



Request for Proposal

RFP# LBS-1014

Volunteer Management System

July 24, 2018



REQUEST FOR PROPOSAL
RFP# LBS-1014

Issue Date: 7/24/18
Title: Volunteer Management System
Issuing Agency: Commonwealth of Virginia
James Madison University
Procurement Services MSC 5720
752 Ott Street, Wine Price Building
First Floor, Suite 1023
Harrisonburg, VA 22807

Period of Contract: From Date of Award Through One Year (Renewable)

Sealed Proposals Will Be Received Until 2:00 PM on August 23, 2018 for Furnishing The Services Described Herein.

SEALED PROPOSALS MAY BE MAILED, EXPRESS MAILED, OR HAND DELIVERED DIRECTLY TO THE ISSUING AGENCY SHOWN ABOVE.

All Inquiries For Information And Clarification Should Be Directed To: LeeAnne Beatty Smith, Buyer Senior, Procurement Services, smith2LB@jmu.edu; 540-568-7523; (Fax) 540-568-7935 not later than five business days before the proposal closing date.

NOTE: THE SIGNED PROPOSAL AND ALL ATTACHMENTS SHALL BE RETURNED.

In compliance with this Request for Proposal and to all the conditions imposed herein, the undersigned offers and agrees to furnish the goods/services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

By: _____
(Signature in Ink)

Name: _____
(Please Print)

Date: _____

Title: _____

Web Address: _____

Phone: _____

Email: _____

Fax #: _____

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1_____ #2_____ #3_____ #4_____ #5_____ (please initial)

SMALL, WOMAN OR MINORITY OWNED BUSINESS:

YES; NO; *IF YES* ⇒ ⇒ SMALL; WOMAN; MINORITY ***IF MINORITY:*** AA; HA; AsA; NW; Micro

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

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TABLE OF CONTENTS

| | | | |
|-------|--|-------|-------|
| I. | PURPOSE | Page | 1 |
| II. | BACKGROUND | Page | 1 |
| III. | SMALL, WOMAN-OWNED, AND MINORITY PARTICIPATION | Page | 2 |
| IV. | STATEMENT OF NEEDS | Pages | 2-10 |
| V. | PROPOSAL PREPARATION AND SUBMISSION | Pages | 10-13 |
| VI. | EVALUATION AND AWARD CRITERIA | Page | 13 |
| VII. | GENERAL TERMS AND CONDITIONS | Pages | 14-20 |
| VIII. | SPECIAL TERMS AND CONDITIONS | Pages | 20-27 |
| IX. | METHOD OF PAYMENT | Page | 28 |
| X. | PRICING SCHEDULE | Page | 28 |
| XI. | ATTACHMENTS | Page | 28 |
| | A. Offeror Date Sheet- RETURN OF THIS PAGE IS REQUIRED | | |
| | B. SWaM Utilization Plan- RETURN OF THIS PAGE IS REQUIRED | | |
| | C. Sample of Standard Contract | | |
| | D. James Madison University Information Technology Services Addendum- RETURN OF THIS PAGE IS REQUIRED | | |

I. PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals from qualified sources to enter into a contract to provide a volunteer management system for James Madison University (JMU), an agency of the Commonwealth of Virginia. Initial contract shall be for one (1) year with an option to renew for nine (9) additional one-year periods.

II. BACKGROUND

James Madison University (JMU) is a comprehensive public institution in Harrisonburg, Virginia with an enrollment of approximately 20,000 students and 3,000 faculty and staff. There are over 600 individual departments on campus that support seven academic divisions. The University offers over 120 majors, minors, and concentrations. Further information about the University may be found at the following website: <http://www.jmu.edu>.

JMU's Constituent Engagement (CE) offices are located within the Division of University Advancement. Constituent Engagement consists of the Office of Annual Giving, Office of Alumni Relations and Office of Parent Relations whose collective primary focus is to provide meaningful engagement opportunities for over 300,000 alumni, parents, faculty, staff, students and friends and to cultivate active involvement and philanthropic investment in James Madison University.

JMU plans to publically announce the university's second comprehensive fundraising campaign in late October 2018, which is aimed at achieving participation goals of 25,000 alumni donors and 65,000 overall donors. Throughout the remainder of the campaign, there will be significant emphasis on further growing and strengthening the "Culture of Philanthropy" in the broader constituent base with volunteers as JMU's best advocates. Currently, University Advancement and the Constituent Engagement (CE) offices support 127 active volunteer boards in addition to over 300 volunteers embedded within a variety of CE-specific programs. Several volunteer groups within CE have an important focus on peer-to-peer outreach including being charged with tracking peer outreach communications and submitting contact reports, engagement, and fundraising. CE plans to expand these peer-to-peer efforts among other boards and volunteer groups across campus.

CE is refining our current volunteer infrastructure to standardize recruitment and training processes and is working to identify gaps where new technology could enhance staff and volunteer efficiencies. The current volunteer management process requires the use of several systems including Ellucian Advance, IBM Cognos and iModules, along with other resources for volunteer trainings and informational materials (*i.e. SharePoint, GoogleDocs, WebEx, etc.*). Ensuring volunteers feel prepared to serve as advocates for JMU and assist in fundraising efforts is a top priority for moving forward into the campaign's public phase.

Over the next year, CE envisions rolling out a new volunteer management system to three to five volunteer boards/groups, starting primarily with those internal to Constituent Engagement, with a goal of implementing the new process with our top 25 boards/groups over the course of the next four years. Examples of our top boards/groups include: 1) the GOLD Network board of 34 members which have identified 500+ young alumni as leadership annual giving prospects 2) 25 – 50 Corporate "Workplace" Champions with varying sizes of JMU constituents 3) the Women for Madison Executive Advisory Council with 20 – 25 members.

III. SMALL, WOMAN-OWNED AND MINORITY PARTICIPATION

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities, and to encourage their participation in State procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Attachment B contains information on reporting spend data with subcontractors.

IV. STATEMENT OF NEEDS

The Contractor shall have available and be able to demonstrate the use and functions of the following components and/or features for a Volunteer Management System that streamlines volunteer resources including informational materials, communications, trainings, logging an individual's volunteer efforts, etc. and centralizes the volunteer management process to quickly, accurately, and clearly demonstrate the impact of volunteer efforts.

It is expected that any proposed system will already be fully developed, tested, offered publicly for sale and available immediately for installation. For this project, the University is not interested in a custom developed system.

A. Peer-to-Peer Fundraising

1. JMU Volunteer-User Functionality- Respond to each of the following and describe *in detail* the proposed system's ability to provide the following volunteer user functionality:
 - a. Volunteer access to training materials and toolkits; access to pre-defined self-training workflows/functionality.
 - b. Communication between volunteers within/through the system.
 - c. Ability for volunteers to push out their own messaging directly from the system utilizing branded templates; ability to share on social media.
 - d. Create/Maintain/Edit individual volunteer account data:
 - i. View volunteer opportunities and select interest areas; ability to self-select personal interests.
 - ii. View personal volunteer actions/tasks, including current and historical.
 - iii. View personal volunteer service history, both summary and in detail.
 - e. Back-end management for volunteer user:
 - i. Log volunteers hours into the system and submit log of volunteer activities.

- ii. View aggregated progress of affiliated volunteer group/board(s) toward overall goals.
- iii. Run/Share reports.
- iv. View personal task list and track progress toward task completion.
- v. View peer-to-peer fundraising assignments and submit contact reports per individual.
- vi. Create, view and/or update contact information of prospects.
- vii. View assigned prospect giving history, event attendance and/or volunteer history.
- viii. Log verbal pledge commitment made by assigned individual prospects.

2. JMU Administrator Functionality- Respond to each of the following and describe *in detail* the proposed system's ability to provides the following administrator functionality:

- a. Track/View all volunteer tasks/actions performed within the system.
- b. Assign tasks to an individual volunteer and/or volunteer board/group(s).
- c. Track the effectiveness of an individual volunteer or volunteer board/group(s) in completing assigned tasks.
- d. Communicate with volunteer(s) and/or volunteer board/group(s) within/through the system.
- e. Assign different roles, rights, and/or titles to various volunteers within a board/group
 - i. Standardize role/right/title assignments across select board/group(s).
- f. Edit/Manage individual volunteer assignment portfolios in real-time.
- g. Run reporting on individual and/or board/group(s) regarding volunteer activities, such as contact reports entered, communications sent, people in portfolio taking an action (*i.e. attending an event, making a gift, etc.*).
- h. Manage selection process used to select volunteers; including term length for volunteers.
- i. Define a reporting structure for a volunteer board/group.
 - i. Automated reporting where each volunteer automatically gets sent a consistent individual update on his/her portfolio progress.
 - ii. Quick identification of who still needs to give/register for an event.

- iii. Overall updates based on set goals, etc.
- j. Access individual volunteer data:
 - i. Identify if volunteer has potential leadership qualities and/or if you would use that volunteer again.
 - ii. Show volunteer opportunities in which an individual has expressed interest.
 - iii. Show all individuals associated with an activity including past, current, and those expressing interest (*for recruitment purposes*).
 - iv. View personal volunteer actions/tasks, including current and historical.
 - v. View personal volunteer service history, both summary and in detail.
 - vi. View task list by staff, by volunteers, and by unit or department.
- k. Back-end management for board/group administrator/manager:
 - i. Assign goals to volunteer board/group(s).
 - ii. View volunteer progress toward goals to include an aggregated view of specific affinity or volunteer board/group(s).
 - iii. Track volunteer hours in the system.
 - iv. Rate volunteer's performance.
 - v. Maintain start and end date of volunteer terms.
 - vi. Create permissions for volunteers to access data easily and safely.
 - vii. Make updates to volunteer board/group(s) assignments.
 - viii. Assign JMU staff to manage specific volunteer(s) and/or board/group(s).

B. Engagement Management

1. JMU Volunteer-User Functionality- Respond to each of the following and describe *in detail* the proposed system's ability to provide the following volunteer user functionality:
 - a. Volunteer access to training materials and toolkits; access to pre-defined self-training workflows/functionality.
 - b. Ability for volunteer to self-report activity on board activities and participation in engagement activities (*i.e. serving as an on-campus speaker or hosting an admissions reception or first-year student sendoff event*).

- c. Communication between volunteers directly within/through the system.
 - d. Ability for volunteers to push out their own messaging directly from the system utilizing branded templates; ability to share on Social media.
 - e. View peer-to-peer fundraising assignments and submit contact reports per individual.
 - f. Create/Maintain/Edit individual volunteer account data:
 - i. View volunteer opportunities and select interest areas; ability to self-select personal interests.
 - ii. View personal volunteer actions/tasks, including current and historical.
 - iii. View personal volunteer service history, both summary and in detail.
2. JMU Administrator Functionality: Respond to each of the following and describe *in detail* the proposed system's ability to provides the following administrator functionality:
- a. Track/View all volunteer tasks/actions performed within the system.
 - b. Communicate with volunteer(s) and/or volunteer board/group(s) within/through the system.
 - c. Ability for board administrators/managers to confirm volunteer's self-reported board and engagement activities (*i.e. speakers on campus*).
 - d. Assign different roles, rights, and/or titles to various volunteers within a board/group
 - i. Standardize role/right/title assignments across select board/group(s).
 - e. Manage volunteer portfolio by make assignments and syncing giving, event and/or volunteer history to assignments.
 - f. Run reporting on both an individual and board/group(s) volunteer activities, such as contact reports entered, communications sent, people in portfolio taking an action (*i.e. attending an event, making a gift, etc.*).
 - g. Manage selection process used to select volunteers; including term length for volunteers.
 - h. Define a reporting structure for a volunteer board/group.
 - i. Automated reporting where each volunteer automatically gets sent a consistent individual update on his/her portfolio progress
 - ii. Quick identification of who still needs to give/register for an event

- iii. Overall updates based on set goals, etc.
- i. Back-end management for board/group administrator/manager:
 - i. Assign goals to volunteer board/group(s).
 - ii. View volunteer progress toward goals to include an aggregated view of specific affinity or volunteer board/group(s).
 - iii. Track volunteer hours in the system.
 - iv. Rate volunteer's performance.
 - v. Maintain start and end date of volunteer terms.
 - vi. Create permissions for volunteers to access data easily and safely.
 - vii. Make updates to volunteer board/group(s) assignments.
 - viii. Assign JMU staff to manage specific volunteer(s) and/or board/group(s).
 - ix. Access dashboard view that can display an individual and which boards/activities that individual is involved in.

C. Information Technology

1. Application Technology:
 - a. Describe the application security features for data, for each module, and for the system.
 - b. Describe all row-level security options as well as any field-level encryption available.
 - c. Define what *modifiable*, *customizable* and *configurable* mean for your application.
 - d. Describe workflow functionality included with the application and provide a list of any function for which workflow is already built and delivered.
2. Reporting:
 - a. Describe application approach/strategy for reporting including the approach to ad-hoc reporting for power users as well as the occasional user.
 - b. Describe all reporting tools supported and how they integrate with the product. Specify if application licensing includes these tools.
 - c. Provide a list of all reports delivered as part of the base product including a short description of each. Include a sample of several reports for review.
 - d. Describe reporting output formats available.
 - e. Share if available, database Enterprise Relationship Diagram (ERD).

3. Services:

- a. Describe training options and include a catalog of training offerings (*specify any associated cost in Section X. Pricing Schedule*). Response should include differentiation between technical staff and end-user training.

4. General:

- a. Describe typical implementation timeline and project plan and include examples of previously used project plans.
- b. Describe how product(s) addresses accessibility to ensure the application is accessible to people with disabilities. Describe testing for adherence to accessibility guidelines and standards. Provide documentation of the testing performed and results of that testing including the Web Accessibility and Template Guide (*WATG located at <https://www.vadsa.org/watg/>*).

5. Technical:

- a. Provide a detailed diagram of the architecture/technical environment proposed for the system. Describe each component, the software running on it, and its purpose. List all communications between components including the protocols, ports, direction, third parties, and whether the communications are encrypted.
- b. Describe the toolset from which your application is derived.
- c. Describe the client operating system and browser requirements for your toolset. List any additional client-side software required for development/management of your toolset.
- d. Describe any changes to default browser or client security settings.
- e. Describe any functionality loss, installation or upgrade problems, or other difficulties if client applications are run using a standard client user account (*non-administrator*).
- f. Describe your support for mobile technologies including technology used, distribution method, functionality, integration and development toolset and security.
- g. Describe support for integration with JMU's existing systems listed in the background statement including availability of APIs, toolkits for creating connectors, available services, etc. Provide a full list of application connectors. Describe any other methods of integration supported. (*Specify all associated cost in Section X Pricing Schedule*).
- h. Describe business relationships and support for integration with Constituent Relationship Management (CRM) systems to include, but not limited to, Blackbaud, Salesforce, and Ellucian.
- i. Describe the system enhancements in development that are scheduled for release in the next twelve months.

6. Security:
 - a. Describe any communications that are not cryptographically protected (*e.g. non-https, non-ldaps, non-ftps*).
 - b. Describe all authentication and authorization processes and options both end-user and among component interfaces. Include interoperability with external authentication and authorization sources (*e.g. directories, federations, SSO, two-factor authentication*). Include all pertinent documentation describing interfaces and configuration options.
7. Maintenance: Because consistency and stability of the operating environment and rapid correction of system failures are critical to James Madison University, major consideration will be given to the amount and extent of hardware and software maintenance coverage and to the quality of maintenance.
 - a. Describe the maintenance philosophy including frequency of updates, approach to completing updates, and model for obtaining them.
 - b. Describe capabilities for remote support and indicate what access to accounts and systems is required. Describe the locations from which this activity would take place.
 - c. Describe any maintenance options/tiers and whether they vary by time of day, response time, etc. (*Specify any associated cost in Section X. Pricing Schedule*).
 - d. Describe services that may be required in the normal course of operating the system that are not covered under the maintenance contract.
 - e. Describe the procedures for obtaining services for all types of maintenance (*e.g. installation of corrective code, enhancements, applicable "escalation" procedures for providing additional assistance in diagnosing a failure that is not resolved in a timely manner to include notification procedures and timing as well as what higher levels of assistance will be made available.*)
 - f. Describe if and how your product impacts our ability to apply security updates in a timely manner to underlying or supporting products (*e.g. Windows, Linux, Java, Oracle, MS Office, Web server*). Timely is defined as no later than 30 days from the time of vendor release.
 - g. Describe all responsibilities of both the contractor and James Madison University in the isolation and diagnosis of system failures.
8. On-premise Application (*if there is no on-premise option, do not complete*):
 - a. Describe hardware and software requirements for the proposed system(s) along with any sizing assumptions made to arrive at those requirements.
 - b. Describe supported server OS, hardware and/or virtualized platforms. If virtualization is supported, specify the virtualization technologies that are supported including which components can be virtualized.
 - c. Describe support for load balancing and system failover including any and all vendor specific preferences. Include any vendor specific configuration guides.

- d. Describe how scalability is accomplished as the criticality of the system(s) and number of users increase.
 - e. Describe the system capabilities and options for the backup and restoration of the system components (*example: database*).
9. Hosted Applications (*if there is no hosted option, do not complete*): The university occasionally explores opportunities for hosting applications external to the university. If hosting is an option for this project, then complete the following section. If hosting is not an option, there is no requirement to respond.
- a. Provide a list of service outage incidents, security breaches, and application security vulnerabilities fixed over the past year.
 - b. Provide a description and evidence of the security used in your facilities to assure the confidentiality, integrity, and availability of JMU data and services. Include:
 - i. Employee and partner vetting processes
 - ii. Physical, network, and system access controls
 - iii. Process to apply security updates in a timely manner.
 - iv. Internal/external vulnerability testing including network scanning, penetration testing, web application testing, code review, audits, and which, if any will be made available to JMU.
 - c. *Ongoing attack and integrity monitoring methods*. Provide your policy and process for notifying JMU of security breaches in your environment.
 - d. Describe the architecture of the proposed solution indicating where and how JMU will either share resources with other customers or be isolated from them.
 - e. Describe your approach and policy regarding ownership of customer data that resides in your data center. Describe customer rights and abilities regarding moving and copying.
 - f. Describe vendor and partner practices related to moving and copying data.
 - g. Describe where services and data storage are located geographically.
 - h. Describe any exit strategies you offer.
 - i. Describe your approach to backups and disaster recovery. Indicate whether backups can be stored at JMU and if so, how it would be accomplished.

10. Privacy

- a. Provide your privacy statement and that of any partners involved in providing your proposed solution.
- b. Describe any user and/or activity information collected automatically or directly through inquiry or consent forms sent directly to you or other parties outside of the

application system, whether the information collected is personally identifiable, for what purpose(s) it is collected and how long it is retained.

- c. Describe the specific means used to collect such information (*via cookies, web bugs, etc.*)
- d. Describe how information is stored and kept secure.
- e. Specify whether you share the user and/or activity information with other parties. If information is shared with other parties, specifically identify who these parties are and respond to Items i. through iii. for each.
 - i. Identify the type/specific information being shared with a third party or collected directly by them about your offering, whether the information collected is personally identifiable, how/for what purpose(s) it is collected and how long it is retained.
 - ii. Describe the specific means used to collect such information (*via forms, cookies, web bugs, etc.*)
 - iii. Describe how this information is stored and kept secure.
- f. Specify whether your offering includes ingesting or connecting to personally identifiable transactions or other records from third parties. If so, please respond to i-iii below:
 - i. Identify the type/specific information being collected/ingested through a third party or collected directly by them in connection with your offering, whether the information collected is personally identifiable, how/for what purpose(s) it is collected and how long it is retained.
 - ii. Describe the specific means used to collect such information (*via forms, cookies, web bugs, etc.*)
 - iii. Describe how this information is stored and kept secure.

V. PROPOSAL PREPARATION AND SUBMISSION

A. GENERAL INSTRUCTIONS

To ensure timely and adequate consideration of your proposal, offerors are to limit all contact, whether verbal or written, pertaining to this RFP to the James Madison University Procurement Office for the duration of this Proposal process. Failure to do so may jeopardize further consideration of Offeror's proposal.

- 1. RFP Response: In order to be considered for selection, the **Offeror shall submit a complete response to this RFP**; and shall submit to the issuing Purchasing Agency:
 - a. **One (1) original and seven (7) copies** of the entire proposal, INCLUDING ALL ATTACHMENTS. Any proprietary information should be clearly marked in accordance with 3.f. below.

- b. **One (1) electronic copy in WORD format or searchable PDF** (*CD or flash drive*) of the entire proposal, INCLUDING ALL ATTACHMENTS. Any proprietary information should be clearly marked in accordance with 3.f. below.
- c. Should the proposal contain **proprietary information**, provide **one (1) redacted hard copy** of the proposal and all attachments with **proprietary portions removed or blacked out**. This copy should be clearly marked “*Redacted Copy*” on the front cover. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. JMU shall not be responsible for the Contractor’s failure to exclude proprietary information from this redacted copy.

No other distribution of the proposal shall be made by the Offeror.

- 2. The version of the solicitation issued by JMU Procurement Services, as amended by an addenda, is the mandatory controlling version of the document. Any modification of, or additions to, the solicitation by the Offeror shall not modify the official version of the solicitation issued by JMU Procurement services unless accepted in writing by the University. Such modifications or additions to the solicitation by the Offeror may be cause for rejection of the proposal; however, JMU reserves the right to decide, on a case-by-case basis in its sole discretion, whether to reject such a proposal. If the modification or additions are not identified until after the award of the contract, the controlling version of the solicitation document shall still be the official state form issued by Procurement Services.

3. Proposal Preparation

- a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submissions of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at the appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- d. As used in this RFP, the terms “must”, “shall”, “should” and “may” identify the criticality of requirements. “Must” and “shall” identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as “should” or “may” are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual “must” and “shall” items may not be fully satisfied, but it is the intent to satisfy most, if not all, “must” and “shall” requirements. The inability of an offeror to satisfy a “must” or “shall” requirement does not automatically remove that offeror from consideration; however, it may seriously affect the overall rating of the offeror’ proposal.
 - e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
 - f. Ownership of all data, materials and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by the offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protection of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret materials submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.
4. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to James Madison University. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact-finding and explanation session only and does not include negotiation. James Madison University will schedule the time and location of these presentations. Oral presentations are an option of the University and may or may not be conducted. Therefore, proposals should be complete.

B. SPECIFIC PROPOSAL INSTRUCTIONS

Proposals should be as thorough and detailed as possible so that James Madison University may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. Return RFP cover sheet and all addenda acknowledgements, if any, signed and filled out as required.
2. Plan and methodology for providing the goods/services as described in Section IV. Statement of Needs of this Request for Proposal.
3. A written narrative statement to include, but not be limited to, the expertise, qualifications, and experience of the firm and resumes of specific personnel to be assigned to perform the work.

4. Offeror Data Sheet, included as *Attachment A* to this RFP.
5. Small Business Subcontracting Plan, included as *Attachment B* to this RFP. Offeror shall provide a Small Business Subcontracting plan which summarizes the planned utilization of Department of Small Business and Supplier Diversity (SBSD)-certified small businesses which include businesses owned by women and minorities, when they have received Department of Small Business and Supplier Diversity (SBSD) small business certification, under the contract to be awarded as a result of this solicitation. This is a requirement for all prime contracts in excess of \$100,000 unless no subcontracting opportunities exist.
6. Identify the amount of sales your company had during the last twelve months with each VASCUPP Member Institution. A list of VASCUPP Members can be found at: www.VASCUPP.org.
7. Proposed Cost. See Section X. Pricing Schedule of this Request for Proposal.

VI. EVALUATION AND AWARD CRITERIA

A. EVALUATION CRITERIA

Proposals shall be evaluated by James Madison University using the following criteria:

1. Quality of products/services offered and suitability for intended purposes
2. Qualifications and experience of Offeror in providing the goods/services
3. Specific plans or methodology to be used to perform the services
4. Participation of Small, Women-Owned, & Minority (SWaM) Businesses
5. Cost

Allocation of points for evaluation criteria will be published to the eVA solicitation posting prior to the closing date and time.

- B. AWARD TO MULTIPLE OFFERORS:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly

qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

VII. GENERAL TERMS AND CONDITIONS

- A. PURCHASING MANUAL: This solicitation is subject to the provisions of the Commonwealth of Virginia's Purchasing Manual for Institutions of Higher Education and Their Vendors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is available for review at the purchasing office. In addition, the manual may be accessed electronically at <http://www.jmu.edu/procurement> or a copy can be obtained by calling Procurement Services at (540) 568-3145.
- 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 and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with applicable federal, state and local laws and regulations.
- C. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to the Commonwealth 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 §10 of the Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 (available for review at <http://www.jmu.edu/procurement>). 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. (*§6 of the Rules Governing Procurement*).

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 proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, 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 of 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 entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. DEBARMENT STATUS: By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting proposals 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. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.
- H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS RFPs: Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.
- I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror 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.
- J. 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 purchase order/contract. All invoices shall show the state contract 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 invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
 - d. 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.
 - e. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 § 53; available for review at <http://www.jmu.edu/procurement>*).
2. To Subcontractors:
- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractors, in writing, of the contractor's intention to withhold payment and the reason.
 - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, 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 the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until

such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. PRECEDENCE OF TERMS: Paragraphs A through J of these General Terms and Conditions and the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors, 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.
- L. QUALIFICATIONS OF OFFERORS: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. TESTING AND INSPECTION: The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. CHANGES TO THE CONTRACT: Changes can be made to the contract in any 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. The Purchasing Agency 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 shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency 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 the Purchasing Agency'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 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 the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency 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 the Purchasing Agency 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 resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors. 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 the Purchasing Agency or with the performance of the contract generally.

P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, 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 the Commonwealth may have.

Q. **INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror 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 § 25 of the Rules Governing Procurement – Chapter 2, Exhibit J, Attachment 1, and 65.2-800 et. Seq. of the Code of Virginia (available for review at <http://www.jmu.edu/procurement>) The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage 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. **Workers' Compensation:** Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirement under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
2. **Employer's Liability:** \$100,000
3. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. **Automobile Liability:** \$1,000,000 combined single limit. *(Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must*

assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

- R. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.virginia.gov) for a minimum of 10 days.
- S. 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 purposes 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 or marijuana during the performance of the contract.

- T. NONDISCRIMINATION OF CONTRACTORS: An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. 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 alternative provider.
- U. eVA BUSINESS TO GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS: The eVA Internet electronic procurement solution, website portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected. Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

1. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
 - a. Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$500 per order.
 - b. Businesses that are not Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$1,500 per order.
 2. For orders issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.
 3. The specified vendor transaction fee will be invoiced by the Commonwealth of Virginia Department of General Services approximately 60 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.
- T. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Commonwealth of Virginia shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- U. **PRICING CURRENCY:** Unless stated otherwise in the solicitation, offerors shall state offered prices in U.S. dollars.
- V. **E-VERIFY REQUIREMENT OF ANY CONTRACTOR:** Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with James Madison University to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to any awarded contract.
- W. **TAXES:** Sales to the Commonwealth of Virginia 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. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

VIII. SPECIAL TERMS AND CONDITIONS

- A. **AUDIT:** The Contractor hereby agrees to retain all books, records, systems, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Commonwealth of Virginia, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- B. **CANCELLATION OF CONTRACT:** James Madison University reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. 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.
- C. **IDENTIFICATION OF PROPOSAL ENVELOPE:** The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____

| | | |
|-----------------------|-----------|------|
| Name of Offeror | Due Date | Time |
| Street or Box No. | RFP # | |
| City, State, Zip Code | RFP Title | |

Name of Purchasing Officer:

The envelope should be addressed as directed on the title page of the solicitation.

The Offeror takes the risk that if the envelope is not marked as described above, it may be inadvertently opened and the information compromised, which may cause the proposal to be disqualified. Proposals may be hand-delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

- D. **LATE PROPOSALS:** To be considered for selection, proposals must be received by the issuing office by the designated date and hour. The official time used in the receipt of proposals is that time on the automatic time stamp machine in the issuing office. Proposals received in the issuing office after the date and hour designated are automatically non responsive and will not be considered. The University is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra university mail system. It is the sole responsibility of the Offeror to ensure that its proposal reaches the issuing office by the designated date and hour.
- E. **UNDERSTANDING OF REQUIREMENTS:** It is the responsibility of each offeror to inquire about and clarify any requirements of this solicitation that is not understood. The University will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries deemed to be substantive in nature must be in writing and submitted to the responsible buyer in the Procurement Services Office. Offerors must ensure that written inquiries reach the buyer at least five (5) days prior to the time set for receipt of offerors proposals. A copy of all queries and the respective response will be provided in the form of an addendum to all offerors who have indicated an interest in responding to this solicitation. Your signature on your Offer certifies that you fully understand all facets of this solicitation. These questions may be sent by Fax to 540/ 568-7936 or 540/568-7935.
- F. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth for a period of nine (9) successive one year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by no more than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
 2. If during any subsequent renewal periods, the Commonwealth elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more

than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

- G. SUBMISSION OF INVOICES: All invoices shall be submitted within sixty days of contract term expiration for the initial contract period as well as for each subsequent contract renewal period. Any invoices submitted after the sixty day period will not be processed for payment.
- H. OPERATING VEHICLES ON JAMES MADISON UNIVERSITY CAMPUS: Operating vehicles on sidewalks, plazas, and areas heavily used by pedestrians is prohibited. In the unlikely event a driver should find it necessary to drive on James Madison University sidewalks, plazas, and areas heavily used by pedestrians, the driver must yield to pedestrians. For a complete list of parking regulations, please go to www.jmu.edu/parking; or to acquire a service representative parking permit, contact Parking Services at 540.568.3300. The safety of our students, faculty and staff is of paramount importance to us. Accordingly, violators may be charged.
- I. COOPERATIVE PURCHASING / USE OF AGREEMENT BY THIRD PARTIES: It is the intent of this solicitation and resulting contract(s) to allow for cooperative procurement. Accordingly, any public body, (to include government/state agencies, political subdivisions, etc.), cooperative purchasing organizations, public or private health or educational institutions or any University related foundation and affiliated corporations may access any resulting contract if authorized by the Contractor.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), the resultant contract(s) will be extended to the entities indicated above to purchase goods and services in accordance with contract terms. As a separate contractual relationship, the participating entity will place its own orders directly with the Contractor(s) and shall fully and independently administer its use of the contract(s) to include contractual disputes, invoicing and payments without direct administration from the University. No modification of this contract or execution of a separate agreement is required to participate; however, the participating entity and the Contractor may modify the terms and conditions of this contract to accommodate specific governing laws, regulations, policies, and business goals required by the participating entity. Any such modification will apply solely between the participating entity and the Contractor.

The Contractor will notify the University in writing of any such entities accessing this contract. The Contractor will provide semi-annual usage reports for all entities accessing the contract. The University shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor to extend the contract. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of the contract no matter the circumstances.

Use of this contract(s) does not preclude any participating entity from using other contracts or competitive processes as needed.

- J. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:
1. It is the goal of the Commonwealth that 42% of its purchases are made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All potential offerors are required to submit a Small Business Subcontracting Plan. Unless the offeror is registered as a Department of Small Business and Supplier Diversity (SBSD)-certified small business and where it is practicable for any portion of the awarded contract

to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to SBSB-certified small businesses. This shall not exclude SBSB-certified women-owned and minority-owned businesses when they have received SBSB small business certification. No offeror or subcontractor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Small Business and Supplier Diversity (SBSB) by the due date for receipt of proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the SBSB certification number or FEIN, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**

2. Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution with every request for payment, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. **This information shall be submitted to: JMU Office of Procurement Services, SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.** When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the Department of Small Business and Supplier Diversity (SBSB) certification number or FEIN number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for default.
 3. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution with every request for payment, information on use of subcontractors that are not Department of Small Business and Supplier Diversity (SBSB)-certified small businesses. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, FEIN number, total dollar amount subcontracted, and type of product or service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**
- K. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- L. PUBLIC POSTING OF COOPERATIVE CONTRACTS: James Madison University maintains a web-based contracts database with a public gateway access. Any resulting

cooperative contract/s to this solicitation will be posted to the publicly accessible website. Contents identified as proprietary information will not be made public.

M. CRIMINAL BACKGROUND CHECKS OF PERSONNEL ASSIGNED BY CONTRACTOR

TO PERFORM WORK ON JMU PROPERTY: The Contractor shall obtain criminal background checks on all of their contracted employees who will be assigned to perform services on James Madison University property. The results of the background checks will be directed solely to the Contractor. The Contractor bears responsibility for confirming to the University contract administrator that the background checks have been completed prior to work being performed by their employees or subcontractors. The Contractor shall only assign to work on the University campus those individuals whom it deems qualified and permissible based on the results of completed background checks. Notwithstanding any other provision herein, and to ensure the safety of students, faculty, staff and facilities, James Madison University reserves the right to approve or disapprove any contract employee that will work on JMU property. Disapproval by the University will solely apply to JMU property and should have no bearing on the Contractor's employment of an individual outside of James Madison University.

N. INDEMNIFICATION: Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the contractor/any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered.

O. ADDITIONAL GOODS AND SERVICES: The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual agreement, for the Contractor to provide additional goods and/or services under the same pricing, terms, and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services that are newly introduced during the term of this Agreement. Such additional goods and services will be provided to the University at favored nations pricing, terms, and conditions.

P. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to James Madison University will be used in product literature or advertising without the express written consent of the University. The contractor shall not state in any of its advertising or product literature that James Madison University has purchased or uses any of its products or services, and the contractor shall not include James Madison University in any client list in advertising and promotional materials without the express written consent of the University.

Q. 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 skill 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,

R. SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to subcontract some

part of the work specified herein, the contractor shall furnish the purchasing agency 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.

S. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The contractor assures that information and data obtained as to personal facts and circumstances related to faculty, staff, students, and affiliates will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. This shall include FTI, which is a term of art and consists of federal tax returns and return information (*and information derived from it*) that is in contractor/agency possession or control which is covered by the confidentiality protections of the Internal Revenue Code (*IRC*) and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as sensitive but unclassified information and may contain personally identifiable information (*PII*). Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

T. NONVISUAL ACCESS TO TECHNOLOGY: All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:

1. effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
2. the Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
3. nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
4. the technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, 2.2-3500 through 2.2-3504 of the *Code of Virginia*.

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. (<http://www.section508.gov/>). The requirements of this Paragraph along with the Non-Visual Access to Technology Clause shall be construed to achieve full compliance with the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the *Code of Virginia*.

- U. **EXCESSIVE DOWNTIME:** Equipment or software furnished under the contract shall be capable of continuous operation. Should the equipment or software become inoperable for a period of more than 24 hours, the contractor agrees to pro-rate maintenance charges to account for each full day of in operability. The period of in operability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than two (2) consecutive calendar days, the contractor shall promptly replace the equipment or software at no charge upon request of the procuring agency. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within two (2) days following the request for replacement.
- V. **LATEST SOFTWARE VERSION:** Any software product(s) provided under the contract shall be the latest version available to the general public as of the due date of this solicitation.
- W. **SOFTWARE UPGRADES:** The Commonwealth shall be entitled to any and all upgraded versions of the software covered in the contract that becomes available from the contractor. The maximum charge for upgrade shall not exceed the total difference between the cost of the Commonwealth's current version and the price the contractor sells or licenses the upgraded software under similar circumstances.
- X. **SOURCE CODE:** In the event the contractor ceases to maintain experienced staff and the resources needed to provide required software maintenance, the Commonwealth shall be entitled to have, use, and duplicate for its own use, a copy of the source code and associated documentation for the software products covered by the contract. Until such time as a complete copy of such material is provided, the Commonwealth shall have exclusive right to possess all physical embodiments of such contractor owned materials. The rights of the Commonwealth in this respect shall survive for a period of twenty years after the expiration or termination of the contract. All lease and royalty fees necessary to support this right are included in the initial license fee as contained in the pricing schedule.
- Y. **THIRD PARTY ACQUISITION OF SOFTWARE:** The contractor shall notify the procuring agency in writing should the intellectual property, associated business, or all of its assets be acquired by a third party. The contractor further agrees that the contract's terms and conditions, including any and all license rights and related services, shall not be affected by the acquisition. Prior to completion of the acquisition, the contractor shall obtain, for the Commonwealth's benefit and deliver thereto, the assignee's agreement to fully honor the terms of the contract.

- Z. TITLE TO SOFTWARE: By submitting a bid or proposal, the bidder or offeror represents and warrants that it is the sole owner of the software or, if not the owner, that it has received all legally required authorizations from the owner to license the software, has the full power to grant the rights required by this solicitation, and that neither the software nor its use in accordance with the contract will violate or infringe upon any patent, copyright, trade secret, or any other property rights of another person or organization.
- AA. WARRANTY AGAINST SHUTDOWN DEVICES: The contractor warrants that the equipment and software provided under the contract shall not contain any lock, counter, CPU reference, virus, worm, or other device capable of halting operations or erasing or altering data or programs. Contractor further warrants that neither it, nor its agents, employees, or subcontractors shall insert any shutdown device following delivery of the equipment and software.
- BB. RENEWAL OF MAINTENANCE: Maintenance of the hardware or software specified in the resultant contract may be renewed by the mutual written agreement of both parties for additional one-year periods, under the terms and conditions of the original contract except as noted herein. Price changes may be negotiated at time of renewal; however, in no case shall the maintenance costs for a succeeding one-year period exceed the prior year's contract price(s), increased or decreased by more than the percentage increase or decrease in the other services category of the CPI-W section of the US Bureau of Labor Statistics Consumer Price Index, for the latest twelve months for which statistics are available.

IX. METHOD OF PAYMENT

The contractor will be paid on the basis of invoices submitted in accordance with the solicitation and any negotiations. James Madison University recognizes the importance of expediting the payment process for our vendors and suppliers. We are asking our vendors and suppliers to enroll in the Wells Fargo Bank single use Commercial Card Number process or electronic deposit (ACH) to your bank account so that future payments are made electronically. Contractors signed up for the Wells Fargo Bank single use Commercial Card Number process will receive the benefit of being paid in Net 15 days. Additional information is available online at:

<http://www.jmu.edu/financeoffice/accounting-operations-disbursements/cash-investments/vendor-payment-methods.shtml>

X. PRICING SCHEDULE

The offeror shall provide pricing for all products and services included in proposal indicating one-time and on-going costs.

XI. ATTACHMENTS

Attachment A: Offeror Data Sheet

Attachment B: Small, Women, and Minority-owned Business (SWaM) Utilization Plan

Attachment C: Standard Contract Sample

Attachment D: James Madison University Information Technology Security Addendum

ATTACHMENT A

OFFEROR DATA SHEET

TO BE COMPLETED BY OFFEROR

1. **QUALIFICATIONS OF OFFEROR:** Offerors must have the capability and capacity in all respects to fully satisfy the contractual requirements.
2. **YEARS IN BUSINESS:** Indicate the length of time you have been in business providing these types of goods and services.

Years _____ Months _____

3. **REFERENCES:** Indicate below a listing of at least five (5) organizations, either commercial or governmental/educational, that your agency is servicing. Include the name and address of the person the purchasing agency has your permission to contact.

| CLIENT | LENGTH OF SERVICE | ADDRESS | CONTACT PERSON/PHONE # |
|--------|-------------------|---------|------------------------|
|--------|-------------------|---------|------------------------|

4. List full names and addresses of Offeror and any branch offices which may be responsible for administering the contract.

5. **RELATIONSHIP WITH THE COMMONWEALTH OF VIRGINIA:** Is any member of the firm an employee of the Commonwealth of Virginia who has a personal interest in this contract pursuant to the [CODE OF VIRGINIA](#), SECTION 2.2-3100 – 3131?

YES NO

IF YES, EXPLAIN: _____

ATTACHMENT B

Small, Women and Minority-owned Businesses (SWaM) Utilization Plan

Offeror Name: _____ Preparer Name: _____

Date: _____

Is your firm a **Small Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes_____ No_____

If yes, certification number: _____ Certification date:_____

Is your firm a **Woman-owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes_____ No_____

If yes, certification number: _____ Certification date:_____

Is your firm a **Minority-Owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes_____ No_____

If yes, certification number: _____ Certification date:_____

Is your firm a **Micro Business** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes_____ No_____

If yes, certification number: _____ Certification date: _____

Instructions: *Populate the table below to show your firm's plans for utilization of small, women-owned and minority-owned business enterprises in the performance of the contract. Describe plans to utilize SWAMs businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.*

Small Business: "Small business " means a business, independently owned or operated by one or more persons who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.

Woman-Owned Business Enterprise: A business concern which is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more women, and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWAM Program, all certified women-owned businesses are also a small business enterprise.**

Minority-Owned Business Enterprise: A business concern which is at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWAM Program, all certified minority-owned businesses are also a small business enterprise.**

Micro Business is a certified Small Business under the SWaM Program and has no more than twenty-five (25) employees **AND** no more than \$3 million in average annual revenue over the three-year period prior to their certification.

All small, women, and minority owned businesses must be certified by the Commonwealth of Virginia Department of Small Business and Supplier Diversity (SBSD) to be counted in the SWAM program. Certification applications are available through SBSDB at 800-223-0671 in Virginia, 804-786-6585 outside Virginia, or online at <http://www.sbsd.virginia.gov/> (Customer Service).

RETURN OF THIS PAGE IS REQUIRED

ATTACHMENT B (CNT'D)
Small, Women and Minority-owned Businesses (SWaM) Utilization Plan

Procurement Name and Number: _____

Date Form Completed: _____

Listing of Sub-Contractors, to include, Small, Woman Owned and Minority Owned Businesses
 for this Proposal and Subsequent Contract

Offeror / Proposer:

_____ Firm

_____ Address

_____ Contact Person/No.

| Sub-Contractor's Name and Address | Contact Person & Phone Number | SBSD Certification Number | Services or Materials Provided | Total Subcontractor Contract Amount (to include change orders) | Total Dollars Paid Subcontractor to date (to be submitted with request for payment from JMU) |
|-----------------------------------|-------------------------------|---------------------------|--------------------------------|--|--|
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(Form shall be submitted with proposal and if awarded, again with submission of each request for payment)

RETURN OF THIS PAGE IS REQUIRED

ATTACHMENT C



COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT

Contract No. _____

This contract entered into this _____ day of _____, 20____, by _____ hereinafter called the "Contractor" and Commonwealth of Virginia, James Madison University called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From _____ through _____

The contract documents shall consist of:

- (1) This signed form;
- (2) The following portions of the Request for Proposals dated _____:
 - (a) The Statement of Needs,
 - (b) The General Terms and Conditions,
 - (c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;
 - (d) List each addendum that may be issued
- (3) The Contractor's Proposal dated _____ and the following negotiated modification to the Proposal, all of which documents are incorporated herein.
 - (a) Negotiations summary dated _____.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

PURCHASING AGENCY:

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

(Printed Name)

Title: _____

Title: _____

ATTACHMENT D
James Madison University
Information Technology Services Addendum

CONTRACTOR NAME: _____

PRODUCT/SOLUTION: _____

Definitions:

- **Agreement:** The “Agreement” includes the contract, this addendum and any additional addenda and attachments to the contract, including the Contractor’s Form.
- **University:** “University” or “the University” means James Madison University, its trustees, officers and employees.
- **University Data:** “University Data” is defined as any data that the Contractor creates, obtains, accesses, transmits, maintains, uses, processes, stores or disposes of in performance of the Agreement. It includes all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites.
- **Personally Identifiable Information:** “Personally Identifiable Information” (PII) includes but is not limited to: Any information that directly relates to an individual and is reasonably likely to enable identification of that individual or information that is defined as PII and subject to protection by James Madison University under federal or Commonwealth of Virginia law.
- **Security Breach:** “Security Breach” means a security-relevant event in which the security of a system or procedure involving University Data is breached, and in which University Data is exposed to unauthorized disclosure, access, alteration, or use.
- **Service(s):** “Service” or “Services” means any goods or services acquired by the University from the Contractor.

1. **Rights and License in and to University Data:** The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of the University, and Contractor has a limited, nonexclusive license to use the data as provided in the Agreement solely for the purpose of performing its obligations hereunder.
2. **Nonvisual Access To Technology:** All information technology which, pursuant to the Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the “Technology”) shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. The requirements of this Paragraph along with the Non-Visual Access to Technology Clause shall be construed to achieve full compliance with the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia. Compliance may be determined by the degree to which the product meets the recommendations described in the VPAT (Voluntary Product Accessibility Template) and/or WCAG 2.0 Level AA guidelines.
3. **Data Privacy:**
 - a. Contractor will use University Data only for the purpose of fulfilling its duties under the Agreement and will not share such data with or disclose it to any third party without the prior written consent of the University, except as required by the Agreement or as otherwise required by law.
 - b. University Data will not be stored outside the United States without prior written consent from the University.
 - c. Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill obligations under the Agreement. The Contractor will ensure that the Contractor’s employees, and subcontractors when applicable, who perform work under the Agreement have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of the Agreement.

- i. If the Contractor will have access to the records protected by the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of the Agreement it will be designated as a “school official” with “legitimate educational interests” in such records, as those terms have been defined under FERPA and its implementing regulations, and Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use such records only for the purpose of fulfilling its duties under the Agreement for University’s and its End Users’ benefit, and will not share such data with or disclose it to any third party except as provided for in the Agreement, required by law, or authorized in writing by the University. Contractor acknowledges that its access to such records is limited to only those directly related to and necessary for the completion of Contractor’s duties under the Agreement.

4. Data Security:

- a. Contractor will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Contractor’s own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved.
- b. Contractor will store and process University Data in a secure site and will provide a SAS 70, SAS 70 Type II, SSAE 16, or SOC 2, or other security report deemed sufficient by the University, from a third party reviewer along with annual updated security reports. If the Contractor is using a third-party cloud hosting company such as AWS, Rackspace, etc., the Contractor will obtain the security audit report from their hosting company and give the results to the University. The University should not have to request the report directly from the hosting company, or sign a nondisclosure agreement to receive it.
- c. Contractor will use industry-standards and up-to-date security tools, technologies and practices such as network firewalls, anti-virus, vulnerability scans, system logging, intrusion detection, 24x7 system monitoring and third-party penetration testing in providing services under the Agreement.
- d. Without limiting the foregoing, Contractor warrants that all electronic University Data will be encrypted in transmission (including via web interface) and stored at AES 256 or stronger.

5. Data Authenticity, Integrity and Availability:

- a. Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor shall be responsible for ensuring that University Data, per the Virginia Public Records Act, “is preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.”
- b. Contractor will ensure backups are successfully completed at the agreed interval and that restoration capability is maintained for restoration to a point-in-time and/or to the most current backup available.
- c. Contractor will maintain an uptime of 99.99% or greater, or as negotiated and accepted by the University, as agreed to for the contracted services via the use of appropriate redundancy, continuity of operations and disaster recovery planning and implementations, excluding regularly scheduled maintenance time.

6. Employee Qualifications:

- a. Contractor shall ensure that its employees have undergone appropriate background screening and possess all needed qualifications to comply with the terms of the Agreement including but not limited to all terms relating to data and intellectual property protection.

7. Security Breach:

- a. Response. Immediately (within one day) upon becoming aware of a Security Breach, or of circumstances that could have resulted in unauthorized access to or disclosure or use of University Data, Contractor will notify the University, fully investigate the incident, and cooperate fully with the University’s investigation of and response to the incident. Except as otherwise required by law, Contractor will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the University.
- b. Liability. In addition to any other remedies available to the University under law or equity, when applicable to the type of services being provided, Contractor will pay for or reimburse the University in full for all

costs incurred by the University in investigation and remediation of such Security Breach, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach. Contractor agrees to indemnify, hold harmless and defend the University from and against any and all claims, damages, or other harm related to such Security Breach.

8. Requests for Data, Response to Legal Orders or Demands for Data:

- a. Except as otherwise expressly prohibited by law, Contractor will:
 - i. immediately notify the University of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data;
 - ii. consult with the University regarding its response;
 - iii. cooperate with the University's requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and
 - iv. Upon the University's request, provide the University with a copy of its response.
- b. Contractor will make itself and any employees, contractors, or agents assisting in the performance of its obligations under the Agreement, available to the University at no cost to the University based upon claimed violation of any laws relating to security and/or privacy of the data that arises out of the Agreement. This shall include any data preservation or eDiscovery required by the University.
- c. The University may request and obtain access to University Data and related logs at any time for any reason and at no extra cost.

9. Data Transfer Upon Termination or Expiration:

- a. Contractor's obligations to protect University Data shall survive termination of the Agreement until all University Data has been returned or Securely Destroyed, meaning taking actions that render data written on media unrecoverable by both ordinary and extraordinary means.
- b. Upon termination or expiration of the Agreement, Contractor will ensure that all University Data are securely transferred, returned or destroyed as directed by the University in its sole discretion within 30 days of termination of the Agreement. Transfer/migration to the University or a third party designated by the University shall occur without significant interruption in service. Contractor shall ensure that such transfer/migration uses facilities, methods, and data formats that are accessible and compatible with the relevant systems of the University or its transferee, and to the extent technologically feasible, that the University will have reasonable access to University Data during the transition.
- c. In the event that the University requests destruction of its data, Contractor agrees to Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which Contractor might have transferred University data. Contractor agrees to provide documentation of data destruction to the University and to complete any required Commonwealth of Virginia documentation regarding the destruction of University Data.
- d. Contractor will notify the University of impending cessation of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and data and providing the University access to Contractor's facilities to remove and destroy University-owned assets and data. Contractor shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the University. The Contractor will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the University. Contractor will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

10. Audits:

- a. The University reserves the right in its sole discretion to perform audits of Contractor at no additional cost to the University to ensure compliance with the terms of the Agreement. Contractor shall reasonably

cooperate in the performance of such audits. This provision applies to all agreements under which Contractor must create, obtain, transmit, use, maintain, process, or dispose of University Data.

- b. If Contractor must under the agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information or financial or business data, Contractor will at its expense conduct or have conducted at least annually a(n):
 - i. American Institute of CPAs Service Organization Controls (SOC) Type II audit, or other security audit with audit objectives deemed sufficient by the University, which attests to Contractor's security policies, procedures and controls. Contractor shall also submit such documentation for any third-party cloud hosting provider(s) they may use (e.g. AWS, Rackspace, Azure, etc.) and for all subservice provider(s) or business partners relevant to this contract. Contractor shall also provide James Madison University with a designated point of contact for the SOC report(s) and risks related to the contract. This person shall address issues raised in the SOC report(s) of the Contractor and its relevant providers and partners, and respond to any follow up questions posed by the university in relation to technology systems, infrastructure, or information security concerns related to the contract. All documentation shall be provided free of charge and submitted to IT-Assessments@jmu.edu. The Contractor shall provide the SOC II report(s) and other necessary documentation annually 90 days prior to the contract anniversary date. The University should not have to request the SOC II reports or other assessment documents or sign a nondisclosure agreement.
 - ii. vulnerability scan, performed by a scanner approved by the University, of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement; and
 - iii. formal penetration test, performed by a process and qualified personnel approved by the University, of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement.
- c. Additionally, Contractor will provide the University upon request the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under the Agreement.

11. **Compliance:**

- a. Contractor will comply with all applicable laws and industry standards in performing services under the Agreement. Any Contractor personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to Contractor upon request.
- b. Contractor warrants that the service it will provide to the University is fully compliant with and will enable the University to be compliant with relevant requirements of all laws, regulation, and guidance applicable to the University and/or Contractor, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA).

12. **No End User Agreements:** Any agreements or understandings, whether electronic, click through, verbal or in writing, between Contractor and University employees or other end users under the Agreement that conflict with the terms of the Agreement, including but not limited to this Addendum, shall not be valid or binding on the University or any such end users.

To the extent allowed by Virginia law, James Madison University will keep any information provided in a security audit report confidential to protect the integrity of the Contractor.

IN WITNESS WHEREOF, the parties have caused this addendum to be duly executed, intending thereby to be legally bound.

JAMES MADISON UNIVERSITY

CONTRACTOR

SIGNATURE: _____

SIGNATURE: _____

PRINTED NAME: _____

PRINTED NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

RETURN OF THIS SIGNED DOCUMENT IS REQUIRED