part of the contract, if awarded. The Prime Vendor shall not prohibit or otherwise limit the BEP/VSB certified vendor(s) from providing subcontractor quotes to other potential bidders/offerors.

Project Name: _____ Project/Solicitation Number: _____

Name of Prime Vendor: _____

Address: _____

City, State and Zip: _____

Telephone: _____ Fax: _____ Email: _____

Vendor's Contact responsible for compliance with this Participation Agreement: _____

Name of BEP Certified Vendor: _____

Type of Certified Vendor: MBE WBE DBE

Address: _____

City, State and Zip: _____

Telephone: _____ Fax: _____ Email: _____

BEP Vendor's Contact responsible for compliance with this Participation Agreement: _____

Type of Agreement: Services Supplies Both Services and Supplies

(a) Proposed % of Contract to be performed by the BEP/VSB Certified Vendor _____%

NOTE: The Prime Vendor must indicate the percentage of the estimated contract award that will be subcontracted to the certified BEP/VSB Vendor.

(b) Anticipated start date of the Certified BEP Vendor: _____.

(c) This participation agreement shall have a term of _____ to _____, with a total period of _____ years and _____ months, including renewals, change orders or extensions to the underlying contract.

(d) Description of work to be performed or goods/equipment to be provided by the BEP certified vendor on following page. All Participation Agreements shall be subject to college's approval. Any changes involving or affecting the identified BEP certified vendor, scope(s) of work will not be permitted without notification to the college and BEP Compliance, in writing, and approval of the college. *(If more space is needed to fully describe BEP certified firm's proposed scope of work and/or payment schedule, attach additional sheets.)*

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Description of work:

THE UNDERSIGNED PARTIES FURTHER AGREE that once signed and submitted with the bid/offer, this Participation Agreement, along with the other Parts of this Utilization Plan, will become a material part of the contract, and the BEP certified vendor will perform the scope of work for the percentage as indicated above. The Undersigned Parties do also certify that they did not affix their signatures to this document until all areas under Description of Service/ Supply and Fee/Cost were completed.

Vendor (Company Name and d/b/a):

Certified BEP (Company Name and d/b/a):

Name (Signature) / _____
Date

Name (Signature) / _____
Date

Name (Print)

Name (Print)

Title

Title

APPENDIX B: DEMONSTRATION OF GOOD FAITH EFFORTS TO ACHIEVE GOAL AND REQUEST FOR WAIVER

If the BEP participation goal was not achieved, Vendor must provide document evidence of good faith efforts to achieve the goal.

Below is a checklist of actions that will be used to evaluate a Vendor's Demonstration of Good Faith Efforts and Request for Waiver. Please check the actions which you completed. If any other efforts were made to obtain BEP participation in addition to the items listed below, attach a detailed description of such efforts. The College reserves the right to review and audit the results of the Vendor's efforts as described below.

- Utilize the Sell2Illinois website: www2.illinois.gov/cms/business to identify BEP certified vendors within the respective commodity/service codes denoted above and at a minimum email all listed vendors and solicit quotes from all vendors who express an interest via follow-up emails or telephone calls.
- Solicit through all reasonable and available means (e.g., attendance at a vendor conference, advertising and/or written notices) the interest of BEP certified vendors that have the capability to perform the work of the contract. Vendor must solicit this interest within sufficient time to allow the BEP certified vendors to respond to the solicitation. Vendor must determine with certainty if the BEP certified vendors are interested by taking appropriate steps to follow up initial solicitations and encourage them to submit a bid or proposal. Vendor must provide interested BEP certified vendors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding promptly to the solicitation.
- Select portions of the work to be performed by BEP certified vendors in order to increase the likelihood that the goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate BEP certified vendor participation, even when Vendor might otherwise prefer to perform these work items with its own forces.
- Make a portion of the work available to BEP certified vendors and selecting those portions of the work or material needs consistent with their availability, so as to facilitate BEP certified vendor participation.
- Negotiate in good faith with interested BEP certified vendors. Evidence of such negotiation must include the names, addresses, email addresses, and telephone numbers of BEP certified vendors that were considered; and an explanation as to why an agreement(s) could not be reached.
- Thoroughly investigate the capabilities of BEP certified vendors and not reject them as unqualified without documented reasons. The BEP certified vendor's memberships in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids and proposals in Vendor's efforts to meet the goal.
- Make efforts to assist interested BEP certified vendors in obtaining lines of credit or insurance as required by the College.
- Make efforts to assist interested BEP certified vendors in obtaining necessary equipment, supplies, materials, or related assistance or services.

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GOOD FAITH EFFORTS CONTACT LOG

Use this Log to document all contacts and responses (telephone, email, fax, etc.) regarding the solicitation of BEP certified vendors within the specific scope of work selected. It is not necessary to show contacts with BEP certified vendors who are identified on the Letter(s) of Intent. Keep and submit copies of all emails sent and received from prospective BEP Vendors. Include a copy of the commodity list or scope of work you solicited prospective BEP Vendors to perform. Duplicate this Log as necessary; do not limit your contacts to the number of spaces shown.

Certified BEP Vendor Name	Name of Person Contacted	Date	Contact Method	Scope of Work Solicited / NIGP Commodity / Service Code(s)	Reason Agreement Was Not Reached

REFERENCES OF SIMILAR WORK PERFORMED

Company Name:		Contact Name:	
Address:		Phone Number:	
City, State Zip:		Email Address:	

Company Name:		Contact Name:	
Address:		Phone Number:	
City, State Zip:		Email Address:	

Company Name:		Contact Name:	
Address:		Phone Number:	
City, State Zip:		Email Address:	

Appendix A: WCC's STANDARD TERMS AND CONDITIONS

Legal Entity: Waubonsee Community College District 516, commonly known as Waubonsee Community College is described herein as "Buyer" or "WCC".

Seller: The "Seller" means any person, business or entity designated on this purchase order or contracted to provide "Deliverables." Deliverables means the tangible and/or intangible personal property, product, service, software, information technology, telecommunications technology, apparatus, equipment, supplies, repairs, or other goods delivered pursuant to this purchase order, including items incident to the provision of services.

Limitation of Authority: All purchases shall be made in accordance with Illinois law. No officer or employee of WCC not expressly authorized under Illinois law, shall make any purchase on its behalf, or enter into any contract of purchase, verbal or written, for any Deliverable of any kind or description, or accept any of them on approval or otherwise. Seller is directed to applicable Illinois law to verify the authority of any person purportedly signing on behalf of the Legal Entity. The Buyer will not be responsible for articles delivered and/or services performed for its account without a specific written purchase order that has been authorized by the Purchasing Manager.

Governing Law and Limitation of Liability: This Agreement shall be governed and construed in accordance with the law of Illinois without reference to its conflict of laws and/or provisions. It is the intent of the parties that arbitration and mediation shall not be a remedy or prerequisite required by this contract, and any reference to "arbitration" or "mediation" contained in any contract or agreement resulting from the execution of this Purchase Order is void and of no legal effect. The parties waive any right to demand a trial by Jury and agree that the venue for litigation arising from this Purchase Order or any Contract or Agreement entered into subsequent to the execution of this Purchase Order shall be in the Circuit Court for the 16th Judicial Circuit, Kane County, Illinois regardless of the place of business or residence of Seller. The parties agree that this venue is convenient for all of them and each consent to the personal jurisdiction of such court. In the event of any litigation the prevailing party shall have the right to recover its reasonable attorney's fees and costs. WCC shall not be liable to the Seller, or to any subcontractor, regardless of the form of action, for any consequential, incidental, indirect, or special damages, or for any claim or demand based on a release of information, or patent, copyright, or other intellectual property right infringement.

Indemnification: The Seller agrees to hold harmless and indemnify WCC, its officers, agents, trustees and employees, and defend each of them, against any losses, damages, judgments, claims, expenses, costs and liabilities imposed upon or incurred by or asserted against WCC, its officers, agents, trustees or employees, including reasonable attorneys' fees and expenses, arising out of the acts or omissions of Seller, its officers, agents or employees, resulting from or connected with Seller's performance hereunder or failure to comply with any applicable law or regulation.

Bidding: Seller certifies that it is not barred from bidding on agreement/contract as a result of a conviction for either bid rigging or bid rotating under Illinois law. WCC reserves the right to reject any and all bids, and waive any bid irregularities.

Purchases: A purchase order is required for all orders. Seller shall invoice Buyer for the goods at the time of final shipment unless otherwise provided for in this purchase order. Invoices shall show the purchase order number for each separate purchase order number issued. Failure to do so may result in a delay of payment. Packing slip shall be affixed to outside of package(s), listing contents of each package and notating an authorized purchase order number. Shipments without a purchase order will be rejected at the receiving dock.

Warranty:

- 1) Seller warrants that all Deliverables furnished hereunder will be free from defects in design, material, and workmanship, and will conform to applicable specifications, drawings, samples, and descriptions. This warranty is in addition to any warranties available under law, from the manufacturer, or any standard warranty of Seller.
- 2) At the time of delivery, no software shall contain any virus, timer, counter or other limiting design, instruction, or routine that would erase data or programming or cause the software or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed.
- 3) No Deliverable shall violate or infringe upon the rights of any third party, including, without limitation, any patent, copyright, trademark, trade secret, or other proprietary rights of any kind.
- 4) Seller warrants that it has full title to the Deliverables and has the right to grant to WCC the rights and licenses contemplated herein without the consent of any third party.

Assignment: This purchase order may not be assigned, and no duty or right hereunder may be delegated, or monies payable hereunder, by Seller and Seller may not use any sub-contractor to perform hereunder, without the prior written consent of

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Buyer, which consent may be given or withheld at Buyer's sole discretion. Any assignment made without such consent shall be null and void.

Prices: Buyer accepts Seller's quote or bid prices as recorded on Seller's proposal and on this purchase order which shall not be changed prior to delivery or completion of services without Buyer's prior written agreement. Unless otherwise provided in this purchase order, the price includes all charges for freight and insurance. No separate charges, except those clearly recorded on Seller's proposal and on this purchase order can, or will be allowed. Seller represents that the price charged for the goods and services covered by this purchase order is commercially reasonable and is the lowest price charged by Seller to buyers of a class of purchasers similar to Buyer under conditions similar to those specified in this purchase order. All prices quoted are in U.S. dollars.

Cancellation:

- 1) In addition to all other rights and remedies provided for hereunder or under law (including without limitation, damages) Buyer may cancel all or any part of this purchase order:
 - a) if Seller breaches any of the terms, warranties or provisions hereof
 - b) upon the occurrence of any event entitling Buyer to reject the goods
 - c) if any insolvency proceeding is instituted by or against Seller
 - d) if Seller provides material false information to Buyer
- 2) Buyer, at Buyer's sole discretion, may cancel this purchase order at any time as to the goods not then delivered.
- 3) Buyer shall not be deemed to have canceled this purchase order unless it notifies Seller of its intent to do so in writing. Upon receipt of such notice Seller will immediately stop work and notify any other parties performing any part of the work to stop work and will protect property in Seller's possession in which Buyer has or may acquire an interest.
- 4) Unless Buyer exercises its right to cancel because of the events described in paragraph (1) above or because of other event or condition caused by or under the control of Seller, Seller may claim:
 - a) Reimbursement for actual out-of-pocket cost incurred by Seller as a result of such cancellation (exclusive of costs for materials that Seller can use on other orders) and
 - b) A reasonable profit on the work performed by Seller prior to cancellation. Such claim must be made within twenty (20) days of the notice of cancellation and the total amount of such claim shall not exceed the purchase price for the completed goods. In the event of cancellation Seller shall deliver to WCC all material and information as may have been involved in the provision of services or Deliverables to the date of termination.

Taxes: Waubensee Community College is exempt from Federal Excise and State Sales Taxes and such taxes shall not be included in prices. Federal Excise Tax Exception Certificate will be furnished upon request.

Articles or Services: Deliverables and/or services to be delivered or performed shall be in accordance with the terms, prices, delivery time, specifications, and conditions as recorded on Seller's proposal and as itemized on this purchase order. Stated delivery time must be adhered to. Buyer reserves the right to cancel this order if Seller does not make deliveries as specified on this order. No substitutions of articles or change of any nature shall be made without written authorization from the Buyer.

Inspection, Acceptance and Payment by Buyer: All Deliverables shall be received subject to Buyer's right to inspection and rejection. Those rejected as a result of inspection will be held for Seller's inspection at Seller's risk and, if Seller directs, will be returned at Seller's expense. Freight to and from original destination for excess goods except for customary quantity variations recognized by trade practice, will be paid by Seller. Payment for Deliverables on an order prior to inspection shall not constitute acceptance.

Responsibility for Deliverables and Risk of Loss: All shipments are to be made "F.O.B. Destination" unless otherwise specified on Seller's proposal and on this purchase order and accepted by Buyer. Seller assumes and accepts that all risk of loss of goods covered hereby shall be borne by Seller until goods have been received and accepted by Buyer or received, installed, and accepted by Buyer, whichever is applicable. When articles are sold "F.O.B. Point of Origin" and the purchase order confirms this, Seller is to prepay shipping charge and record prepaid charges on invoice and attach the original receipt, freight bill or express receipt to the invoice.

OSHA: All equipment and material shall be in accordance with applicable OSHA Rules and Regulations in effect at the time of order.

MSDS: Seller shall forward any required material safety data sheet (MSDS) to Buyer on all products subject to this order.

Prevailing Wage: When a contract/order requires construction of Public Works as defined in the Illinois Prevailing Wage Act, including new structures, renovation, remodeling and expansion of existing structures, maintenance and repair of equipment on a construction site, transportation of equipment or materials to or from a construction site:

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- 1) Seller and its subcontractors must pay prevailing wage to any laborers or workers working on the project. It is Seller's responsibility to determine the appropriate current prevailing wage rate.
- 2) Seller shall maintain a certified payroll which will be required prior to payment, and shall be required to submit a Wage Certification Form and maintain records in accordance with the Prevailing Wage Act [820 ILCS 130/1-12]
- 3) Prior to payment of the purchase price, Seller shall furnish lien waivers, releases, affidavits, and other documents as Buyer requires, keeping Buyer's premises lien free.

Bonds: For Public Works projects over \$50,000, the Seller shall furnish a Performance Bond and a Labor and Material Bond in an amount equal to the contract before commencing work. The surety on the bond shall be a company that is licensed by the Department of Insurance authorizing it to execute surety bonds and the company shall have a financial strength rating of at least A- as rated by A.M. Best Company, Inc., Moody's Investor Service, Standard & Poor's Corporation, or a similar rating agency.

Confidential Data: Seller shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all confidential data, whether in hard copy or electronically maintained or transmitted, received from, or on behalf of WCC or its students. These measures will be extended by contract to all subcontractors used by the Seller. Unless authorized by WCC, Seller may not copy, store, or transmit unencrypted confidential and sensitive data on non-WCC-owned/leased computing devices, or other portable storage or computing devices. Seller shall destroy such data when they are no longer needed for the purpose for which they were released.

Non-Disclosure: Seller shall not announce this agreement and relationship in any press releases or other publications, or use WCC's name or logo's in any marketing materials without prior written consent of WCC.

- 1) All information that is obtained and work performed under this agreement and the Seller's Waubonsee Community College contract/order is considered sensitive, may or may not require use of sensitive and personal data and information and falls under one or more categories of information that is subject to protection from disclosure and misuse, including but not limited to: personal information and highly restricted personal information in connection with law enforcement sensitive data and information, the Privacy Act of 1974, 5 U.S.C. § 552a et. seq., the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g et seq. (FERPA), and personal information as defined under and governed by the Personal Information Protection Act, 815 ILCS 530 et seq.
- 2) Seller agrees to comply with all federal and state statutes, rules and regulations as identified in the Waubonsee Acceptable Usage Agreement (located at www.waubonsee.edu/it), understands that disclosure of any information, by any means, for a purpose or to an extent unauthorized herein, shall be grounds for immediate termination of the contract/order and this agreement, and may subject the offender to criminal and civil sanctions.
- 3) All source materials/data/information and resultant work products compiled or created and any information or portion of information derived therefrom are the property of the Waubonsee Community College and must not be used by Seller for any purpose other than the purpose outlined by the contract/order and this agreement.
- 4) Neither Seller, nor its officers, directors, agents, or employees shall divulge, sell, or distribute any information obtained from Waubonsee Community College or derived therefrom at any point in time to a third party, even after termination or expiration of a contract/order, except as may otherwise be required by law.
- 5) Seller shall notify each of its officers, directors, agents, and employees having access to the Waubonsee Community College information that such information may be used only for the purpose and to the extent authorized in this contract.

Insurance: During the term of this agreement, upon Buyer's request, Seller shall maintain, and require its subcontractors to maintain, insurance policies with limits acceptable to Buyer, to protect against claims that may arise from this purchase order. In addition, Seller and its subcontractors shall maintain Workman's Compensation insurance and Comprehensive Automobile Liability insurance coverage in amounts as required by Illinois law. Seller may be required to provide additional insurance as noted in the BID/RFP documents including but not limited to professional liability, E & O (Errors and Omissions), environmental liability and umbrella coverage. WCC, its officers, agents, employees and assigns as will be named as Additional Insured thereunder on a primary and noncontributory basis and certificate holder for all work performed on Buyer's property.

Independent Contractor: Seller shall perform its obligations as an independent contractor of WCC and nothing herein shall be deemed to constitute Seller and WCC as partners, joint venturers, or principal and agent. Seller has no authority to represent WCC and shall not represent that it or any of its subcontractors are in any manner agents or employees of WCC.

License: Upon payment in full for software, Seller grants to WCC a perpetual, non-exclusive, worldwide, irrevocable, fully paid right and license to install and use the software on all computing devices used by or for the benefit of WCC. This license is

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subject to the limitation on the maximum number of end users or other limitations listed on Seller's proposal, but if none, this license shall be deemed to be enterprise-wide and the software may be used by all WCC end users without any maximum number. Any Deliverable under this purchase order that may be subject to a copyright shall be considered a "work for hire" as defined by the U.S. Copyright Act and shall be owned by WCC and WCC shall be considered the author of such item. If a Deliverable shall not be considered a "work for hire" under the U.S. Copyright laws, Seller hereby irrevocably assigns all right, title, and interest in the Deliverable, including all intellectual property rights effective from the moment of creation of the Deliverable.

Smoke Free Campus: The policy of the WCC Board of Trustees is to have a smoke free college environment. Smoking on college grounds and inside college facilities and college vehicles is prohibited. Smoking is only permitted inside private vehicles.

Affirmative Action/Equal Opportunity: Waubensee Community College is an Affirmative Action/Equal Opportunity Employer and does not discriminate against any employee or service provider because of race, sex, color, age, religion, national origin, marital status, veteran's status, physical or mental disability or any other protected status under federal or state law.

Entire Agreement: This purchase order, together with any written documents incorporated by reference, constitutes the entire agreement between Buyer and Seller with respect to this transaction and supersedes all previous communications. Any additional or different terms by the Seller or Seller's acknowledgement are rejected by the Buyer unless expressly agreed to in writing by an authorized representative of the Buyer. This agreement shall be binding upon and inure to the benefit of all heirs, personal representative, successors and assigns of the Seller.

Appendix B: INSURANCE AND INDEMNITY REQUIREMENTS

1. **SAFETY:** The Contractor, its agents, employees, material men and its Subcontractors will perform all work on the project in a safe and responsible manner, and in compliance with all Federal, State and local safety requirements and standards.
2. **INDEMNIFICATION:** The work performed by the Contractor shall be at the risk of the Contractor exclusively. To the extent permitted by law, Contractor shall indemnify, defend, and hold harmless Owner, affiliated companies of Owner, their partners, joint venturers, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorney's fees and costs, and consultants' fees and costs) which arise in whole or in part or are in any way connected with the Work performed, Materials furnished, or Services provided under this Agreement by Sub-Contractor or its agents.
3. **INSURANCE:** The insurance required shall be written for the duration of the Contract in amounts not less than the following minimum limits or as required by law whichever is greater. The Insurer must give the college at least 30 days prior written notice of cancellation and termination of the firm's coverage thereunder. All subcontractors the firm hires must comply with the same requirements.
 - a. Comprehensive General Liability including Contractor's protective liability, Contractual liability, Completed Operations and Products liability. The latter shall be written for a period of one year from the date of acceptance by the Owner, to be renewed annually as long as the contract is in force. Minimum limits shall be as follows:
 - i. Not less than \$1 million dollars Each Occurrence, \$2 million Products/Completed Operations aggregate, \$1 million Personal and Advertising Injury limits, and \$2 million General Aggregate subject to a per project aggregate.
 - ii. **Firm shall provide Waubensee Community College with a Certificate of Insurance and endorsement naming Waubensee Community College District No. 516, its officers, agents, employees and assigns as Additional Insured thereunder on a primary and noncontributory basis.**
 - b. Workman's Compensation as required by all applicable laws including employer's liability in the amount of \$500,000.00 or as otherwise limited by law.
 - c. Comprehensive Business Automobile Liability including non-ownership and hired car coverage as well as owned vehicles. Minimum limits shall be as follows:
 - i. Written in the amount of not less than \$1 million each accident and covering any auto.
 - d. Umbrella Liability Insurance: Written in the amount of no less than \$2 million each accident.
4. **PROPERTY INSURANCE:** It is agreed that the Contractor shall purchase and maintain property insurance for its material left at the job site. Contractor waives all rights of subrogation against Owner for loss of, or damage to, Contractor's work, tools, machinery, equipment, materials or supplies.

END OF DOCUMENT