



James City County Purchasing Office
 101-F Mounts Bay Road
 Williamsburg, VA 23185
 Phone: (757) 253-6648 Fax: (757) 253-6753
 Email: linda.hodges@jamescitycountyva.gov
<http://www.jamescitycountyva.gov/467/Bids-Requests-For-Proposals>

**Williamsburg/James City County Public Schools
 Sealed Request For Proposals No. 2022214**

Title: Touchless Ticketing System

Issue Date: July 12, 2021

Due Date: Tuesday, August 17, 2021 NO LATER THAN 2:00 P.M. local time

FAX OR EMAIL SUBMISSIONS ARE NOT ALLOWED

Inquiries: Questions pertaining to this project should be directed to Linda Hodges, in writing via email: linda.hodges@jamescitycountyva.gov no later than 12:00 pm on Wednesday, July 28, 2021.

WILLIAMSBURG/JAMES CITY COUNTY PUBLIC SCHOOLS DOES NOT DISCRIMINATE IN THE SOLICITATION OR AWARDING OF CONTRACTS ON THE BASIS OF RACE, RELIGION, FAITH-BASED ORGANIZATIONS, COLOR, NATIONAL ORIGIN, AGE, DISABILITY OR ANY OTHER BASIS PROHIBITED BY STATE OR FEDERAL LAW.

In compliance with this **Sealed Request for Proposal** and subject to all the conditions thereof, the undersigned offers to furnish the goods/services requested and certifies he/she has read, understands, conditions and requirements of this proposal and is authorized to contract on behalf of the firm named below.

My signature on this solicitation constitutes certification that I or my designated representative have inspected the job site and am aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, will not be considered by the School Division. By my signature on this solicitation, I certify that this firm/individual is properly licensed for providing the goods/services specified.

The Undersigned certifies that he/she (they) are the only person (persons) interested in said project and that it is made without connection with other persons submitting a proposal on the same scope of services; that the proposal is made without collusion, fraud, or reservation; that no official or employee of the Owner is directly or indirectly interested in said proposal, or any portion thereof.

PROPRIETARY INFORMATION YES () NO ()

Trade secrets or proprietary information is hereby submitted and identified. Reasons for protection and exclusion from the Virginia Freedom of Information Act (2.1-340 et seq.) are set forth below. (Additional sheet may be added if necessary.)

Offerors should indicate on the Cover Sheet the portions of their proposal that are proprietary. Please list the page numbers and the reason(s). **Do not mark the whole proposal proprietary. If Proprietary information is stated, Offerors shall submit One (1) Original and One (1) Redacted copy (removing any proprietary data or material.** Clearly identify on the Cover Sheet the “Original” and “Redacted” copy, as “Redacted Copy of Original Proposal” RFP#2022214

Name of Person, Persons, or Corporation _____

By: _____ Date: _____

Print Name: _____ Title: _____

Contractor’s Registration and Signature (Provide copy with Proposal)

Registered Virginia Contractor Class and No.: _____

Registration Expires: _____

State Corporation Commission ID #: _____

Company Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ FAX: _____

Email Address: _____

Federal Tax ID: _____

Print Name: _____ Title: _____

Signature: _____ Date: _____

This form must be signed in ink. All signatures must be original.

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1____ #2____ #3____ #4____ (Please Initial)

***SCC Requirement per the Virginia Public Procurement Act, VPPA:**

§ 2.2-4311.2. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth. -- A. All public bodies shall include in every written contract a provision that 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 or as otherwise required by law.

B. Pursuant to competitive sealed bidding or competitive negotiation, all public bodies shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

C. Any bidder or offeror described in subsection B that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of the Department of General Services or his designee or by the chief executive of a local governing body.

D. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter 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.

E. 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.

***Virginia State Corporation Commission (“SCC”) registration information: The undersigned Offeror:**

is a corporation or other business entity with the following SCC identification number:
_____ **-OR-**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder’s out-of-state location) **-OR-**

is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror’s current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):

CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS AND REGULATIONS

Section 40.1-11.1 of the _____ City/County Code requires that any person or entity doing business with the City/County of _____, including its boards and commissions, shall include a sworn certification by the Contractor of compliance with all federal immigration laws and regulations. These laws include the Federal Immigration Reform and Control Act, which makes it unlawful for a person or other entity to hire, recruit or refer for a fee for employment in the United States, an alien knowing the alien is unauthorized, and Section 40.1-11.1 of the Code of Virginia, which makes it unlawful for any employer to knowingly employ an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States. The state law, in particular, places an affirmative duty on employers to ensure that aliens have proof of eligibility for employment.

Accordingly this certification shall be completed and attached to all contracts and agreements for goods and services made by the City/County of _____ or any of its boards and commissions. Failure to attach a completed certification shall render the contract or agreement void.

Type or print legibly when completing this form.

Legal Name of Contractor: *(Note: This is your name as reported to the IRS. This should match your Social Security card or Federal ID Number.)*

Type of Business Entity:

Sole proprietorship *(Provide full name and address of owner):*

Limited Partnership *(Provide full name and address of all partners):*

General Partnership *(Provide full name and address of all partners):*

Limited Liability Company *(Provide full name and address of all managing members):*

Corporation *(Provide full name and address of all officers):*

Doing Business As:

If Applicable (Note: This is the name that appears on your invoices but is not used as your reporting name.)

Name and Position of Person Completing this Certificate:

Physical Business Address:

Primary Correspondence Address (If different from physical address):

Number of Employees:

Are all Employees Who Work in the United States Eligible for Employment in the United States?

Under penalties of perjury, I declare on behalf of the Contractor listed above that to the best of my knowledge and based upon reasonable inquiry, each and every one of the Contractor's employees who work in the United States are eligible for employment in the United States as required by the Federal Immigration Reform and Control Act of 1986 and Section 40.1-11.1 of the Code of Virginia. I further declare on behalf of the Contractor that it shall use due care and diligence to ensure that all employees hired in the future who will work in the United States will be eligible for employment in the United States. I affirm that the information provided herein is true, correct, and complete.

Sworn this ____ day of _____, 201_ on behalf of _____ as evidenced by the following signature and seal:

Name of Contractor: _____

Printed Name of Signatory: _____

Signature: _____

Date: _____

COMMONWEALTH OF VIRGINIA:

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 201__, by _____.

Notary Public

Registration No.: _____

CERTIFICATION REGARDING DEBARMENT

This is to certify that this person/firm/corporation is not now debarred by the Federal Government or by the Commonwealth of Virginia or by any other state, or by any town, city, or county, from submitting Bids on contracts for construction covered by this solicitation, nor are they an agent of any person or entity that is now so debarred.

Name of Official

Title

Firm or Corporation

Date

CERTIFICATION OF COMPLIANCE WITH § 22.1-296.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

I, _____, a duly authorized representative and officer of _____ (Contractor's name), in accordance with § 22.1-296.1 the Code of Virginia, 1950, as amended, hereby certifies that the employees, subcontractors, partners, and representatives who will be in direct contact with students (i) have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; and (ii) have not been convicted of a crime of moral turpitude. For the purposes of this certification, "direct contact with students" is defined as "being in the presence of students during regular school hours or during school-sponsored activities."

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. Williamsburg-James City County Public School Division shall not be liable for materially false statements regarding the certifications required by the Code of Virginia. The contractor is responsible for ensuring that each of its employees, subcontractors, partners, and representatives who will be in direct contact with students have and shall maintain such certifications on file for the duration of the contract period.

I do understand the above information and certify that the above statements are true.

(Contractor's Authorized Office – Signature)

(Contractor's Authorized Officer – Printed Name)

(Title)

(Date)

LITIGATION DISCLOSURE FORM

Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure Form may result in the disqualification of your bid or proposal from consideration or termination of the contract, once awarded. For purposes of this disclosure form, "you" means the individual or entity in whose name the bid or proposal is submitted.

1. Have you or any principal, officer or director of your company, or any individual who will be assigned to work under any contract awarded pursuant to this solicitation, been terminated (for cause from any work being performed for any governmental or nongovernmental contracting)? Circle response

Yes

No

2. Is any officer, director or owner thereof currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; during the last seven (7) years? Circle response

Yes

No

3. Have you or any principal, officer or director of your company, or any individual who will be assigned to work any contract awarded pursuant to this solicitation, been involved in any claim or litigation or been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of the Code of Virginia, (ii) the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1, or (iv) any substantially similar law of the United States or this or another state during the last seven (7) years? Circle response

Yes

No

If you answered "Yes" to any of the above questions, please state the name(s) of the person(s), the nature, and the status and/or outcome of the conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your bid or proposal.

Reference Code of Virginia § 2.2-4317
Revised 9/11/2020

RETURN SIGNED COVER SHEET (ALL PAGES) WITH PROPOSAL



**WILLIAMSBURG/JAMES CITY COUNTY PUBLIC SCHOOLS
REQUEST FOR PROPOSALS NO. 2022214
TOUCHLESS TICKETING SYSTEM**

I. COMPETITION INTENDED

It is Williamsburg/James City County Public Schools intent that this Request for Proposals (RFP) for Touchless Ticketing System allows competition. It shall be the Offeror's responsibility to advise the James City County Purchasing Director in writing if any language, requirement, specification, etc. or any combination thereof, inadvertently restricts or limits the requirements stated in the RFP to a single source. The Purchasing Director must receive such notification not later than five (5) days after release of request for proposal.

II. PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract for Williamsburg-James City County Public Schools to award a touchless ticketing system, as described in this document by WJCC Schools.

Through this sealed Request for Proposal (RFP), the Division is seeking to identify vendor's who can most fully meet the needs of the Division as specified in this document.

Due to the COVID-19 National Emergency declaration, James City County will now **only accept electronic copies of the requested proposal.**

To maintain the integrity of the sealed proposal; vendors must sign up and register with Demand Star, (See Attached Registration Forms and Instructions) prior to the due date and time specified in the RFP document's including any addenda issued, in order to submit their proposal.

The electronic date/time stamp when submitted to Demand Star with the proposal attachment is considered the delivered due date and time.

James City County personnel will not be able to access the electronic lockbox until after the due date and time specified on the proposal as amended.

Do not send routine correspondence to Demand Star, only the proposal files. Do not send hard copies or emails of the proposals to the Purchasing Office.

1.) Book mark the James City County website page for Active Bids/Request for Proposals, and check back periodically to view active listings, or sign up for the "**Notify Me**" feature on the County website. You will receive notification via email/text when bids/proposals, addendums, and awards are posted.

Interested proposers will be directed to fill out the Registration Form and then the link to view/download/print the proposal documents will open.

<http://www.jamescitycountyva.gov/467/Bids-Requests-For-Proposals>. By registering on the website, the proposal documents are available at **no cost** for download by the bidder.

2.) After registering on Demand Star per attachment locate the proposal document and enter all requested Vendor information. In the blank on the registration form requesting your bid/proposal amount place **\$0.00**.

3.) Proposal Documents and electronically sign/scan forms are to be uploaded to Demand Star.

If awarded, notarized/original documents shall be required.

Questions pertaining to this project should be directed to Linda Hodges, Senior Procurement Specialist at linda.hodges@jamescitycountyva.gov no later than **Wednesday, July 28, 2021 at 12:00 pm**.

III. DEFINITIONS:

A. The term “Owner” used in this solicitation refers to Williamsburg-James City County Public Schools (WJCC).

B. The term “Contractor” refers to the person or firm to whom an award is made to perform the work under the contract

C. The term “Successful Offeror” means the proposer to whom the Owner (on the basis of the Owner’s evaluation as herein provided) makes an award.

IV. BACKGROUND

The Williamsburg/James City County Public Schools (WJCC) is located near Historic Williamsburg, Virginia. It is a rapidly growing, urbanizing community of 141 square miles with an estimated population of 73,767. At this time has WJCC School Division has approximately 11,600 plus students. At the present time there are three (3) high schools with grades 9-12; four (4) middle schools consisting of grades 6-8, and nine (9) elementary schools house grades K-5 and auxiliary buildings.

WJCCPS operating system: Windows

The program should be web-based, compliant with open browsers such as Internet Explorer, Google Chrome, Firefox and Safari. The program should be accessible on Macintosh OSX, Windows XP, Linux and Chrome OS.

V. STATEMENT OF NEEDS

This proposal is for an online, touchless, ticketing system that will benefit a variety of departments and schools, including but not limited to, sporting venues, performing arts venues, and extra-curricular events.

A. Scope of Service

- Easy-to-use QR code or scanner based touchless ticketing system
- Provide a safe and secure gateway for payments online or in person at the site.
- Have different levels of ticket sales, child, student, adult and season pass holders.
- Provide a patron management system that allows for both general and reserved seating
- Ability to provide report to the schools on each event and/or season.
- Comprehensive portal for designated reports and specific permissions that includes automated and scheduled sales reports to email distribution lists.

- Ticket printing option both at school and at home
- Minimal service charge
- Provide ACH pay-outs from credit card sales to various district checking accounts and include detailed reports for each pay-out
- Provide 24-hour support when needed.
- Provide a service for patrons to make donations when purchasing tickets
- Allow for patrons to choose specific seats when purchasing tickets for an event with reserved seating
- Provide a method for the event coordinator to obtain complimentary tickets for VIP guests for both general and reserved seating
- Provide costs for ticketing of free admission events
- Option for selling event merchandise while purchasing tickets
- Option to community of ticket holders (both current and past events)
- Ability to sell cash tickets at door at time of event

B. Technology Requirements

- Information Security and PCI considerations
- Must comply with all federal and state laws regarding data security and privacy including FERPA (Family Educational rights and Privacy Act) and COPPA (Child Online Privacy Protection Act)
- Product documentation, instructions and FAQ's should be available online

VI. WJCC RESPONSIBILITIES:

1. Provide a point of contact to coordinate request for services.
2. Provide remittance of all valid invoices based on a thirty (30) net day payment with appropriate backup documentation.

VII. PROPOSAL SUBMISSIONS – Proposals shall contain the following in the order listed:

1. Company profile.
2. Name of the key contact person, including email and telephone number.
3. Is an 800 number available for support?
4. Description of the vendor's interest, past experience with providing similar services.
5. Offeror's shall include a list of a minimum of three (3) recent references, for similar services only, who can attest to the Offeror's knowledge, quality of work, timeliness, diligence and flexibility. Include company name, contact person, phone number and email address for each reference.
6. Clear and detailed explanation of the services to be offered.
7. A list of other school districts where the vendor has provided this service.

VIII. EVALUATION CRITERIA

The following criteria will be used in the evaluation and rating of proposals: **(TOTAL POSSIBLE POINTS = 100)**

1. Qualifications and Experience – The degree to which the Offeror has responded to the purpose and scope of specifications – e.g. services to be provided, Offeror’s ability to meet school division’s needs, conformance in all material respects to this RFP, etc. **(35 points)**
2. Capability – The Offeror has the capability in all respects to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance as required by these specifications. Also includes Offeror’s capability and skill to perform the services stated in these specification. **(35 points)**
3. Methodology – The description outlining the services to be performed. **(15 points)**
4. Cost – The cost of the services to the school division. **(15 points)**

Exceptions/Alternatives will be considered. The Offeror has the option to propose alternate solutions as it relates to the Statement of Needs. For each exception, specify the RFP page number, section number and the exception taken for consideration by WJCC.

IX. INSTRUCTIONS FOR PROPOSAL PREPARATION

1. General Requirements – In order to be considered for selection, Offeror must submit a complete response to this RFP addressing the Statement of Needs. Offeror should respond to the specifications or propose alternative methods and steps to achieve the intended product. A time frame for implementation of the services and any conditional aspects should be explained. To adequately evaluate the proposals according to the criteria, all Offerors shall use the following format:
2. Qualifications and Experience: Offeror shall provide a description of the qualifications and experience of the organization and persons that will be responsible for performance of the service. Such description shall, at a minimum, include:
 - Background information about the organization-e.g., philosophy, ownership, officers and directors, Offerors management structure, organization chart of the firm, project team, etc.
 - Company size and location (s), Number of years the Offeror has been in business.
 - Resume and qualifications of the persons offered to perform service.
 - The Successful Offeror shall provide WJCC with a dedicated client manager and their personnel including office and cell phone numbers so that WJCC can make emergency contact with the firm if necessary.

Offeror shall provide a concise description of its work experience as related to the specifications outlined herein. Said description should include, but not be limited to, number and types of customers Offeror has served, and number of years the Offeror has been providing these types of services, references and other documentation to verify experience. Governmental/School experience is preferred. A minimum of three (3) references will be provided. For each reference, the name, email address, and phone number along with the name of a contact person shall be given.

3. Capability: The Offeror shall provide evidence that the firm has the resources and personnel available to respond to and fulfill the needs of WJCC for contracted services on an as needed basis through the term of the contract. Provide supporting documentation of the Offerors current financial condition and annual reports for the past three (3) years. If the company is privately held, supply sufficient

information to document the company's financial status and capability to perform under this contract. If Offeror intends to subcontract any part of the work under this contract, indicate which parts and which Subcontractors.

4. Project Methodology: Offeror shall provide a description outlining the services to be performed. Such description should, at a minimum provide:
 - Offerors understanding of the service to be provided.
 - Proposed methods and equipment to be used.
 - Assistance and materials to be furnished by WJCC.
 - Project plan and any other pertinent information.
 - Demo site link for use by WJCC for evaluation purposes.
5. Price: Offeror shall indicate all fees required for the performance of the requested services. Provide a cost for implementation, testing, training, and the first year (initial term). Cost for each additional year's service and maintenance shall also be stated.
6. Proposals shall be signed by an authorized representative of the Offeror. Proposals should be as thorough and detailed as possible. All information requested must be submitted. Failure to submit all information requested may result in the Purchasing Office requiring prompt submission of missing information and/or giving a lower evaluation of the proposal.
7. Qualified Firms are to submit a written proposal that presents the Firm's qualifications, understanding of the work to be performed and fee schedule. **Reminder:** Offerors will be evaluated based on the above areas and should address each of the above areas fully and should not necessarily limit responses only to the points stated.
8. Proposals should be prepared simply and economically in the order/format required herein providing a straightforward concise description of qualifications and capabilities to satisfy requirements of the RFP. Emphasis should be on completeness and clarity of content.
9. Each proposal should be limited to no more than fifty (50) one sided pages excluding title page, letter of transmittal, table of contents, reference lists, tabbed for easy reference and Font size preferred 12 or larger.
10. Submit proposal signed cover sheet and any Attachments to **Demand Star**, no later than **2:00 P.M. local prevailing time on August 17, 2021. Responses received after this time will not be considered.**

It is the responsibility of each offeror to upload its Proposal into Demand Star prior to the time set for receipt.

After the date and time established for receipt of proposals by the School Division, any contact in regard to the proposal initiated by any Offeror with any School official, other than the Purchasing Office is expressly prohibited. Any unauthorized contact may be deemed grounds for disqualification of any Offeror from further review. Questions regarding this request for proposal are to be directed to Linda Hodges via email linda.hodges@jamescitycountyva.gov **no later than 12:00 pm on July 28, 2021.** All questions that are pertinent to the project will be answered in the form of an addendum posted to the James City County website: <http://www.jamescitycountyva.gov/467/purchasing>.

Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the Division if necessary. 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. The School Division will schedule the time and location of these presentations. Oral presentations are an option of the Division and may or may not be conducted.

Following the initial evaluation, offerors may be requested to submit additional information in writing, by telephone or by a meeting with the evaluation committee. After the additional information is received, proposals will be reevaluated and rescored. The Owner shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts.

Proposals shall be evaluated by representatives of the Williamsburg-James City County Public School Division and facilitated by Purchasing. Selection shall be made of the offeror(s) deemed to be most fully qualified and best suited among those submitting proposals, on the basis of the Evaluation Criteria listed above. Negotiations shall be conducted with the selected offeror(s) and an award shall be made to the offeror(s) that has made the best proposal. Should the Owner determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

The Owner will have the right to select the most qualified offeror and will then contract based on all factors involved in the proposal and reserves the right to accept or reject any or all proposals and to award a contract in the best interest of the School Division. The Owner may cancel this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous.

The Notice of Award shall be posted on the bulletin board for public notices in the Purchasing Office, and James City County Website: <http://www.jamescitycountyva.gov/467/Bids-Requests-For-Proposals>

X. INTERPRETATIONS AND ADDENDA

No oral explanation in regard to the meaning of the Contract Documents will be made, and no oral instructions will be given before the award of the Work. Discrepancies, omissions or doubts as to the meaning of the Contract Documents shall be communicated in writing to the Owner for interpretation. Offerors should act promptly and allow sufficient time for a reply to reach them before the submission of their Proposals. Any interpretation made will be in the form of an addendum to the Contract Documents, which will be posted on the James City County website: <http://www.jamescitycountyva.gov/467/purchasing>. Offeror shall acknowledge receipt on the Proposal Cover Sheet.

XI. CONTRACTUAL AGREEMENT

A Contract shall be issued to the successful Offerors for an initial one (1) year period and nine (9) optional one year renewals. Termination of the contract shall be as described in the General Terms and Conditions.

The Offeror shall inform himself in full of the conditions relating to the performance of the contract. Failure to do so shall not relieve the successful Offeror of his obligations to provide services, materials, and reports or other services necessary to carry out the provisions of this Request for Proposals and resulting contract and to complete the Scope of Services outlined herein.

XII. PRICE ESCALATION FOR RENEWABLE TERMS

If the Contract is renewed beyond the initial one (1) year Contract period, the first option year, and each additional option year will be subject to a price increase. This increase will be determined by using the Consumer Price Index (DC-MD-VA-WV) All Urban Consumers as reported annually by the Bureau of Labor Statistics. The current rates will be increased by the same percentage of the CPI-U for the renewal period with the increase not to exceed three percent (3%). **This price increase will not be automatic and must be mutually agreed upon at time of contract renewal.**

XIII. CONTRACT FEES

Payment will be made by the School Division thirty (30) days after receipt of a proper invoice with complete supporting documentation. Supporting documentation shall include the following: a record of the services performed; the date (s) service(s) were performed; (including the name and recipient of services). Services provided to each client shall be individually listed and billed on separate lines on all invoices.

XIV. INSURANCE REQUIREMENTS

By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, will have the insurance coverage's at the time the contract is awarded. If subcontractor is involved, the subcontractor will have workers compensation insurance in accordance with Sections 43-2.2-4332 and 65.2-800 et seq. of the Code of Virginia.

The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

A. Workers Compensation and Employers Liability

Coverage A – Statutory

Coverage B - \$100,000/\$100,000/\$500,000

A broad form of all states endorsement should be attached.

B. Commercial General Liability Including Contractual and Completed Operations

Limit of Liability \$1,000,000 Per Occurrence

Minimum Aggregate \$2,000,000 Per Occurrence

C. Professional Liability (to include Errors and Omissions Coverage)

Limit of Liability \$2,000,000 Per Incident

D. Commercial Auto Liability Including Hired and Non-Owned Car Liability Coverage

Limit of Liability \$1,000,000 Per Occurrence

The Contractor shall purchase and maintain during the life of this Contract such commercial automobile liability insurance including employer's non-ownership liability and hired car liability insurance to protect him and any subcontractors performing work covered by this Contract from claims for damages, whether such operations be by him or any subcontractor, or by anyone directly or indirectly employed by either of them.

E. Cyber Liability

Cyber Liability Insurance coverage with a \$5,000,000.00 limit with the following coverages.

Enterprise Wide Coverage (General Provisions) first and third party coverage

Network and Information Security Privacy Liability

Expense Reimbursement Coverage

Communications/Media Liability

F. Excess Liability

Contractors have the option of meeting the insurance requirements of A, B, and C above with a single primary policy or providing evidence of an excess policy that, in addition to the primary policy, provides the coverage and meets the limit requirements of the coverage as specified in A, B, and C.

G. Self Insured Retentions, Deductibles and Aggregate Limits

All self-insured retentions, deductibles and aggregate limits on any required insurance must be disclosed and approved by the James City County Risk Management Manager.

H. "Claims Made" Policies

If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same.

1. The Contractor must either:

- A. Agree to provide the certificates of insurance evidencing the above coverage for a period of three (3) years after final payment under the Agreement for General Liability policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's work under this Agreement, or
- B. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Agreement and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

2. The Contractor shall file with the Owner, as herein before required, satisfactory proof of acceptable insurance coverage. Such proof shall, unless otherwise required by the Owner, consist of the following:

- A. Certificates of insurance on the insurance carrier's standard form indicating all policies required by law and the Contract documents. Certificates of insurance shall be furnished in a number of copies equal to the number of counterparts of the Contract documents executed. Contractor shall notify Owner immediately if Contractor receives notification of non-renewal or cancellation.

3. Williamsburg-James City County Public School Division shall be endorsed as an Additional Insured on the Commercial General Liability per ISO GG 2010 on a primary basis. The Division's Commercial General Liability shall not contribute in any loss payment insured under the Contractor's Commercial General Liability policy. A separate Additional Endorsement Page listing Williamsburg-James City County Public School Division as an additional insured shall be required. The 'Addl Ins' box must be marked in the Commercial General Liability box.

- A. All certificates must comply with the provisions of Section 38.2-518 of the Code of Virginia, 1950, as amended:

Hold Harmless/Indemnification:

The Contractor shall indemnify, defend and hold harmless the Williamsburg-James City County Public School Division from loss from all suits, actions, or claims of any kind brought as a consequence of any negligent act or omission by the Contractor. The Contractor agrees that this clause shall include claims involving infringement of patent or copyright. For purposes of this paragraph, "County", "Authority" and "Contractor" includes their employees, officials, agents and representatives. "Contractor" also includes subcontractors and suppliers to Contractor. The word "defend" means to provide legal counsel for the School Division or to reimburse the School Division for its attorneys' fees and costs related the claim. This section shall survive the

Contract. The Williamsburg-James City County Public School Division is prohibited from indemnifying Contractor and/or third parties.

XV. 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.

XVI. CONFLICT OF INTEREST

Offerors shall disclose in its Submission any actual or potential conflicts of interest and existing business relationships it has with the School Division, its elected or appointed officials or employees. The Division may rely on such disclosure.

XVII. PRECEDENCE IN TERMS

The General Terms and Conditions shall apply in all instances. In the event of a conflict James City County Terms and Conditions shall take precedence.

XVIII. ATTACHMENTS

**Sample Contract (Attachment A)
Terms and Conditions (Attachment B).**

**SAMPLE CONTRACT
ATTACHMENT A**

CONTRACT #21-XXXX

Project Title

By and Between

WILLIAMSBUR-JAMES CITY COUNTY PUBLIC SCHOOLS

And the

XXXXXXXXXXXXXXXXXXXXXXX

AGREEMENT

THIS AGREEMENT ENTERED INTO THIS _____ day of _____, 2021, by and between Williamsburg-James City County Public Schools, hereinafter referred to as the "Owner" and XXXXXXXXXXXXXXXXXXXXXXXXXX, hereinafter referred to as the "Contractor".

WITNESSETH THAT:

WHEREAS, the Owner is undertaking certain activities periodically requiring a _____ and

WHEREAS, the Owner desires to engage the Contractor to render certain contracted services in connection with specific project in Williamsburg-James City Public Schools and environs.

NOW, THEREFORE WITNESSETH: The Owner and the Contractor, in consideration of the foregoing by their mutual covenants set forth herein and for the consideration hereinafter set forth hereby agree as follows:

I. SCOPE OF SERVICES

This is a contract for _____. The Contractor shall perform all necessary services provided under this contract as required by the Owner in connection with completing general services and other related activities as required by Williamsburg/James City County Public Schools and shall perform such services in a satisfactory and proper manner, under the direction of the Superintendent or her designated representative.

The work to be performed hereunder shall be limited to those items set forth in the Owner's Request for Proposals dated _____, 2021 and including all related addenda; the Consultant's sealed proposal in its entirety, dated _____, 2021; and attachment A- Consultant's Cost Proposal. Both the Request for Proposals and the Consultant's proposal are made a part hereof as if the same were fully set forth.

The services performed hereunder shall be subject to receipt of Purchase Orders.

II. TIME OF PERFORMANCE

The services of the Contractor are to commence _____ and continue through _____ for one year with nine (9) additional one (1) year renewal options.

III. The Contractor represents that it has, shall secure at its expense, all personnel, including subcontractors, required to perform and complete the scope of services as outlined in the RFP and initiated under this contract.

IV. CONTRACT PERFORMANCE REQUIREMENTS AND WORK ORDER PROCESSING

Based upon these discussions, and a written request from the Owner's representative outlining and describing the Scope of Work (Services) for the project, the Contractor shall submit to the Owner's representative a lump sum cost proposal to perform the work based upon the Contractors fixed hourly rate schedule, Attachment A. The proposal shall contain the estimated number of hours broken out by category of service, firm hourly rates for each category, narrative describing the work to be performed and estimated time for completion. The proposal shall be prepared at no cost to the Owner.

After review and/or negotiation and acceptance of the Contractors proposal, the Owner shall have the Purchasing Office issue a purchase Order with a "Not to Exceed" provision to perform the work as negotiated and outlined in the Contractors proposal. The Terms and Conditions of this contract shall apply; no additional Terms and Conditions submitted with the Contractors proposal shall be considered.

The Purchase Order shall be issued upon receipt of a Requisition from the Owner's representative with full documentation as described above. **No additional work beyond the Scope of Work on the "Not to Exceed" Purchase Order shall be attempted or undertaken without a written and approved Purchase Order Change Order issued by the Purchasing Office.**

V. COMPENSATION AND METHOD OF PAYMENT

The Owner shall compensate the Contractor in accordance with the Fee/Rate Schedule as set forth in Attachment A.

Payments are subject to receipt of an approved invoice from the Contractor and shall be adequately supported with backup documentation. All invoices and supporting documents shall be acceptable to the Owner before payment is made.

VI. AMENDMENTS

This Contract may be amended from time to time by Owner and shall be subject to renegotiation if such amendment results in a change in the scope of services, compensation, or method of payment. James City County Terms and Conditions.

IN WITNESS WHEREOF, the parties hereto have made and executed this agreement as of the day and year above written.

WILLIAMSBURG-JAMES CITY COUNTY PUBLIC SCHOOLS

BY: _____

BY: _____

TITLE: _____

TITLE: _____

ATTEST: _____

ATTEST: _____

ADDRESS: _____

ADDRESS: _____

DATE: _____

DATE: _____



GENERAL TERMS & CONDITIONS

JAMES CITY COUNTY

GENERAL TERMS & CONDITIONS AND INSTRUCTIONS TO BIDDERS

These CONDITIONS AND INSTRUCTIONS TO BIDDERS shall be binding on all bidders or offerors and are incorporated by reference in all contracts resulting from any written Request for Quotes, Invitation to Bid or Request for Proposals issued, collectively the (“Request”), to which they are attached. Use of the term “bid” in these General Terms & Conditions and Instructions to Bidders is not intended to be restricted to an Invitation to Bid and shall also affect written Request for Quotes, Invitation to Bid or Request for Proposals. The Purchasing Office is responsible for the purchasing activity of James City County, a political subdivision of the Commonwealth of Virginia, and the James City Service Authority, herein referred to collectively as “James City County” or “County”. Bidder/Offeror or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids/proposals: failure to do so will be at the bidder’s/offeror’s own risk and except as provided by law, relief cannot be secured on the plea of error.

Subject to all Federal, State and local laws, policies, resolutions, regulations, rules, limitations and legislation including the County Purchasing Policy and the County Purchasing Manual, bids/proposals on all solicitations issued by the Purchasing Office will bind bidders/ offerors to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

Cooperative Purchasing--James City County issues this solicitation in accordance with Section 2.2-4304 of the Virginia Public Procurement Act and Chapter 1, Section 5 of the James City County Purchasing Policy, and on behalf of the members of the Southeastern Virginia Governmental Purchasing Cooperative (SVGPC), as well as other public bodies, governmental jurisdictions and school divisions.

Bidders/Offerors are advised that all resultant contracts will be extended, with the authorization of the bidder/offeror, to other public bodies, governmental jurisdictions and school divisions as may be interested. Should other entities decide to use the final contract, the contractor shall deal directly with that jurisdiction or political subdivision concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing and payments. James City County acts only as the “Contracting Agent” for these jurisdictions and political subdivisions. Failure to extend a contract to any jurisdiction will have no effect on consideration of your bid or offer.

It is the responsibility of the contractor to notify the public bodies, jurisdictions and political subdivisions of the availability of the contract.

Each participating public body, jurisdiction and political subdivisions has the option of executing a separate contract with the contractor. Such contracts may contain general terms and conditions unique to those jurisdictions and political subdivisions. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the contractor, the contractor may withdraw its extension of the award to that jurisdiction.

James City County shall not be held liable for any costs or damages incurred by another public body or jurisdiction as a result of any award extended to that public body, jurisdiction or political subdivision by the contractor.

SVGPC members reserve the right to make awards to the lowest responsive and responsible offeror during the contract term. SVGPC members not explicitly named in the IFB are not obligated to participate, nor is the successful offeror obligated to contract with other SVGPC members.

City of Chesapeake	Newport News Public Schools
City of Hampton	Williamsburg/James City County Public Schools
City of Newport News	York County Public Schools
City of Norfolk	Christopher Newport University
City of Portsmouth	College of William & Mary
City of Virginia Beach	Norfolk State University
City of Williamsburg	Tidewater Community College
County of Gloucester	Jamestown/Yorktown Foundation
County of James City	Southeastern Public Service Authority
County of King William	County of York
Thomas Nelson Community College	Portsmouth Redevelopment & Housing
Newport News Redevelopment & Housing	CAS Norfolk Regional Office
DDS Tidewater Regional Office	

Revised 8/11/2020

1. AUTHORITY AND COOPERATIVE PURCHASING-The County Purchasing Director has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order issued by James City County. In the discharge of these responsibilities, the County Purchasing Director may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Director, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of James City for an indebtedness. Any purchase order or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. COMPETITION INTENDED: It is the County's intent that this solicitation permit competition. It shall be the Bidder's/Offeree's responsibility to advise the Purchasing Director in writing if any language, requirement, specification, etc., or any combination thereof, stifles competition or inadvertently restricts or limits the requirements stated in this solicitation to a single source. The Purchasing Director must receive such notification not later than five (5) business days after solicitation release date.

CONDITIONS OF BIDDING

3. CLARIFICATION OF TERMS –

a. Questions. If any Bidder/Offeree has questions about the specifications or other solicitation documents, the prospective Bidder/ Offeree should contact the buyer whose name appears on the face of the solicitation no later than five (5) business days after solicitation release date. Any revisions to the solicitation will be made only by addendum issued by the buyer. Notifications regarding specifications may not be considered if received more than five (5) business days of the release date of the solicitation.

b. Exceptions:

i. Information Technology procurements. Exceptions to liability provisions must be stated by the offeror in writing at the beginning of negotiations.

4. Compliance with Contractual Terms and Financial Responsibility: Architectural or Engineering services. i. Offerors shall provide relevant financial data demonstrating the firm's capability to successfully perform over the life of the contract. ii. Provide a definitive statement of intent to comply with the contract terms and conditions as delineated in the RFP. If proposed terms and conditions are not acceptable as described, provide a statement that the firm intends to take exception to the contract terms and conditions. After offerors are ranked for negotiation the County may request firms to note and explain any exceptions. Failure to agree to terms required by law or County purchasing regulations may be grounds for disqualification of the proposal. iii. Acknowledge and describe any proposed deviations from the Scope of Services.

5. USE OF COUNTY FORM AND TERMS AND CONDITIONS:

Failure to submit a solicitation on the official James City County form provided for that purpose or unauthorized modification of or additions to any portion of the solicitation documents may be a cause for rejection of the bid/proposal if the price, quality, quantity, delivery, necessary assurances, performance of the contract and other factors deemed important to the solicitation will be affected. James City County reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject any bid or proposal which has been modified. The County shall not be responsible for any errors or omissions of the bidder/proposer. The solicitation shall be signed by a representative authorized to legally bind the firm. By signing the solicitation, the bidder/offeree agrees to the terms and conditions of the solicitation and certifies that they have inspected the job site(s) and are aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, shall not be considered by the County.

6. LATE BIDS/PROPOSALS & MODIFICATION OF BIDS/ PROPOSALS:

Any bid/proposal/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/proposal/modification is considered a late bid/proposal/ modification.

James City County is not responsible for delays in the delivery of the mail by the U.S. Postal Service, private carriers or the inter-office mail system. It is the sole responsibility of the Bidder/Offeree to ensure their bid/proposal reaches the Purchasing Office by the designated date and hour.

a. The official time used in the receipt of bids/ proposals is that time stamped by the automatic time stamp machine in the Purchasing Office. Date/time stamps marked after the designated time of receipt will be rejected.

b. Late bids/proposals/modifications will be returned to the Bidder/Offeree UNOPENED, if solicitation number, acceptance date and Bidder/Offeree's return address is shown on the container.

c. If the County closes its offices due to inclement weather scheduled bid openings or receipt of proposals will be extended to the next business day, same time.

d. Vendors may modify their bids prior to the date and time specified for the bid opening. Facsimile modification of bids shall not be accepted unless the solicitation allowed such submission.

7. WITHDRAWAL OF BIDS/PROPOSALS:

A bidder/offeree for a contract other than for public construction may request withdrawal of his or her bid/proposal under the following circumstances:

a. Bids/Proposals may be withdrawn on written request from the Bidder/offeree received at the address shown in the solicitation prior to the time of acceptance.

b. Requests for withdrawal of bids/proposals after opening of such bids/proposals but prior to award shall be transmitted to the County Purchasing Director, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

c. Bids/proposals shall not be withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in a solicitation or resulting contract or purchase order shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a bidder/offeree as a result of the breach or nonperformance of such contract or purchase order.

No Bid/Proposal may be withdrawn under this paragraph when the result would be the awarding of the contract on another Bid/Proposal of the same bidder/offeree or of another bidder/offeree in which the ownership of the withdrawing bidder/offeree is more than five percent. In the case of Invitation for Bids, if a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid. No bidder/offeree who is permitted to withdraw a bid/proposal shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid/proposal was submitted.

8. CANCELLATION OF BIDS/PROPOSALS

If James City County intends to issue another Solicitation within a reasonable time after cancellation of the bid/proposal for the same materials, services or construction, any responses received under the canceled solicitation shall be retained in the Procurement file,

and James City County shall withhold responses from public inspection, if the Purchasing Director makes a Written Determination that such action is advantageous to James City County. After Award of a Contract under a subsequent solicitation, responses submitted in response to the canceled solicitation shall be open for public inspection.

9. **ERRORS IN BIDS/PROPOSALS** – When an error is made in extending total prices, the unit bid price will govern. Erasures in bids/proposals must be initiated by the bidder/offeror. Carelessness in quoting prices, or in preparation of bid/proposal otherwise, will not relieve the Bidder/Offeror of his responsibilities to provide the good or service. Bidders/Offerors are cautioned to recheck their bids/proposals for possible errors. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

10. **IDENTIFICATION OF BID/PROPOSAL ENVELOPE:** The signed bid/proposal and requested copies should be returned in a separate envelope or package, sealed and identified with the following information:

ADDRESSED AS INDICATED ON PAGE 1
IFB/RFP NUMBER
TITLE
BID/PROPOSAL DUE DATE AND TIME
VENDOR NAME AND COMPLETE MAILING ADDRESS
(RETURN ADDRESS)

If a bid/proposal is not addressed with the information as shown above, the Bidder/Offeror takes the risk that the envelope may be inadvertently opened and the information compromised, which may cause the bid/proposal to be disqualified. Bids/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.

11. **ACCEPTANCE OF BIDS/PROPOSALS:** Unless otherwise specified, all formal bids/proposals submitted shall be valid for a minimum period of ninety (90) calendar days following the date established for acceptance. At the end of the ninety (90) calendar days the bid/proposal may be withdrawn at the written request of the Bidder/Offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

12. **PRICING:**

- a. Bidder warrants by virtue of bidding that prices, terms, and conditions quoted in his bid will be firm for acceptance for a period of ninety (90) days from the date of bid opening unless otherwise stated by the County or Bidder.
- b. Prices should be stated in units of quantity as specified in the bid form.
- c. Life cycle cost analysis may be considered when determining the lowest responsive and responsible bid. This analysis may consider, in addition to purchase price, any proposed upward or downward escalator clauses proposed for the initial contract term and any potential renewal terms; operating and related costs over the life of the item including maintenance, down time, energy costs, salvage value, etc.
- d. Bid prices shall be for complete installation ready for the County's use and shall include all applicable freight and installation charges; extra charges will not be allowed.
- e. When an annual contract is not requested by the County, and the bid is for products or services to be delivered on a one-time only or staggered basis, only firm pricing shall be given consideration. General terms such as "price in effect at time of delivery" shall not be considered for award.

13. **CONDITIONAL BIDS:** Conditional bids are subject to rejection in whole or in part if the price, quality, quantity, delivery, necessary

assurances, performance of the contract and other factors deemed important to the solicitation will be affected.

14. **OPENING:** At the time fixed for the opening of responses to a bid, all bids will be opened and the names of the bidders and the amount bid shall be read aloud and made readily available to the public.

If a public opening of a Request for Proposals is held, only the names of the offerors will be read publicly.

15. **RESPONSE TO SOLICITATIONS:** In the event a vendor cannot submit a bid on a solicitation, the vendor is requested to return the solicitation cover sheet with an explanation as to why the vendor is unable to bid on these requirements. Because of the large number of firms listed on the County's Bidders List, it may be necessary to delete from this list the names of those persons, firms or corporations who fail to respond after having been invited to bid for three (3) successive solicitations. Such deletion will be made only after formal notification of the intent to remove the firm from the County's Bidder's List.

16. **BIDDER INTERESTED IN MORE THAN ONE BID:** If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

17. **TAX EXEMPTION:** The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. Tax exemption certificates will be furnished if requested by the Bidder/Offeror.

18. **DEBARMENT/ENJOINMENT STATUS:** By submitting their bids/proposals, Bidders/Offerors certify that they are not currently debarred or enjoined by James City County, the Commonwealth of Virginia, the Federal Government, any local government or government agency/entity/ authority from submitting bids or 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 or enjoined.

19. **ETHICS IN PUBLIC CONTRACTING:** The provisions contained in Sections 2.2-4367 through 2.2-4377, Code of Virginia, as amended, shall be applicable to all contracts solicited or entered into by James City County. By submitting their bids/proposals, all Bidders/Offerors certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, Offeror, supplier, manufacturer or subcontractor in connection with their bid/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.

The Bidder/Offeror certifies that to the best of his knowledge, no employee of the County, nor any member thereof, nor any public agency or official impacted by the solicitation or resulting contract has any pecuniary interest in the business of the Bidder/Offeror, and that no person associated with the Bidder/Offeror has any interest that would conflict in any manner with the performance of the contract resulting from this solicitation.

20. **VENDOR REWARDS/GIFT PROGRAMS:** It is the policy of the County not to participate in any rewards programs offered by vendors and not to accept any gifts or gift cards, or other rewards from vendors for purchases made by the County. If you customarily provide, or if you plan to provide, rewards programs, gifts or gift cards, or other rewards to your customers for purchases made by such customers, you must identify this fact in your bid and demonstrate in the bid how you have applied the value of such rewards to a reduction in the price of the goods and/or services being offered to the County.

21. **PERFORMANCE BOND:** When requested in the bid, the County shall require the successful bidder to furnish a performance bond and labor and material payment bond with surety satisfactory to the County Attorney in the amount of the contract price at a time of or prior to execution of the contract.
22. **NO CONTACT POLICY:** No Bidder/Offeror shall initiate or otherwise have contact related to the solicitation with any County employee, other than the Purchasing Office, after the date and time established for receipt of bids/proposals. Any contact initiated by a Bidder/Offeror with any County representative, other than the Purchasing Office, concerning this solicitation is prohibited and may cause the disqualification of the Bidder/Offeror from this procurement process.
23. **LICENSES, PERMITS, AND FEES:** All bids submitted shall have included a list of any business and professional licenses, permits, or fees required by James City County or the Commonwealth of Virginia.
24. **QUALIFICATIONS OF BIDDERS AND SUBCONTRACTORS:** The apparent low Bidder shall submit to the Owner a list of all Subcontractors who will be performing work on the project. An experience statement with shall accompany such list pertinent information as to similar projects and other evidence of experience and qualification for each such Subcontractor, person and organization and documented work history of the subcontractor with the Bidder. If the Owner, after due investigation, has reasonable objection to any proposed Subcontractor, other person or organization, the Owner may, before giving the Notice of Award, request the apparent low Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent low Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. For any Subcontractors, other person or organization so listed and to whom Owner does not make written objection prior to the giving of the Notice of Award, it will be deemed the Owner has no objection.

SPECIFICATIONS

25. **BRAND NAME OR EQUAL ITEMS:** Unless otherwise provided in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The Bidder is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable James City County to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding, only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data to enable James City County to determine if the product offered meets the requirements of the solicitation may result the bid being declared non-responsive. Unless the Bidder clearly indicates in its bid/proposal that the product offered is "equal" product, such bid/proposal will be considered to offer the brand name product referenced in the solicitation.
26. **FORMAL SPECIFICATIONS:** When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.
27. **OMISSIONS & DISCREPANCIES:** Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its

appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

The Bidder/Offeror shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances., etc., shall be construed as to the minimum requirements of these specifications.

28. **EQUIPMENT STANDARDS.** Any equipment delivered shall be standard new equipment, latest model, the best quality, and the highest grade work, except as otherwise specifically stated in bid. Any part of nominal appurtenances which are usually provided in the manufacturer's stock model shall be furnished.
29. **ANNUAL CONTRACT USAGE REQUIREMENTS:** Whenever a bid is sought seeking a source of supply for an annual contract for products or services, the quantities or usage shown are estimates only. No guarantee or warranty is given or implied by James City County as to the total amount that may not be purchased from any resulting contracts. These quantities are for Bidder's information only and will be used for tabulation and presentation of bid.

AWARD

30. **AWARD OR REJECTION OF BIDS:** The Purchasing Director shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Director reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids/proposals and to waive any informality in bids/proposals received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders/offerors as deemed necessary to fulfill the anticipated requirements of James City County. The Purchasing Director reserves the right to negotiate with the lowest responsive, responsible bidder should bids exceed available funds. The Purchasing Director shall reject the bid if the bidder is deemed to be a non-responsive or non-responsive bidder.
31. **PUBLIC INSPECTION OF CERTAIN RECORDS:** Shall be per the Virginia Public Procurement Act (VPPA) 2.2-4342
32. **QUALIFICATIONS OF BIDDERS OR OFFERORS:** James City County may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder/Offeror to perform the work/furnish the item(s) and the Bidder/Offeror shall furnish to James City County all such information and data for this purpose as may be requested. James City County reserves the right to inspect Bidder's/Offeror's physical facilities prior to award to satisfy questions regarding the Bidder's/Offeror's capabilities. James City County further reserves the right to reject any bid or proposal if the evidence submitted by or investigations of, such Bidder/Offeror fails to satisfy James City County that such Bidder/Offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.
33. **TIE BIDS:** In the case of a tie bid, the County may give preference to goods, services and construction produced in the County or provided by persons, firms or corporations having principal places of business in the County. If such choice is not available, preference shall then be given to goods and services produced in the Commonwealth pursuant to Code of Virginia § 2.2-4324. If no County or Commonwealth choice is available, the tie shall be decided by lot.

42. **FACTORS OTHER THAN PRICE IN AWARD DECISION:** The following factors, in addition to price (as they apply), shall be a consideration in the award decision:
- a. The quality of performance/workmanship of previous contracts, services or products, or references which attest to other specific experiences;
 - b. The timely completion of previous contracts or services or the timely delivery of past orders; or references which attest to other specific experiences;
 - c. The sufficiency of financial resources and its impact on ability of the bidder to perform the contract or provide the services;
 - d. The County reserves the right to conduct on-site inspections of any bidder's facilities prior to award. The results of said inspection will be considered by the County in determining bidder's capabilities of successfully administering to this contract;
 - e. The ability and availability of the bidder to provide both quality and timely maintenance, service, and/or parts;
 - f. The resale value, life cycle costing, and value analysis of a product;
 - g. The availability and capability of local and regional vendor support as it affects the quantity, quality, and timeliness of the work or products required;
 - h. Delivery of a product and timely completion of a project as stated by vendor in bid;
 - i. Substantial compliance or noncompliance with specifications set forth in bid as determined by the County;
 - j. Product or parts inventory capability as it relates to a particular bid; and
 - k. Results of product testing.

CONTRACT PROVISIONS

35. **APPLICABLE LAW AND COURTS:** Any contract resulting from this solicitation shall be governed in any respects by the laws of Virginia, and any litigation with respect thereto shall be brought in the Circuit Court or General District Court of James City County, Virginia. The Contractor shall comply with applicable federal, state and local laws and regulations.
36. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into this contract, vendor certifies that it does not and will not during the performance of this contract knowingly employ an unauthorized alien as defined in, or otherwise violate the provisions of, the federal Immigration Reform and Control Act of 1986, as amended.
37. **OBLIGATIONS OF COUNTY AND CONTRACTOR:** County: The County shall furnish to the contractor all available information as listed in the solicitation that may be useful for the contract work. The County shall assist the contractor in obtaining access to enter upon public and private property as required to perform the contract work. The County shall designate a representative who shall serve as the principal contact and give direction to the contractor throughout the duration of the contract. Contractor: The contractor represents that he has, or shall secure at his expense, all personnel, including subcontractors, required to perform and complete the Scope of Work.
38. **CONFIDENTIALITY AND OWNERSHIP OF DATA:** Any reports, information, intellectual property, data, drawings, specifications, estimates and summaries given to or prepared or assembled by the contractor under the Scope of Work of the contract, shall not be made available to any individual or organization by the contractor without prior written approval of the County. All of these items shall

become the property of the County upon payment of fees as required by the contract.

39. **REPORTS OF WORK:** The County and the contractor shall schedule progress meetings at appropriate intervals throughout the duration of the contract. These meetings shall provide for the exchange of information related to the status of the Scope of Work, anticipated progress and any problems that have occurred.
40. **ANTI-TRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to James City County all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust law of the United States and James City County, relating to the particular goods or services purchased or acquired by James City County under said contract. Consistent and continued tie bidding could cause rejection of bids by the Purchasing Director and/or investigation for Anti-Trust violations.
41. **PAYMENT TERMS:** Unless otherwise provided in the solicitation payment will be made thirty (30) days after receipt of a proper invoice with complete supporting documentation, or thirty (30) days after receipt of all goods or acceptance of work, whichever is the latter. For construction projects, the County may retain five percent (5%) of the total amount of each partial progress payment to assure faithful performance of the contract by the contractor. The County will release all retainage upon final payment.
- a. Invoices for items/services ordered, delivered/performed and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number, purchase order number, and any federal employer identification number.
 - 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. The date of payment shall be deemed the date of postmark in all cases where payment is made by mail.
42. **PAYMENT TO SUBCONTRACTORS:** A contractor awarded a contract under this solicitation is hereby obligated:
- a. To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from James City County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - b. To notify James City County and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- 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 James City County, except for amounts withheld as stated in b 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 James City County.
43. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Purchasing Director.
44. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, James City County, 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 another remedies which James City County may have.

45. **AVAILABILITY OF FUNDS:** It is understood and agreed between the contractor and the County herein that the County shall be bound hereunder only to the extent of the funds available or which hereafter become available for the purpose of the contract.
46. **ANTI-DISCRIMINATION:** By submitting their bids/proposals, Bidders/Offerors certify to James City County that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and the Code of Virginia § 2.2-4311, as amended. 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 shall be subject to audit by the public body. (Code of Virginia § 2.2-4343.1.E).

In every contract over \$10,000 the provisions in a and b below apply:

- a. During the performance of this contract, the Contractor agrees as follows:
- 1) 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.
 - 2) 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.
 - 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.
- b. The Contractor will include the provisions of a. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

47. **NONDISCRIMINATION OF CONTRACTORS:** A bidder/offeror, or contractor shall not be discriminated against in the solicitations or award of this contract because of race, religion, color, sex, national origin, age or disability or against faith-based organizations. 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, James City County shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, service, or disbursements from an alternative provider.
48. **INVOICES:** 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 IFB/RFP number and/or purchase order number.

49. **PRECEDENCE OF TERMS:** In the event there is a conflict between the General Terms and Conditions and any Special Terms and Conditions, the Special Terms and Conditions shall apply.
50. **CHANGES TO THE CONTRACT:** There shall be no extra work allowed on the contract without prior written authorization in the form of a change order signed by the Purchasing Director or the County Administrator. No officer, agent or employee of the County is authorized to give verbal instructions to increase the Scope of Work and the contractor shall not use verbal instructions as the basis for additional costs. Changes can be made to the contract in any of the following ways by the issuance of a Change Order:
- a. The parties may agree 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.
 - b. James City County 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 County a credit for any savings. Said compensation shall be determined by one of the following methods.
 - 1) By mutual agreement between the parties in writing; or
 - 2) 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 County's right to audit the Contractor's records and/or determine the correct number of units independently; or
 - 3) 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 County with all vouchers and records of expenses incurred and savings realized. The County 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 Office within thirty (30) days from the date of receipt of the written order from the Purchasing Office. If the parties fail to agree on an amount of adjustment, the questions of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for relieving disputes provided by the Disputes Clause of the contract. 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 County or with the performance of the contract generally.
 - c. No modification for a fixed price contract may be increased by more than 25% or \$50,000, whichever is greater, without the advanced written approval of the Board of Supervisors.
51. **AUTHORIZATION TO TRANSACT BUSINESS, STATE REGISTRATION OF CONTRACTORS (IF APPLICABLE) AND COUNTY BUSINESS LICENSE:** 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 or as otherwise required by law.

Pursuant to competitive sealed bidding or competitive negotiation, all bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 are required to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Attention is directed to Chapter 11, title 54.1 of the Code of Virginia (Re: State registration of contractors), which requires that all bidders must show evidence of the proper license under the provision of this chapter before such bid is considered.

All firms doing business in James City County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in James City County are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Business License Inspector, telephone (757) 253-6698.

52. **PROPRIETARY INFORMATION:** Section 2.2-4342F of the Code of Virginia states: "Trade secrets of proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror, or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary." Declaring an entire bid or proposal response as proprietary is unacceptable.

53. **INDEMNIFICATION:** The Contractor hereby binds himself and his successors to indemnify, defend, and save harmless James City County, its officers, agents or employees, from all suits and actions of every name and description brought against it or them, and all costs or damages to which it or they may be put, on account of, or by reason of any injury or alleged injury to the person or property of another, resulting from or on account of the negligent acts, errors or omissions, recklessness or intentionally wrongful conduct of the Contractor or his agents in the performance of the contract; and that the whole or so much of the moneys due to the contractor under and by virtue of this Contract, as such or may be considered necessary by the County, shall and may be retained until all such suits and claims for damages as aforesaid shall have been settled, and evidence to that effect furnished to the satisfaction of the County. The said Contractor further agrees to indemnify and save harmless James City County against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against it by reason of any injury sustained by any of the Contractor's employees in and about the said work, under and pursuant to the provisions of the Workman's Compensation Law or any amendments thereto, and the Contractor shall produce certificates or other satisfactory evidence of ample protection against such liability.

54. **NOTICE OF REQUIRED DISABILITY LEGISLATION:** The County government is required to comply with State and Federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) of 1990 Title II and the Virginia with Disabilities Act of 1990. Specifically, the County, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II or the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities

Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

55. **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.

56. **Non-Responsive Performance:**
Delivery Delays: James City County reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Bidder fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract. **Unacceptable Deliveries (Rejections):** Upon notification by James City County that goods and/or service deliverables provided by the Successful Bidder under this contract are damaged and/or not of the quality specified by James City County, such goods and/or service deliverables will be rejected. Successful Bidder shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by James City County. Successful Bidder shall remove all rejected materials, equipment or supplies from the premises of James City County within ten (10) days of notification. Rejected goods and/or service deliverables not removed from James City County premises within ten (10) days will be regarded as abandoned, shall become the property of James City County, and James City County shall have the right to dispose of such items. **James City County Purchase From Alternate Sources:** James City County reserves the right to authorize immediate purchase from other sources against delayed deliveries and/or rejections. The Successful Bidder shall reimburse James City County promptly for excess costs incurred by James City County for such purchases. Any such purchases will be deducted from the contract amount. In the event James City County cost of obtaining goods and/or service deliverables from other sources be less, Successful Bidder shall have no claim to the difference. **Liability:** Successful Bidder shall be liable to James City County for all costs incurred by James City County as a result of Successful Bidder's failure to perform in accordance with the contract. Successful Bidder's liability shall include, but not be limited to: Damages and other delay costs, to include costs to procure goods/services from alternate suppliers. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Successful Bidder and/or rejections of Successful Bidder's goods and/or service deliverables. Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by James City County due to non-responsive performance of Successful Bidder.

57. **BREACH OF CONTRACT:** Successful Bidder shall be deemed in breach of this contract if the Successful Bidder: Fails to comply with any terms of this contract; Fails to cure such noncompliance within five (5) calendar days from the date of the Owner written notice or such other time frame, greater than five (5) calendar days, specified by the JCC Contract Administrator in the notice; Successful Bidder fails to submit a written response to the Owner notification of noncompliance within five (5) calendar days after the

date of the Owner notice. All notices under this contract shall be submitted, by email followed up with hard copy by certified mail, return-receipt requested, to the respective contract administrator. Successful Bidder shall not be in breach of this contract as long as its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on the part of both the Successful Bidder and its sub-contractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of Owner in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.

58. **TERMINATION:** Subject to the provisions below, the County upon thirty (30) days advance, written notice to the other party may terminate the contract. Upon receipt of a notice of termination, the contractor shall cease all work underway on behalf of the County unless advised by the County to do otherwise. In the event of termination, Contractor shall be compensated only for the services as set forth in the contract provided to the satisfaction of the County and expenses incurred as of the date of termination. 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.

a. Termination for Convenience: In the event that the contract is terminated upon request and for the convenience of the County, without the required thirty (30) days advance notice, then the County shall be responsible for payment of services up to the termination date.

b. Termination for Cause: Termination by the County for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any shall not apply. However, pursuant to the Default paragraph of these General Conditions, the County may hold the contractor responsible for any resulting additional purchase and administrative costs. Any payment due to the contractor at the time of termination may be adjusted to the extent of any additional costs occasioned to the County by reason of the contractor's default. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.

c. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled.

59. **CONTRACTOR RESPONSIBILITY FOR COUNTY PROPERTY:** The Contractor shall be responsible for damages to County property caused by work performed by itself or its subcontractors. The Contractor shall be responsible for maintaining the area surrounding and adjoining the work site in their current condition. Property damage to surrounding or adjoining areas caused directly or indirectly by actions or omissions of the Contractor shall be replaced or remedied by the Contractor, to the satisfaction of the County, at the Contractor's expense.

60. **COPYRIGHTS OR PATENT RIGHTS:** The bidder certifies by submission of bid that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the product or services shipped or ordered as a result of this bid. The successful bidder shall, at his own expense, defend any and all actions or suits charging such infringement, and will save James City County, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

61. **DELIVERY:** In the appropriate space, the bidder shall state the time of proposed delivery or project completion in number of calendar days. Unless otherwise specified, calendar days shall be presumed. Unless otherwise specified, quote the earliest delivery possible, as this may be considered a factor in making award. Delivery expressed in calendar days may be given preference over such general terms as "stock immediately," and "as soon as possible." As time will be of the essence for any orders places as a result of this bid, the County reserves the right to cancel such

orders, or any part thereof, without obligation, if delivery is not made at the time(s) specified on bid form.

62. **INDEPENDENT CONTRACTOR:** The contractor shall be legally considered an independent contractor and neither the contractor nor its employees shall, under any circumstances, be considered servants or agents of James City County or James City Service Authority; and the County shall be at no time legally responsible for any negligence or other wrongdoing by the contractor, its servants, or agents. The County shall not withhold from the contract payments to the contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the contractor. Further, the County shall not provide to the contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the County for its employees.

63. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing Director. In the event that the contractor desires to subcontract some part of the work, the contractor shall furnish the Purchasing Director the names, qualifications and experience of the proposed subcontractors. The contractor shall remain fully liable and responsible for the work to be done by its subcontractors and shall assure compliance with all requirements of the contract.

64. **HOLIDAYS:** The Contractor shall receive approval of the County, in advance, of any work to be performed on Holidays. James City Service Authority/James City County observes the following Holidays:

New Year's Day	1 st day of January
Martin Luther King's Birthday	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Juneteenth	19 th day in June
Independence Day	4 th day in July
Labor Day	1 st Monday in September
Veteran's Day	11 th day in November
Thanksgiving Day	4 th Thursday in November
Day after Thanksgiving	4 th Friday in November
Christmas Eve	24 th day in December
Christmas Day	25 th day of December

DELIVERY PROVISION

65. **SHIPPING INSTRUCTIONS-CONSIGNMENT:** Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of **8:00 a.m. – 3:00 p.m.** Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the designated individual at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays unless previous arrangements have been made. It shall be the responsibility of the contractor to insure compliance with these instructions for items that are drop-shipped.

66. **RESPONSIBILITY FOR SUPPLIES TENDERED:** The Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, and a physical inspection is made and material is requested or rejected, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

67. **TESTING AND INSPECTIONS:** James City County reserves the right to conduct any test/inspection it may deem advisable to assure supplies and services conform to the specification. Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

68. **COMPLIANCE:** Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Office when not in conflict with the bid/contract. The decision as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Office, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts.

69. **POINT OF DESTINATION:** All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract. The materials must be delivered to the "Ship To" address indicated on the purchase order.

70. **REPLACEMENT:** the Contractor at no cost to the County shall replace Materials or components that have been rejected by the Purchasing Office, in accordance with the terms of the contract.

71. **PACKING SLIPS OR DELIVERY TICKETS:** All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

- a. Purchase Order Number/Contract Number
- b. Name of Article and Stock Number,
- c. Quantity Ordered,
- d. Quantity Shipped,
- e. Quantity Back Ordered,
- f. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

72. **SAMPLES:** Evidence in the form of samples may be requested if brand being quoted upon is other than as specified. The County reserves the right to request that such samples be furnished at the time of bid opening. The County also reserves the right to request samples after the date of bid opening. Requested samples must be furnished free of expense to the County and if not used in testing or destroyed, will, upon request, be returned at the bidder's expense.

BIDDER/CONTRACTOR REMEDIES

73. **PROTEST OF AWARD OR DECISION TO AWARD:** Any Bidder/ Offeror who desires to protest the award or decision to award a contract, by James City County shall submit such protest in writing to the County no later than ten (10) days after public notice of the award or announcement of the decision to award, whichever comes first. No protest shall lie for a claim that the selected bidder/Offeror is not a responsible Bidder/Offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Director shall issue a decision in writing within ten (10) days stating the reasons for the action taken. This decision shall be final unless the bidder/offeror appeals within ten (10) days of the written decision by instituting legal action. Nothing in this

paragraph shall be construed to permit an offeror to challenge the validity of the terms or conditions of the solicitation.

74. **DISPUTES:**

Claims. Written notice of the Contractor to file a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such claims, whether for money or other relief, shall be submitted in writing to the County's Purchasing Director no later than sixty (60) days after final payment. The Purchasing Director shall give written notification of the final decision on such claim to the Contractor within thirty (30) days of the date the claim was received. The Contractor may not institute legal action before receiving the Purchasing Director's final written decision, unless the Purchasing Director fails to render such decision within the specified time. Pendency of claims shall not delay payment of amounts agreed due in the final payment. (Code of Virginia, § 2.2-4363).

75. Claims Relief. Under certain circumstances beyond the control of the Contractor, such as acts of God, sabotage, and fire or explosion not caused by negligence of the Contractor or its agent, the Purchasing Director may extend the time limit for performance required by this Contract. Any such extension must be issued in writing and signed by the Purchasing Director.

76. **ADDITIONAL REQUIREMENTS APPLICABLE TO PROCUREMENTS MADE USING FUNDING FROM FEDERAL GRANTS.** As required by the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal Awards, Final Rule Title 2 of Federal Regulations; 2 CFR 200, if funding for this purchase Order (contract) is provided in whole or in part by one or more Federal Grants, then the following provisions shall apply, as applicable:

- a. this Purchase Order (contract) is more than \$150,000 and the Vendor (Contractor) violates or breaches contract terms, the County shall, if not otherwise specified in contract documents, issue a cure letter to the Vendor (Contractor) identifying the breach and specifying a deadline by which the Vendor (Contractor) is to cure the breach. Failure of the Vendor (Contractor) to cure the breach by the specified time may result in the County's determination that the Contract is in default. The County may thereafter make a claim against the Vendor's (Contractor's) bond, if any, or withhold funds from payments due to the Vendor (Contractor) or from escrow or retainage amounts held. The County reserves the right to take legal action for any Vendor (Contractor) breach or default.
- b. Termination procedures shall be as specified in Section, "General Terms and Conditions", #58, Termination, of the James City County Purchasing Policy.
- c. Except as otherwise provided under 41 CFR Part 60, if this Purchase Order (Contract) meets the definition of "federally assisted construction contract", it includes by reference the equal opportunity clause provided under 41 CFR 60-1-4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CCFR Part 1964-1965 Comp., p.339), as amended by Executive Order 11375, "Amending Executive Order 11246, relating to Equal Employment Opportunity", and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor".
- d. When required by Federal program legislation, if this Purchase Order (Contract) is a prime construction contract in excess of \$2,000 awarded by non-Federal entities, the Vendor (Contractor) shall comply with the Davis-Bacon Act as supplemented by the Department of Labor regulations.
- e. Where applicable, if this Purchase Order (contract) is more than \$100,000 and involves the employment of mechanics or laborers, the Vendor (Contractor) shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations.
- f. If the Federal award meets the definition of "funding agreement" under 37 CFR 401.2 (a) and the recipient

or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement", the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and by any implementing regulations issued by the awarding agency.

- g. If this Purchase Order (Contract) is in excess of \$150,000, the Vendor (Contractor) shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended.
- h. This Purchase Order (Contract) includes by reference all mandatory standards issued in compliance with the Energy and Conservation Act.
- i. The Vendor (Contractor) shall notify the Purchasing Office if it is listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines.
- j. The Vendor (Contractor) shall comply with the Byrd Anti-Lobbying Amendment (31.U.S.C.1352) . Contractors that apply or bid for an award of \$100,000 or more must file the required certification.