



REQUEST FOR PROPOSALS (RFP)

ISSUE DATE: June 6, 2007

RFP No. 7111

TITLE: City of Chesapeake Cost Participation Projects

COMMODITY CODE:

ISSUED BY:

City of Chesapeake
Purchasing Division
306 Cedar Road, 5th Floor
Chesapeake, Virginia 23322

USING DEPARTMENT:

City of Chesapeake
Public Utilities
306 Cedar Road, 2nd Floor
Chesapeake, Virginia 23322

PERIOD OF CONTRACT: Four (4) months from the Notice to Proceed

SEALED PROPOSALS WILL BE RECEIVED UNTIL **5:00 p.m., July 2, 2007**. For furnishing the services described herein. See Section IV for specific instructions for the completion of proposals.

All Inquiries Should Be Directed To Rick Featherer (757) 382-6359, Email:

rfeatherer@cityofchesapeake.net

All questions must be submitted in writing to the Purchasing Division before **5:00 p.m., June 27, 2007**. Received responses will be issued as an addendum. All addendums, if any, must be posted on the City website at www.CityOfChesapeake.net.

Potential Offerors who receive this RFP via fax or email **may** receive addenda the same way. *However, all Offerors are responsible for monitoring the City's web-site to ensure receipt of any addenda issued.*

PROPOSALS MAY BE HAND-DELIVERED, MAILED, OR SENT VIA MESSENGER SERVICE DIRECTLY TO THE PURCHASING DIVISION AT THE ADDRESS SHOWN ABOVE.

In Compliance With This Request for Proposal And To All The Conditions Imposed Therein and Hereby Incorporated By Reference, The Undersigned Offers, And Agrees To Furnish Services requested in the solicitation.

THIS SECTION TO BE COMPLETED BY OFFEROR

NAME AND ADDRESS OF FIRM:

Date: _____

By: _____ (Sign in Ink)

Name: _____ (Please Print)

_____ Zip Code: _____

Title: _____

FEI/FINT NO: _____

Phone _____ Fax _____

REQUEST FOR PROPOSAL

RFP No. 7111

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I. **PURPOSE :**

The purpose of this project is to install water and sewer mains, to include all service lines and appurtenances in various area of the City that have been identified as in need of water and sewer facilities through the City's Cost Participation Program. The Cost Participation Program is a uniform approach towards providing properties, predominately residential neighborhoods with the Public Utilities Franchise Area, with the exception of properties zoned A-1 (Agriculture) or RE-1 (Residential Estates) with water and sewer facilities on a cost shared basis between the property owners and the City. There are currently forty one (41) water unserved areas and seventy-eight (78) sewer unserved area throughout the City that may be eligible to participate in the Cost Participation Program. These unserved area must meet all the eligibility requirements defined under the City's Cost participation Policy before they can become a Cost Participation Project.

The 2007-2008 Fiscal Year is the initial year of the Cost Participation Program. Funding will be available in the CIB for the design of water and sewer extensions for the Cost Participation Projects in the initial phase of the Cost Participation Program. The initial phase of the Cost Participation Program may consist of as many as eight (8) projects. Once the required connection fees are collected from these projects, the design of the water and/or or sewer extensions to serve these areas will be initiated.

Of the eight (8) projects that are included in the initial phase of the Cost Participation Program, Albemarle Acres is the largest project area. The remaining projects in the initial phase are smaller in nature. Subsequent projects in future phases will vary in size and complexity.

Funding for the construction of the initial phase of the Cost participation Program will occur in Fiscal Year 2009-2010. Funding for the design and construction of the future projects may become available beyond the initial phase.

Additional funding will occur in Fiscal Year 2010-2011 for the design and construction of any remaining projects in the Cost Participation Program.

II. **SCOPE OF SERVICES:**

The City of Chesapeake will require the services of two (2) engineering firms to design the water and sewer extensions to include service lines and appurtenances for all the Cost Participation Projects. With the initial phase of the Cost Participation Program, the top rated firm selected shall have the option to choose between the largest project, Albemarle Acres, or the remaining Phase I qualifying smaller projects to design. If the top rated firm chooses Albemarle Acres, then the remaining qualifying smaller projects will be awarded to second rated firm accordingly. It should be noted that there is the possibility that not all projects will qualify during the initial phase. Alternative methods of award may be considered during the interview process.

Award of subsequent projects beyond the initial phase will be on an alternate basis and awarded to the respective firm based on the order the project reached the required connection fee participation level.

All designs are to be in accordance with all applicable City, State and Federal laws, rules and regulations. For each of these projects, the specific tasks to be performed include:

1. Conduct field surveys of street rights-of-way and adjacent properties. Information gathered shall include horizontal and vertical data showing the location of all existing overhead and underground utilities (including, but not limited to water, sewer, storm drainage, gas, telephone, cable TV, electric) and appurtenances, pavement, rights-of-way and property lines, easements, fences, structures, trees, and other physical or recorded data necessary for the proper design and construction of the facilities.

2. Conduct soil borings or utility locating services as necessary along the routing of the proposed water and sewer lines to provide additional information necessary to design the facilities to address corrosiveness of the soil, bedding requirements, select backfill material, conflicts with existing utilities, etc.
3. Based on the information collected, design the water and sewer lines and appurtenances, including water and/or sewer service replacement, in accordance accepted design practices. Plans shall be prepared at a scale sufficient to depict the work required for construction. In no case shall the scale be smaller than 1 inch = 40 feet (horizontal), and 1 inch = 4 feet (vertical). Plans shall be prepared on 24" x 36" sheets. A cover sheet, traffic control plan, and necessary detail sheets shall be included.
4. Prepare complete contract documents (plans and specifications) in accordance with the latest edition of the HRPDC Regional Construction Standards. Material and work specifications shall be developed to complement the final construction plans. The consultant shall provide such changes and supplementary provisions as necessary to adapt the City's contract document format, including General Conditions, Special Conditions, Technical Specifications, etc., to this project.
5. Obtain all necessary approvals and permits from the appropriate Local, State and Federal agencies (i.e., Public Works, Planning, Virginia Department of Health, Department of Environmental Quality, etc.), including any railroad, river or stream crossings, or utility permits as necessary.
6. Prepare detailed estimates of the quantities and types of materials needed and their estimated cost. Cost estimates shall be submitted with the 35%, and 100% review submittal.
7. Perform all coordination for any necessary utility relocations between the affected utility and the projects. This shall also include any work required under the Overhead High Voltage Line Safety Act.
8. Prepare easement and/or land acquisition plats, if necessary. All plats shall be field-verified prior to submittal to the City. Plats to be submitted are to be approved within two (2) months of the Notice to Proceed.
9. Submit to the City three (3) copies of the plans and contract documents for review. These reviews shall be at the thirty-five, sixty-five and ninety percent (35%, 65% and 90%) stages of the project. Consultant shall incorporate any mutually agreed upon modifications from these reviews. Final construction plans (100%) shall be provided once all comments have been addressed to the City's satisfaction.
10. Upon City acceptance of the 100% contract documents, sell and distribute a numbered copy or copies of the complete set of contract documents (plans and specifications) to potential Bidders. It shall be to the discretion of the Engineer to determine a fair price for a complete set of contract documents. Distribute a complete set of plans and contract documents to the Plan Rooms (Dodge Room, Builders and Contractors Exchange, HRUCHA, and the Tidewater Regional Minority Purchasing Council). Additional copies as necessary shall be provided for distribution to the Plan Rooms and review agencies if required by the agency.

11. Provide all engineering services necessary to place the work under contract through the competitive bidding process. This includes advertising for bids, pre-bid meeting, and work interpretation, any addenda, bid opening, bid analysis and recommendations.
12. Plans and specifications are to be complete in "ready to bid" form in a time frame as mutually agreed upon between the Department of Public Utilities and the Engineering firm.
13. Provide contract administration and half-time inspection services during the construction of these projects. The Department of Public Utilities retains the option to provide this service with in-house staff. The scope of this activity shall include:
 - A. Inspection of the work for compliance with the plans and specifications;
 - B. Resolution of questions and problems that occur during construction;
 - C. Review and approval of shop drawings;
 - D. Review of monthly payment requests with recommendations;
 - E. Conducting progress meetings;
 - F. Negotiate and prepare change orders on the City's behalf;
 - G. Conducting warranty inspections; and
 - H. Preparation of construction record drawings based on information provided by the Contractor and verified by the Inspector in accordance with the Chesapeake Public Facilities Manual. Record drawings are to be provided to the City with one (1) copy in an electronic copy using a GIS compatible format, which includes AutoCAD, and Microstation, and on two (2) sets of 3 mil minimum mylar and three (3) sets of prints.
14. Establish two (2) horizontal and one (1) vertical benchmark for Contractor's use during construction.

ALL PLANS, SPECIFICATIONS AND SUPPORTING DOCUMENTS SHALL BECOME THE PROPERTY OF THE CITY OF CHESAPEAKE, AND SHALL BE TURNED OVER TO THE CITY AT THE END OF THE PROJECT.

III. **SCHEDULE OF EVENTS:**

The City will make every effort to adhere to the following schedule leading to contract award:

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
Issuance of RFP	City Purchasing	June 6 , 2007
Submission of Questions	Offeror	June 27, 2007
Submission of Proposal	Offeror	July 2, 2007
Selection of Finalists	Evaluation Committee	July 20, 2007
Contract Awarded	Evaluation Committee	July 23, 2007

IV. **PROPOSAL FORMAT:**

The following information must be contained in the proposal:

1. Is the firm interested in performing the services; does their workload permit commencement within the required time period?
2. Names, qualifications, and business address of firm members who are proposed to perform services on this project, including manpower utilization information;
3. Names and qualifications of other or secondary consultants, if any, which would be utilized on this project and the scope of their involvement;
4. List of similar projects of this type that the key project personnel have designed and built, with cost, location, contract persons and telephone numbers noted, and whether the project was completed on time and within budget. Emphasis should be placed on those projects which were worked on by the key personnel as a team. Current GSA form SF330 shall also be submitted with proposal.
5. Design schedule with number of days required to accomplish each task identified, including review by City and regulatory agencies;
6. The proposed method of determining a fee for the professional services. However, the total amount of fee to be charged for this project is not required at this time;
7. Explain how the firm shall provide the engineering design services addressing the efficient utilization of personnel, time, meetings and reports. Specify how often project update meetings shall be scheduled with the City, and when completed project construction plans, specifications, contract documents and plats (if necessary) shall be submitted to the City;
8. Explain the firm's approach to contract administration and inspection with respect to interaction with the design team, utilization of personnel and time, and anticipated construction problems;
9. Identify the project manager (that person who shall work with the City on a day-to-day basis), and the project staff (including surveyors, designers, contract administrators and inspectors) giving their qualifications, experience and geographic location;
10. Identify the project manager's immediate supervisor, if any; also include respective qualifications, experience and geographic location;
11. Identify the firm's strategy for designing the project, any problems which they expect to encounter and proposed method of resolution. All solutions proposed shall be non-proprietary.
12. Identify the firm's process for review of the design for feasibility of construction.

The proposal shall be no longer than twenty (20) pages (one-sided), including any graphics, dividers, tables, but excluding the GSA form SF330. The minimum font size shall be 10 point. Six (6) copies shall be provided to the City of Chesapeake.

V. **SELECTION PROCESS:**

The selection of the two (2) engineering firms shall be conducted in accordance with the City of Chesapeake's Policy pertaining to Procurement of Professional Services, and in accordance with Chesapeake City Code Section 54-67, entitled "Competitive Negotiation" and any other applicable sections of Chesapeake City Code Chapter 54 entitled "Public Procurement."

VI. **EVALUATION OF PROFESSIONAL SERVICES PROPOSALS:**

The Selection Committee will review the proposals and develop a shortlist of firms to interview. During the review of the proposals the City will focus on the following factors to develop the shortlist:

1. Completeness of the proposal; All questions are answered and issues addressed properly and accurately; (15%)
2. Qualifications, competence and depth of personnel, including work as a team; (40%)
3. Engineer's design strategy, anticipated problems and proposed solutions; (25%)
4. Any other pertinent criteria as determined by the City; (20%)

VII. **EVALUATION OF PROFESSIONAL SERVICES SHORTLISTED FIRMS:**

In evaluating and ranking the shortlisted firms for award of this project contract, the City shall focus on the following factors:

1. Specialized experience of the assigned personnel in the work required. (20%)
2. Record of the firm and assigned personnel in accomplishing work on other projects within the required time and estimate. (10%)
3. Is presentation appropriate for project and are all questions answered and issues addressed properly and accurately? (10%)
4. Quality of work previously performed by the firm of the City of Chesapeake. Work reviewed by the City of Chesapeake for others may also be used. (10%)
5. Evidence of any attempt to evade responsibility for evident design failures. (5%)
6. Qualifications, competence, and depth of personnel. (10%)
7. Availability of personnel to perform the work within a limited period of time following request for such work. (5%)
8. Engineer's design strategy, anticipated problems and proposed solutions. (10%)
9. Any other pertinent criteria as determined by the City of Chesapeake. (20%)

After ranking the firms, the recommendation of award must be finalized through competitive negotiation, starting with the firm ranked number one and move to the next ranked firm, if successful negotiation cannot be completed.

The City of Chesapeake reserves the right to cancel this request for proposal or reject , in whole or in part, any or all proposals if it is determined to be in the best interest of the City of Chesapeake to do so.

VIII. **SUBMITTAL PROCESS:**

All proposals must be submitted no later than 5:00 p.m. on July 2, 2007 to:

Attn: Victor Westbrook
Purchasing and Contract Manager

City of Chesapeake
Purchasing Department
City Hall 5th Floor
306 Cedar Road
Chesapeake, VA 23322

If you have any questions regarding this proposal, please contact Mr. Rick Featherer, Procurement Specialist I at rfeatherer@cityofchesapeake.net or by phone at (757) 382-6359. All questions and inquiries must be submitted by June 27, 2007.

Firms that submit a response to this RFP may be required to make an oral presentation of their proposal with participation by key personnel. The City reserves the right to request clarification of information submitted. Failure to provide this additional information within a reasonable time period, as specified by the City, must be reason for the firm's offer to be considered non-responsive.

The City of Chesapeake must not be responsible for any expense incurred by the firm in preparing and submitting a proposal or for answering any subsequent inquiries, or interviews for evaluation or contract negotiations. All proposals submitted must become the property of the City of Chesapeake. All submissions are final, and may not be withdrawn.

The City reserves the right to reject any or all proposals, to waive any technicalities in proposals received, and to negotiate and to accept the proposal which must be in the City's best interest. The City may cancel this Request for Proposals at any time prior to an award, and is not required to furnish a reason why a particular proposal was not deemed to be the most advantageous. The procurement of these services must be in accordance with the provisions of the PPEA and the Model Procedures, as adopted, and, to the extent that it applies under the PPEA, the City of Chesapeake's Procurement Ordinance.

The City will only provide information (or access to the same) which is readily available, and does not propose to prepare any further special reports. The City reserves the right to charge its normal fees for materials copied.

The right is reserved, as the interests of the City may require, to revise and/ or amend the specifications prior to the date set for acceptance of proposals; the acceptance date may be postponed if deemed necessary by the Purchasing Manager. Such revisions and amendments, if any, will be announced by an addendum to this request for proposal.

APPENDIX A

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND PROFESSIONAL SERVICES

- A. *VENDORS MANUAL*
 - B. *APPLICABLE LAWS AND COURTS*
 - C. *ANTI-DISCRIMINATION*
 - D. *ETHICS IN PUBLIC CONTRACTING*
 - E. *IMMIGRATION REFORM AND CONTROL ACT OF 1986*
 - F. *DEBARMENT STATUS*
 - G. *ANTITRUST*
 - H. *MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS*
 - I. *CLARIFICATION OF TERMS*
 - J. *PAYMENT*
 - K. *PRECEDENCE OF TERMS*
 - L. *QUALIFICATIONS OF BIDDERS OR OFFERORS*
 - M. *TESTING AND INSPECTION*
 - N. *ASSIGNMENT OF CONTRACT*
 - O. *CHANGES TO THE CONTRACT*
 - P. *DEFAULT*
 - Q. *TAXES*
 - R. *USE OF BRAND NAMES*
 - S. *TRANSPORTATION AND PACKAGING*
 - T. *INSURANCE*
 - U. *ANNOUNCEMENT OF AWARD*
 - V. *DRUG-FREE WORKPLACE*
 - W. *NONDISCRIMINATION OF CONTRACTORS*
 - X. *COOPERATIVE PROCUREMENT*
- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract must be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto must be brought in the courts of the Commonwealth. The Contractor must comply with all applicable federal, state and local laws, rules and regulations. This solicitation is also governed by provisions of the City of Chesapeake Ordinance on Procurement and any revisions thereto, which is hereby incorporated into this contract by reference. Contact the Purchasing Division at (757) 382-6359, for more information or to review the Chesapeake Procurement Ordinance.
- C. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offers) certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization must 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 must be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds must be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

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

1. During the performance of this contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation must be deemed sufficient for the purpose of meeting these requirements.
 2. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (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.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Commonwealth of Virginia 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.
- G. **ANTITRUST:** By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the City of Chesapeake all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Chesapeake under said contract.
- H. **MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs:**
1. (For Invitation For Bids): Failure to submit a bid on the official City form provided for that purpose must be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the City reserves the right

to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the City may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract must be effective unless reduced to writing and signed by the parties.

2. (For Request For Proposals): Failure to submit a proposal on the official City form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the City reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.
- I. **CLARIFICATION OF TERMS**: If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the Purchasing and Contracts Manager no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Division.
- J. **PAYMENT**:
1. To Prime Contractor:
 - a. Invoices for items ordered, delivered and accepted must be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices must show the City contract number and/or purchase order number, social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This must not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, must be billed by the Contractor at the contract price, regardless of which City department is being billed.
 - d. The following must be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. **Unreasonable Charges**: Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City must promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A Contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the City for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the department and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the City, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City.

- K. **PRECEDENCE OF TERMS:** Paragraphs A-J of these General Terms and Conditions must apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions must apply.
- L. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The City may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) must furnish to the City all such information and data for this purpose as may be requested. The City reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The City further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The City reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract must not be assignable by the Contractor in whole or in part without the written consent of the City.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
 - 1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification must be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

2. The Purchasing Division 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 must comply with the notice upon receipt. The Contractor must be compensated for any additional costs incurred as the result of such order and must give the Purchasing Division a credit for any savings. Said compensation must be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Division's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup must be used for determining a decrease in price as the result of savings realized. The Contractor must present the Purchasing Division with all vouchers and records of expenses incurred and savings realized. The Purchasing Division must 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 Division within thirty (30) days from the date of receipt of the written order from the Purchasing Division. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance must be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract must excuse the Contractor from promptly complying with the changes ordered by the Purchasing Division or with the performance of the contract generally.
- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, 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 must be in addition to any other remedies which the City may have.
- Q. **TAXES:** Sales to the City are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract must usually be free of Federal excise and transportation taxes. The City's excise tax exemption registration number is 54-072-1442.
- R. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offers) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the City, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, must be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City 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 for evaluation purposes may result in declaring a bid nonresponsive.

Unless the (bidder/offeror) clearly indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

- S. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers must be used. All shipping containers must be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverages at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or 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.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Workers' Compensation - Statutory requirements and benefits.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The City of Chesapeake must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.
4. Automobile Liability - \$1,000,000 - Combined single limit. (Only used if motor vehicle is to be used in the contract.)
5. Professional Landscape/Architecture Liability Insurance - The contractor must maintain during the life of this contract such Professional Liability Insurance as must protect the contractor against claims for damages resulting from medical incidents which may arise from operations under this contract whether such operations be by the Contractor, the Contractor staff, or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such Professional Liability Insurance must be as follows:

\$ 1,000,000 per occurrence
\$ 1,000,000 aggregate

- U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$30,000, as a result of this solicitation, the Purchasing Division will publicly post such notice on the City's website (www.CityofChesapeake.net) for a minimum of 10 days.
- V. **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.

- W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or Contractor must not be discriminated against in the solicitation 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, the City must offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- X. **COOPERATIVE PROCUREMENT:** Any resultant contract of this solicitation may be extended to any public agency or body in the Commonwealth of Virginia to permit those public agencies or bodies to purchase at contract prices, in accordance with the terms, conditions, and specifications of this bid. The contractor must deal directly with each public agency or body in regard to order placement, delivery, invoicing, and payment.

APPENDIX A

SECTION II

SPECIAL TERMS AND CONDITIONS GOODS AND PROFESSIONAL SERVICES

1. ADVERTISING
2. AUDIT
3. BID ACCEPTANCE PERIOD
4. IDENTIFICATION OF BID/PROPOSAL ENVELOPE
5. INDEMNIFICATION
6. MINORITY/WOMEN-OWNED BUSINESSES SUBCONTRACTING AND REPORTING
7. REFERENCES
8. TERMINATION OF CONTRACT

1. **ADVERTISING** In the event a contract is awarded for supplies, equipment, or services resulting from this bid/proposal, no indication of such sales or services to the City of Chesapeake will be used in product literature or advertising. The Contractor must not state in any of its advertising or product literature that the City of Chesapeake or any department or agency of the City has purchased or uses its products or services.
2. **AUDIT**: The Contractor must retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City, whichever is sooner. The City auditors must have full access to the right to examine any of said materials during said period.
3. **BID ACCEPTANCE PERIOD**: Any bid in response to this solicitation must be valid for 90 days. At the end of the 90 days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
4. **IDENTIFICATION OF BID/PROPOSAL ENVELOPE**: If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	_____	_____
Name of Bidder/Offeror	Due Date	Time
_____	_____	
Street or Box Number	IFB No./RFP No.	
_____	_____	
City, State, Zip Code	IFB/RFP Title	

Name of Contract/Purchase Officer or Buyer _____

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

If a bid/proposal not contained in the special envelope is mailed, the bidder or offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the bid or 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 bids/proposals should be placed in the envelope.

5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and hold harmless the City of Chesapeake, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the City or to failure of the City to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.
6. **MINORITY/WOMEN OWNED BUSINESSES SUBCONTRACTING AND REPORTING**: Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Purchasing Division. When such business has been subcontracted to these firms and upon completion of the contract, the Contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.
7. **REFERENCES**: Bidders must provide a list of at least 3 references where similar goods and/or services have been provided. Each reference must include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

	<u>ORGANIZATION</u>	<u>TELEPHONE</u>	<u>ADDRESS</u>	<u>CONTACT PERSON</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

8. **TERMINATION OF CONTRACT**: The City may terminate the contract for cause or for convenience after giving thirty (30) days notice in writing to the Contractor. The written notice must include a statement of reasons for the termination.

Termination for Cause: If the Contractor should breach the contract or fail to perform the services required by the contract, the City may terminate the contract for cause by giving written notice or may give the Contractor a stated period of time within which to remedy its breach of contract. If the Contractor must fail to remedy the breach within the time allotted by the City, the contract may be terminated by the City at any time thereafter upon written notice to the Contractor or, in the alternative, the City may give such extension of time to remedy the breach as the City determines to be in its best interest. The City's forbearance by not terminating the contract for a breach of contract must not constitute a waiver of the City's right to terminate nor acquiescence in future act or omissions by the Contractor of a like nature. If the contract is terminated for cause, breach of contract or failure to perform, the Contractor may be subject to a claim by the City for the costs and expenses incurred in securing a replacement Contractor to fulfill the obligations of the contract.

Termination for Convenience: The contract may be terminated by the City in whole or in part for the convenience of the City without a breach of contract by delivering to the Contractor a written notice of termination specifying the extent to which performance under the contract is terminated and the effective date of the termination. Upon receipt of such a notice of termination, the Contractor must stop work, including but not limited to work performed by subcontractors and consultants, at such time and to the extent specified in the notice of termination.

If the contract is terminated in whole or in part for the convenience of the City, the Contractor must be entitled to those fees earned for work done prior to the notice of termination and thereafter must be entitled to any fees earned for work not terminated, but must not be entitled to

lost profits for the portions of the contract which were terminated. The Contractor will be compensated for reasonable costs or expenses arising out of the termination for the convenience of the City for delivery to the City of all products of the services for which the Contractor has or will receive compensation.

Delivery of Materials: Any contract cancellation notice must not relieve the Contractor of the obligation to deliver to the City all products of the services for which the Contractor has been or will be compensated. Unless otherwise agreed to in writing, the Contractor must deliver the materials to the city within 30 days of the Notice of Termination of the Contract. Failure to do so may result in action for "breach of contract" or "failure to perform".

Compensation Due the Contractor: Upon such termination, the Contractor must be entitled to the compensation accrued to the date of termination. Payment of the balance of the accrued compensation must be dependent on the Contractor providing the required project material to the City. Said fees which have been earned must be billed to the City in accordance with the normal billing process, but in no case later than 60 days after the last work is performed. Any termination by the City for default, found by a court of competent jurisdiction not to have been justified as a termination for default, must be deemed a termination for the convenience of the City.

The Contractor must submit invoices for all such amounts in accordance with the normal billing process, but in no event later than 60 days after all services are performed. All amounts invoiced are subject to deductions for amounts previously paid. All payments due the Contractor under this contract are subject to appropriation by the Virginia General Assembly and Chesapeake City Council.