



REQUEST FOR PROPOSALS

City of Hampton

ISSUING OFFICE:

Consolidated Procurement Div.
1 Franklin Street, Suite 345
HAMPTON, VA 23669
TELEPHONE: (757) 727-2200
FAX: (757) 727-2207
Hours: 8:00 a.m.-4:30 p.m.

DATE: February 8, 2011

Attention of Offeror is Directed To Section
2.2-4367 to 2.2-4377 Code of Virginia
(Ethics In Public Contracting)

SEALED PROPOSALS will be received in the Issuing Office above until Closing Date and Closing Time as specified in this solicitation including any addenda issued by this office. The City of Hampton is not responsible for late delivery by U.S. Postal mail or other couriers. All inquiries for information regarding this Request for Proposal are to be directed to the Issuing Office as defined herein.

COMMODITY: Engineering Services

NIGP CODE: 925-44, 925-33

**PLEASE FILL IN OFFEROR'S NAME & ADDRESS
IN THE SPACES PROVIDED BELOW:**

THIS IS NOT AN ORDER

RFP ITEM NO. 2011-43L
PROCUREMENT OFFICER Lisa Cumming CPPO, C.P.M., CPPB, VCO
CLOSING DATE March 8, 2011
CLOSING TIME 3:00 P.M. EST
<u>PREPROPOSAL CONFERENCE</u> NONMANDATORY DATE: N/A TIME:

THE CITY OF HAMPTON, HEREAFTER REFERRED TO AS "THE CITY", RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND ALL PROPOSALS IN WHOLE OR IN PART AND WAIVE ANY INFORMALITIES IN THE COMPETITIVE NEGOTIATIONS PROCESS. FURTHER, THE CITY RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN ITS BEST INTEREST. THE ENTIRE CONTENTS OF THE REQUEST FOR PROPOSALS, ANY ADDENDA, OFFEROR'S PROPOSAL AND NEGOTIATED CHANGES SHALL BE INCORPORATED BY REFERENCE INTO ANY RESULTING CONTRACT.

THE CITY OF HAMPTON DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS.

PROFESSIONAL ENGINEERING SERVICES

The City of Hampton is seeking proposals from qualified Offerors to provide professional engineering services for architectural and structural investigation, inspection and design.

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

THE CITY OF HAMPTON CANNOT LEGALLY AGREE TO ANY CLAUSE INDEMNIFYING THE CONTRACTOR FROM ANY DAMAGES ARISING OUT OF THE CONTRACT/AGREEMENT/LEASE OR HOLDING THE CONTRACTOR HARMLESS. THE SUBMISSION OF A BID OR A PROPOSAL CONSTITUTES AN AGREEMENT BY THE CONTRACTOR NOT TO REQUEST SUCH LANGUAGE IN THE RESULTING CONTRACT. IN COMPLIANCE WITH THIS SOLICITATION AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION. THE FOLLOWING SECTION SHALL BE SIGNED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN PROPOSAL REJECTION.

Authorized Agent:

Signature

Type or Print Name

Email Address

Telephone Number

Fax Number

Company FEI/FIN#

ENCLOSURES

ANTI-COLLUSION/NONDISCRIMINATION/DRUG-FREE WORKPLACE REQUIREMENTS

ANTI-COLLUSION CLAUSE:

IN THE PREPARATION AND SUBMISSION OF THIS PROPOSAL, SAID OFFEROR DID NOT EITHER DIRECTLY OR INDIRECTLY ENTER INTO ANY COMBINATION OR ARRANGEMENT WITH ANY PERSON, FIRM OR CORPORATION, OR ENTER INTO ANY AGREEMENT, PARTICIPATE IN ANY COLLUSION, OR OTHERWISE TAKE ANY ACTION IN VIOLATION OF THE SHERMAN ACT (15 U.S.C. SECTION 1), SECTIONS 59.1-9.1 THROUGH 59.1-9.17 OR SECTIONS 59.1-68.6 THROUGH 59.1-68.8 OF THE CODE OF VIRGINIA.

THE UNDERSIGNED OFFEROR HEREBY CERTIFIES THAT THIS AGREEMENT, OR ANY CLAIMS RESULTING THEREFROM, IS NOT THE RESULT OF, OR AFFECTED BY, ANY ACT OF COLLUSION WITH, OR ANY ACT OF, ANOTHER PERSON OR PERSONS, FIRM OR CORPORATION ENGAGED IN THE SAME LINE OF BUSINESS OR COMMERCE; AND, THAT NO PERSON ACTING FOR, OR EMPLOYED BY, CITY HAS AN INTEREST IN, OR IS CONCERNED WITH, THIS PROPOSAL; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS PROPOSAL.

DRUG-FREE WORKPLACE:

DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE CONTRACTOR'S EMPLOYEES; (II) POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, A STATEMENT NOTIFYING EMPLOYEES THAT THE UNLAWFUL MANUFACTURE, SALE, DISTRIBUTION, DISPENSATION, POSSESSION, OR USE OF A CONTROLLED SUBSTANCE OR MARIJUANA IS PROHIBITED IN THE CONTRACTOR'S WORKPLACE AND SPECIFYING THE ACTIONS THAT WILL BE TAKEN AGAINST EMPLOYEES FOR VIOLATIONS OF SUCH PROHIBITION; (III) STATE IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR THAT THE CONTRACTOR MAINTAINS A DRUG-FREE WORKPLACE; AND (IV) INCLUDE THE PROVISIONS OF THE FOREGOING CLAUSES IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

FOR THE PURPOSE OF THIS SECTION, "DRUG-FREE WORKPLACE" MEANS A SITE FOR THE PERFORMANCE OR WORK DONE IN CONNECTION WITH A SPECIFIC CONTRACT AWARDED TO A CONTRACTOR IN ACCORDANCE WITH FEDERAL LAW, 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.

EMPLOYMENT DISCRIMINATION BY THE SUCESSFUL OFFEROR SHALL BE PROHIBITED:

1. DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:
 - a. THE OFFEROR, SHALL 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, SHALL STATE THAT SUCH CONTRACTOR IS AN EQUAL OPPORTUNITY EMPLOYER.
 - c. NOTICES, ADVERTISEMENTS, AND SOLICITATIONS PLACED IN ACCORDANCE WITH FEDERAL LAW, RULE OR REGULATION SHALL BE DEEMED SUFFICIENT FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF THIS SECTION.
2. THE CONTRACTOR WILL INCLUDE THE PROVISIONS OF THE FOREGOING PARAGRAPHS A, B, AND C IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

Name and Address of OFFEROR:

Date: _____ Authorized Signature _____

Printed Name: _____ Title: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

Federal Tax Identification Number/Social Security Number: _____

Is Offeror a "minority" business? Yes No
African American Hispanic American

If yes, please indicate the "minority" classification below:
American Indian Eskimo Asian American Aleut Other; Please Explain:

Is Offeror Woman Owned? Yes No

Is Offeror a Small Business? Yes No

Is Offeror a Faith-Based Organization? Yes No

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I. PURPOSE

The City of Hampton desires to obtain on-call professional engineering services to provide architectural and engineering consulting services in support of the maintenance, repair and design requested for upgrade to City owned facilities.

II. SCOPE OF WORK

General Requirements:

All work under the contract shall be authorized by Agreements (attachment A) on a project-by-project basis. Each Agreement shall reference a detailed scope of work for that specific project and include a fixed fee and a completion date.

Terms of the contract shall be for a one year period which may be renewed for four additional one year terms at the option of the owner pursuant to Code of Virginia 2.2-4301 section 3.a.

Specific Requirements:

Services to be provided shall include (but not limited to) the following:

1. Architectural and/or structural investigations of existing buildings to determine cause(s) of settlement, cracking, water infiltration and other defects with recommendations for corrective measures with cost estimates.
2. Architectural study of existing buildings for interior and/or exterior finish upgrades, space planning and utilization and related analysis, including budgetary estimates.
3. Condition assessments of city owned facilities, including all major building components with prioritization of recommended maintenance, repairs and replacements.
4. Preparation of as-built floor plans and elevations.,
5. Prepare contract documents (plans and specificati9ns) for maintenance, repair and replacement projects for bidding in accordance with applicable procurement rules and . regulations.
6. Provide construction contract administration services including on-site inspection services and submittal review and approval.
7. "Design, preparation of specifications and contract documents for new structures".

Deliverables:

Deliverables will vary with each specific tasking. All investigations and studies shall include budgetary cost estimates and supporting photographs (as required). Contract documents shall include preliminary, pre-final and final submittal of detailed plans and specifications (pre-final and final only).

Prior to an engagement to design a project the City's Professional Services Contract must be executed by both parties.

III. SPECIAL INSTRUCTIONS TO THE OFFEROR

Definitions:

Issuing Office:

Wherever used in this Request for Proposal, Issuing Office will be:

Lisa Cumming, Procurement Manager
Consolidated Procurement Division
Community, Municipal Services/Education
1 Franklin Street, Suite 345
Hampton, VA 23669
Phone: (757) 727-2200
Fax: (757) 727-2207
Email: lcumming@hampton.gov

Contract Administrator:

Wherever used in this Request for Proposal and for purposes of any notices under this contract, the City Contract Administrator will be:

Micah Garner, Facilities Manager
Facilities Management Division
231 Springfield Avenue
Hampton, VA 23669
757 726-2977 (Phone)
757 726-2988 (Fax).
Email: mgarner@hampton.gov

Contact with City Staff, Representatives, and/or Agents:

Direct contact with City staff, representatives, and/or agents other than Consolidated Procurement Division staff on the subject of this RFP or any subject related to this RFP is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent or designated representative.

Offerors of Record:

Offerors receiving a copy of this RFP from a source other than the Issuing Office, must contact the Issuing Office and provide Offeror's name, address, contact person, telephone and fax number, and the RFP Item Number. Offeror will be added to the City's Planholders' list and will receive notification of any addenda to the RFP.

Questions:

Offerors must submit questions regarding the Request For Proposal in writing to the Issuing Office at (757) 727-2207 no later than **4:30 PM EST February 15, 2011**. Necessary replies will be issued to all Offerors of record as addenda that shall become part of the contract documents. Oral instructions do not form a part of the Proposal documents.

Offeror is responsible for checking the [Hampton/bids-contracts](#) web site or contacting the Issuing Office within 48 hours prior to Proposal closing to secure any addenda issued for this RFP.

Changes or Modifications:

Changes or modifications to this Request for Proposals made prior to the date and time of closing will be addressed by addenda from the Issuing Office. Offerors are to acknowledge receipt of addenda in the space provided on the cover page of this Request for Proposal. Oral communications are not a part of the Proposal documents. This RFP and any addenda shall be incorporated, by reference, into any resulting contract.

RFP Closing:

Offeror shall ensure its Proposal is time stamped by the Issuing Office no later than the Closing Date and Time shown on the cover page of this Information for Proposal. Proposals received after the specified date and time (time stamped **3:01 P.M.** or later) will not be considered and will be returned to the Offeror unopened.

Submission:

Consultants interested in providing the City with professional services for this project should submit responses **(3 copies, or one hard copy and an electronic submission on disk or CD)** to the Consolidated Procurement Office by the date stated in the cover letter. The submission must include:

1. Qualifications of the firm to perform this type of work.
2. Project organization chart showing the key personnel assigned to the project and their role in the project. Identify the project manager assigned to the project.
3. Describe any special skills or experience the key personnel would contribute to the successful completion of this project.
4. Examples of previous projects of a similar nature and specifically which team members worked on those projects and their roles on those projects.

Evaluation and Selection:

The process for procurement of professional services as outlined in the Virginia Procurement Act shall be followed during the evaluation process. Representatives from Public Works and Consolidated Procurement constitute the selection committee. Responses will be evaluated primarily on the following basis:

1. Consultant documented experience in projects of this scope and nature (annual roofing engineering services, etc).
2. Documented experience of the personnel assigned to this project.
3. Consultant's demonstrated understanding of the scope of work for this project.
4. Based on the initial evaluation, the City may request the selected Offerors to make oral presentations. Thereafter, City will conduct negotiations with each of the selected short-listed Offerors. Individuals representing the Offeror during negotiations shall have the authority to negotiate and contractually bind the company to a contract.
5. The City may award contracts to more than one offeror.

Presentation/Demonstration:

If in the City's opinion, vendor presentations or demonstrations are warranted, the City will notify the appropriate offerors. Such presentation or demonstration will be at the City site at a date and time mutually agreed to between the City and Offeror and will be at the offeror's expense.

IV. GENERAL TERMS AND CONDITIONS

Contract Document:

This RFP, its addenda, Contractor's proposal, any additional information requested, and negotiated changes and will constitute the final contract hereafter referred to as this "contract". These documents will be incorporated by reference into the City purchase order awarding this contract. This contract shall be governed by the contract documents in the following order of precedence:

Fully Executed Professional Services Agreement (Attachment A);
This RFP document;

Any negotiated changes to the foregoing documents; and
Offeror's proposal

Proposal Binding For One-hundred Twenty (120) Days:

Offeror agrees that its Proposal shall be binding and may not be withdrawn for a period of one-hundred (120) calendar days after the scheduled closing date of this Request For Proposals.

Proprietary Information/Non-Disclosure:

Offeror is advised that the Virginia Public Procurement Act (Section 2.2-4342, Code of Virginia, 1950 as amended) shall govern public inspection of all records submitted by Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, Offeror shall:

1. Invoke the protections of this section prior to or upon submission of the data or other materials,
2. Provide a statement that identifies the data or other materials to be protected and that states the reasons why protection is necessary.
3. Submit trade secrets or other proprietary information under separate cover in a sealed envelope clearly marked "**PROPRIETARY**".
4. Information submitted that does not meet the above requirements will be considered public information in accordance with State statutes.
5. the City reserves the right to submit such information to the City attorney for concurrence of the Offeror's claim that it is in fact proprietary.
6. References to the proprietary information may be made within the body of the Proposal; however, all information contained within the body of the Proposal shall be public information in accordance with State statutes.
7. Trade secrets or proprietary information submitted by an Offeror in conjunction with this RFP is not subject to public disclosure under the Virginia Freedom of Information Act (VFOIA).
8. Information submitted that does not meet the above requirements will be considered public information in accordance with the VFOIA.
9. An all-inclusive statement that the entire Proposal is proprietary is unacceptable. A statement that Offeror's costs and/or Proposal pricing are to be protected is unacceptable. Offeror will be requested to remove any such statement(s) in order to be eligible for further consideration.

Contract Modification(s):

After award, any and all modifications to this contract shall be mutually agreed to by both parties, in writing, and authorized by the City Purchasing Agent or his designee via issuance of a change order (purchase order).

Offeror Obligation:

Offeror shall carefully examine the contents of this Request for Proposals and any subsequent addenda. Failure to do so shall not relieve the Contractor of its obligation to fulfill the requirements of any contract awarded as a result of this RFP.

Conditions of Work:

Offeror shall inform itself fully of the conditions relating to services required herein. Failure to do so will not relieve a Contractor of the obligation to furnish all goods and/or services necessary to carry out the provisions of this contract

Prime Contractor:

If in its performance of this contract, Contractor supplies goods or services by or through another party or subcontractor, Contractor agrees that:

1. Contractor shall act as the prime contractor for the goods and services to be provided under contract and shall be the sole point of contact with regard to all obligations under this contract.
2. Contractor represents and warrants that Contractor has made third parties or subcontractors aware of the proposed use and disposition of the other party's products or services, and that such other party has agreed in writing that it has no objection and that the City is not liable to such third parties or subcontractors for any work performed under this contract.
3. The use of subcontractors and the work they perform must receive the prior written approval of the City. The City will designate a Contract Administrator to approve such work.
4. Contractor shall be solely responsible for all work performed and materials provided by subcontractors.

5. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor under this contract.

Subcontractors:

Contractor's use of subcontractors and the work they are to perform must receive written approval from the Contract Administrator at least ten (10) calendar days prior to the work being performed. Contractor shall be solely responsible for all work performed and materials provided by subcontractors. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor.

Non-Assignment:

Contractor shall not assign its rights and duties under this Agreement without the prior written consent of the City Contract Administrator.

Antitrust:

Any perceived anti-trust violation will be reported to the State Attorney General for possible enforcement of anti-trust laws.

Anticollusion/Nondiscrimination Requirements Form:

The attached "Anticollusion/Nondiscrimination Requirements" form, on page 2 of this RFP, shall be executed by Offeror and is to be submitted with Offeror's Proposal. The requirements set forth on said form shall be considered to be binding terms and conditions in any contract resulting from this RFP. A contract will not be awarded to an Offeror who has not signed the anticollusion/nondiscrimination statement.

Notices:

All notices, requests, demands, and elections under this contract, other than routine operational communications, shall be in writing and shall be deemed to have been duly given on the date when hand-delivered, or on the date of the confirmed facsimile transmission, or on the date received when delivered by courier that has a reliable system for tracking delivery, or six (6) City business days after the date of mailing when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the following individuals:

To the City Contract Administrator as designated in this RFP.

To Contractor: Contractor's Contract Administrator as defined in Contractor's Proposal.

Either party may from time to time change the individual(s) to receive notices and/or its address for notification purposes by giving the other party written notice as provided above.

Immigration Reform and Control Act of 1986

Contractor/Vendor does not and shall not during the performance of the Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

Severability:

If any provision of this contract is found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity of such provision shall not affect the other provisions of this contract, and all other provisions of this contract shall remain in full force and effect.

Non-Appropriation of Funds:

It is understood and agreed between the parties herein that the City shall be bound hereunder only to the extent that the funds shall have been appropriated. In the event no funds or insufficient funds are appropriated, the City shall immediately notify the Contractor of such occurrence and this Contract shall terminate on the last day funds are available without penalty or expense to the City of any kind whatsoever.

Tax Exemption:

The City is exempt from federal excise tax and from all State and local taxes. Contractor shall not include such taxes in any invoices under this agreement. Upon request, the City will furnish the Contractor with tax exemption certificates or the City tax exempt number.

Vendor's Invoices:

Contractor shall submit to the City all invoices promptly upon completion of the requirements for delivery, and acceptance of the Services required under this contract. Invoices shall not include any costs other than those identified in the executed City purchase order awarding this contract or any subsequent change orders issued by the Consolidated Purchasing Division.

Contractor's invoices shall provide at a minimum:

Type and description of the Service delivered and accepted;

This RFP number and the City Purchase Order Number.

Contractual Disputes:

Any dispute concerning a question of fact as a result of a contract with the City which is not disposed of by agreement shall be decided by the City Purchasing Agent or designee, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the City Purchasing Agent or designee shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

Payment Terms:

To be eligible for payment, all labor, equipment and materials covered under Contractor's invoice must be completed and accepted by the City. The City agrees to make payments under this contract within thirty (30) days after receipt of a correct invoice for such payment. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due the City under the terms of this or any other agreement may be applied against Contractor's invoices with documentation for the basis of the adjustment attached. In no event shall any interest penalty or late fee accrue when payment is delayed because of disagreement between the City and Contractor regarding the quantity, quality, time of delivery, or other noncompliance with the contract requirements for any Product or Service or the accuracy or correctness of any invoice. Payment terms offering a "prompt payment discount" of 20 days or greater will be considered in the evaluation of Proposals. All other payment terms shall be net thirty (30) calendar days or greater. Payment terms not specified by Offeror shall be Net 45 days.

Audits:

The City shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Contract (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Contractor, including, but not limited to those kept by Contractor, its employees, agents, assigns, successors and subcontractors. Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Contract and for at least three years following the completion of this Contract, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the City, through its employees, agents, representatives, contractors or other designees, during normal business hours at Contractor's office or place of business in Hampton, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Hampton, Virginia, which is convenient for THE CITY. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the City may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

Notice of Award:

Any contract resulting from this RFP will be publicly posted for inspection in the Consolidated Procurement Division, 1 Franklin Street, Suite 345, Hampton, Virginia.

Award:

The City intends to award a contract to a fully qualified Offeror submitting the best proposal based on the criteria set forth herein and as determined by the City in its sole discretion. At the City's sole discretion, the City may reject any or all proposals in whole or in part if such action is determined to be in the City's best interest. The City reserves the right to enter into any contract deemed to be in its best interest, including the award of this contract to more than one contractor.

Disposition of Proposals:

All materials submitted in response to this RFP will become the property of the City. One (1) copy of each proposal will be retained for official files, will become a matter of public record after award of the contract, and will be open to public inspection subject to the **Proprietary Information/Disclosure** section of this RFP.

Non-Exclusivity:

The City reserves the right to procure goods or services covered under this contract from a third party when, in the City's sole discretion; it is deemed to be in the City's best interest.

V. SPECIAL TERMS AND CONDITIONS

Contract Term:

This contract term shall be for one (1) year, commencing on date of award.

Contract Extension:

This contract may be extended upon mutual agreement of both parties for four (4) additional, one-year periods, upon the same prices, terms, and conditions set forth in the negotiated contract resulting from this RFP.

Insurance:

Contractor agrees to secure and maintain in full force and effect at all times during the term of this Contract, the following policies of insurance:

1. Workers' Compensation Insurance as required under Va. Code Title 65.2.
2. Comprehensive General Liability Insurance, including contractual liability and products and completed operations liability coverages, in an amount not less than one million dollars (\$1,000,000) combined single limits (CSL). Such insurance shall name the City of Hampton as an additional insured by policy endorsement.
3. Automobile Liability Insurance including coverage for non-owned and hired vehicles in an amount not less than one million dollars (\$1,000,000) combined single limits (CSL).
4. Umbrella/Excess Liability Insurance at limits not less than two million dollars (\$2,000,000).
5. Errors and Omissions (Professional Liability) Insurance at limits not less than one million dollars (\$1,000,000).

Contractor shall submit to the City contract administrator certificates of insurance with endorsement to the policy attached, prior to beginning Work under this Contract and no later than ten (10) days after award of the Contract.

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to the City, and shall carry the provision that the insurance will not be cancelled or materially modified by Contractor without thirty (30) days prior written notice to the City.

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO IMMEDIATELY NOTIFY THE CITY SHOULD ANY POLICY BE CANCELLED. FAILURE TO NOTIFY THE CITY SHALL CONSTITUTE A MATERIAL BREACH OF THE CONTRACT.

The certificates of insurance shall list the City of Hampton, 1 Franklin Street, Hampton, Virginia 23669, as the additional insured for the specified project.

Unauthorized Disclosure of Information:

Contractor shall assume the entire responsibility and liability for any and all damages caused by or resulting from or arising out of the negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in connection with this contract. The Contractor shall save harmless and indemnify the City of Hampton and its agents, volunteers, servants, employees and officers from and against any and all claims, losses or expenses, including but not limited to attorney's fees, which either or both of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with, any and all such unauthorized disclosures, real or alleged. The Contractor shall, upon written demand by the City of Hampton, assume and defend, at the Contractor's sole expense, any and all such suits or defense of claims alleging unauthorized disclosures of confidential information.

Any negligent or willful unauthorized disclosure of confidential information on the part of the Contractor, its subcontractors, agents or employees under or in connection with this contract shall constitute a breach of the terms of this contract. THE CITY may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Contractor shall save harmless and indemnify THE CITY for court costs, litigation expenses and attorney's fees that it may pay or incur as the result of seeking to prevent or stop any and all unauthorized disclosures of confidential information.

VI. ATTACHMENT A: Professional Services Agreement:

**PROCUREMENT OFFICE
Community Municipal Services/Education
Agreement for Professional Services**

THE CITY OF HAMPTON DOES NOT DISCRIMINATE
AGAINST FAITH BASED ORGANIZATIONS.

ARTICLE I – IDENTIFICATION OF PARTIES

This Agreement, made in triplicate on _____, by and between the City of Hampton, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the ("City") and _____ having a place of business at _____, hereinafter referred to as the ("Consultant").

Witnesseth, that the Consultant and the City, in consideration of the mutual covenants contained herein with respect to the performance of professional services by the Consultant and the payment for those services by the City, the City and Consultant agree as set forth below:

ARTICLE II – SCOPE OF SERVICES

The Consultant shall perform services to the City in accordance with the highest standards held for _____.

ARTICLE III – PAYMENT FOR SCOPE OF SERVICES

In consideration of the work to be performed by Consultant, as set forth under Article I entitled Scope of Services, the City agrees to pay Consultant in accordance with _____.

ARTICLE IV – TIME COMPLETION

A. This Agreement shall commence on the date set forth in Article I herein, and shall continue in force until the completion of the tasks described above in conformance with the timeline set forth in the Project Contract dated _____ which is attached hereto _____.

B. Time is of the essence in this Agreement. Consultant expressly acknowledges that in the performance of its obligations, the City is relying on timely performance and will schedule operations and incur obligations to third parties in reliance upon timely performance by Consultant and may sustain substantial losses by reason of untimely performance.

ARTICLE V - NON-ASSIGNMENT

Consultant shall not assign its rights and duties under this Agreement without the prior written consent of the City.

ARTICLE VI - APPLICABLE LAW/COMPLIANCE WITH ALL LAWS/PROMPT PAYMENT/ VENUE

A. Applicable Law:

This Agreement shall be deemed to be a Virginia Agreement and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

B. Compliance With All Laws:

Consultant shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope work set forth herein. Consultant represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work. Consultant further expressly represents that it is a corporation that it is in good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of this Agreement. Consultant does not and shall not during the performance of the Agreement knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

C. Payments to Subcontractors:

In accordance with Title 2.2, Chapter 43, Article 4 of the Code of Virginia (Virginia Public Procurement Act), Consultant shall make payment to all subcontractors, as defined in the Code, within seven (7) days after receipt of payment from the City; or, shall notify the City and subcontractors in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment. In the event payment is not made as noted, Consultant shall pay interest at the rate of one (1) percent per month, unless otherwise provided in the Agreement, to the subcontractors on all amounts that remain unpaid after seven (7) days except for the amounts withheld as provided herein.

These same requirements shall be included in each subcontract and shall be applicable to each lower-tier subcontractor. Consultant shall provide the City with its social security number or federal taxpayer identification number prior to any payments being made under this Agreement.

Consultant's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the City. An Agreement modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

D. Venue:

Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Hampton.

ARTICLE VII - NONDISCRIMINATION/DRUG-FREE WORKPLACE

A. Employment discrimination by Consultant shall be prohibited. During the performance of this Agreement, Consultant agrees as follows:

1. Consultant 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/consideration reasonably necessary to the normal operation of Consultant. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. Consultant, in all solicitations or advertisements for employees placed by or on behalf of Consultant, will state that Consultant is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.
4. Consultant will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. During the performance of this Agreement, Consultant agrees as follows:

1. Consultant will provide a drug-free workplace for Consultant's employees.

2. Consultant will 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 Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. Consultant will state in all solicitations or advertisements for employees placed by or on behalf of Consultant that Consultant maintains a drug-free workplace.
4. Consultant will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor vendor.

ARTICLE VIII - NON-APPROPRIATION - Availability of Funds

It is understood and agreed between the parties hereto that the City shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this Agreement. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this Agreement, the City shall immediately notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal year for which (an) appropriation(s) (was) were received without penalty or expense to the City of any kind whatsoever.

ARTICLE IX – TERMINATION OF AGREEMENT

A. TERMINATION WITHOUT CAUSE

The City may at any time, and for any reason, terminate this Agreement by written notice to Consultant specifying the termination date, which shall be not less than ten (10) days from the date such notice is mailed.

Notice shall be given to Consultant by certified mail/return receipt requested at the address set forth in Article I of this Agreement.

In the event of such termination, Consultant shall be paid such amount as shall compensate Consultant for the work satisfactorily completed, and accepted by the City, at the time of termination.

If the City terminates this Agreement, Consultant shall withdraw its personnel and equipment, if any, cease performance of any further work under this Agreement, and turn over to the City any work completed or in process for which payment has been made.

B. TERMINATION WITH CAUSE / DEFAULT / CANCELLATION

In the event that Consultant shall for any reason or through any cause be in default of the terms of this Agreement, the City may give Consultant written notice of such default by certified mail/return receipt requested at the address set forth in Consultant's Bid Proposal or in Paragraph I of this Agreement.

Unless otherwise provided, Consultant shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of Consultant to cure the default, the City may immediately cancel and terminate this Agreement as of the mailing date of the default notice.

Upon termination, Consultant shall withdraw its personnel and equipment, if any, cease performance of any further work under the Agreement, and turn over to the City any work in process for which payment has been made.

In the event of violations of law, safety or health standards and regulations, this Agreement may be immediately cancelled and terminated by the City and provisions herein with respect to opportunity to cure default shall not be applicable.

ARTICLE X – OWNERSHIP OF DOCUMENTS/FREEDOM OF INFORMATION ACT

Ownership of all materials and documentation including the original drawings and the Plans and Specifications and copies of any calculations and analysis prepared pursuant to the Agreement between the City and the Consultant, shall belong exclusively to the City. Such materials and documentation, whether completed or not, shall be the property of the City of Hampton whether the Work for which they are made is executed or not. The Consultant shall not use these materials on any other work or release any information about these materials without the express written consent of the City.

Such material may be subject to public inspection in accordance with the Virginia Freedom of Information Act. Security related documents and information are excluded from the Act unless a specific need to know can be shown. Trade secrets or proprietary information submitted by a bidder, offeror, or Consultant in connection with a procurement transaction shall not be subject to disclosure under the Virginia Freedom of Information Act provided the bidder, offeror, or Consultant invokes the protections of §2.2-4342, Code of Virginia, prior to or upon submission of the data or other materials, identifies the data or materials to be protected and states the reason why the protection is necessary.

ARTICLE XI – HOLD HARMLESS – INDEMNIFICATION

A. Professional Responsibility of Consultant

Consultant agrees, for itself, its agents, servants, employees, subcontractors, and sub-consultants, to perform all work hereunder or associated herewith in accordance with any and all applicable professional standards and in accordance with general industry practice and principles.

As to all matters of professional responsibility, Consultant agrees to indemnify and hold harmless the City and its agents, volunteers, servants, employees and officials from and against any and all liability, losses, reasonable attorney's fees and litigation expenses or other expenses suffered by any indemnified part or entity as the result of any claim to the extent it is found to have been caused by the negligent acts, errors, or omissions of Consultant, or those for whom Consultant is legally liable.

With the prior approval of the City, Consultant may assume the defense of any such professional liability claim(s) made against the City, its agents, volunteers, servants, employees or officials.

B. General Responsibility of Consultant

As to all matters of liability related to or arising out of this Agreement other than professional liability, Engineer agrees to indemnify and hold harmless the City, its agents, volunteers, servants, employees and officials from and against any and all liability, losses, reasonable attorney's fees and litigation expenses, or other expenses suffered by any indemnified party or entity as a result of any claim to the extent that it is found to have been caused by the acts, errors, or omissions of Consultant or those for whom Consultant is legally liable.

With the prior approval of the City, Consultant may assume the defense of any such claim(s) made against the City, its agents, volunteers, servants, employees or officials.

ARTICLE XII – INSURANCE

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to the City, and shall carry the provision, that the insurance will not be cancelled or materially modified without thirty (30) days prior written notice to the City.

The certificates of insurance shall list the City of Hampton, 1 Franklin Street, Suite 345, Hampton, Virginia 23669, as the additional insured for the specified Project.

Insurance shall be maintained during the entire term of the Agreement and any extensions and shall be of the following forms and limits:

Forms	Limits
Workers' Compensation	Statutory
Automobile Liability	\$1,000,000 Combined Single Limit
Commercial General Liability, including Contractual Liability and Products and Completed Operations Coverage	\$1,000,000 Combined Single Limit
Umbrella/Excess Liability	\$2,000,000

The establishment of minimum limits of insurance by the City of Hampton does not reduce or limit the liability or responsibilities of the Consultant.

ARTICLE XIII – EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Consultant.

ARTICLE XIV - CONSULTANT'S REIMBURSABLE EXPENSES

1. The Consultant's reimbursable expenses shall not include those incidental expenses such as supplies, utilities, which are a part of normal over head costs.
2. Such expenses shall include those not normally a part of XIV 1. and those relating directly to the scope of this Project. Examples of such shall include, but not be limited to, travel, lodging, fees paid on behalf of the City when authorized by same, specification and drawing reproductions beyond the first two sets when authorized by the City, overtime when authorized by the City.
3. Payment for reimbursable expenses shall be at cost, due monthly upon presentation of an invoice. The City reserves the right to request proof of such expense before payment.

ARTICLE XV - CONSULTANT'S ACCOUNTING RECORDS

Records of Reimbursable Expenses and expenses pertaining to Additional Services on the Project and for services performed on the basis of a Multiple of Direct Personnel Expense shall be kept on a generally recognized accounting basis and shall be available to the City or his authorized representative at mutually convenient times.

ARTICLE XVI - AUDITS

The City shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Consultant, including, but not limited to those kept by Consultant, its employees, agents, assigns, successors and subcontractors. Consultant shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Agreement and for at least three years following the completion of this Agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the City, through its employees, agents, representatives, Consultants or other designees, during normal business hours at Consultant's office or place of business in Hampton Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Hampton,

ARTICLE XVII - MODIFICATION

There may be no modification of this Agreement, except in writing, executed by the authorized representatives of the City and Consultant.

ARTICLE XVIII. SIGNATURE OF PARTIES

As evidence of their agreement to the terms and conditions set forth herein, the parties affix their authorized signatures hereto:

ATTEST: CITY OF HAMPTON

City Clerk (Signature) _____
City Manager/Authorized Designee

OFFICE OF CITY ATTORNEY
Approved as to legal form and sufficiency

Date: _____

Sr. Deputy City Attorney

ATTEST: (COMPANY)

Corporate Secretary/Authorized Agent By: _____
Signature of Corporate Officer

Title

STATE OF
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ (Name), _____, (Title) of Guernsey/Tingle Architects, P.C., a Virginia professional corporation, on its behalf. He/She is personally known to me or has produced _____ as proper identification.

Notary Public

My Commission expires: _____

Registration No. _____

VII. MINORITY AND WOMAN-OWNED BUSINESS PROGRAM

The City of Hampton is implementing new strategies to solicit and utilize minority and woman-owned businesses. To encourage and sustain utilization of minority and woman owned businesses, subcontracting goals have been established for City contracts of \$100,000 and above. The minority and woman-owned subcontracting goals are established by business categories.

The subcontracting goals established for this contract include:

Minorities (MBE) **2.86%** Non-minority women (WBE) **4.76%**

Solicitation meetings will be held on contracts \$100,000 and above to assist in attaining the contract minority and woman owned business goals.

The City requires that each minority and woman-owned business become a certified Small, Woman and Minority owned business (SWAM) by the State Department of Minority Business Enterprises (DMBE).

Any minority or woman-owned business that is not a certified SWAM vendor will not be considered for meeting the contract goals as established or included in the City utilization data.

Prime Contract solicitations require bidders to include, as part of their proposal or bid, a subcontracting plan to include certified minority and woman-owned vendors during the course of the contract work.

- A listing of all certified minority and woman-owned subcontractor vendors
- The dollar value of each subcontract
- A description of type of work to be performed under each contract
- SWAM certification number and contact information for each minority and woman-owned firm

Prime Contractor subcontractor/supplier solicitation information will be submitted to document firms contacted for quotes.

Prime Contractor solicitations and resulting contracts will require each successful bidder to report actual subcontract payments quarterly to the City Procurement Department to ensure accurate utilization records.

All bids submitted must include a subcontracting plan to be considered when determining the lowest responsible and responsive bidders by the City.

Changes to the subcontracting plan will require approval from the Procurement Office and Minority Business Program Office during the life of the contract.

Failure of a contractor to adhere to its subcontracting plan may under certain circumstances, result in future loss of contracts and/or debarment from bidding by the City of Hampton. In these cases contractors will be requested to submit documentation of good faith efforts used to meet their subcontracting plan. Determination of efforts will be made on an individual contract basis. It is recommended that contractors pre-qualify or determine the subcontractors' capabilities prior to subletting work.

Good Faith efforts are documented reasonable steps taken to achieve a contract goal. These efforts are those taken by a bidder actively and aggressively trying to obtain the established goal. Mere pro forma efforts are not good faith efforts. The following is a list of types of actions which are considered good faith efforts. It is not intended to be a mandatory checklist nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through reasonable and available means (pre-bid meetings, advertisements, phone calls, community organizations, etc.)
- Selecting portions of the work to be subcontracted out to increase the likelihood that a contract goal can be achieved.
- Providing interested firms with information necessary to respond in a timely manner to a request for solicitation
- Effectively using the services of available minority and woman-owned organizations, local, state and federal small business assistance offices, etc.

Documentation of such efforts can include a listing of M/WBE firm names, contact information, description of information provided and dates received quotes, etc.

(Please note: this requirement should not be construed as authorizing or directing the exclusion of non-SWAM owned businesses; rather, the purpose is to include as many qualified businesses as possible).

Any Prime Contractor that is a DMBE certified minority or woman-owned vendor that is awarded a contract of \$100,000 and above is not required to submit the above information as the Prime Contractor is itself such a certified business. This does not, however, relieve such a Prime from the obligation to achieve both contract goals during the life of the contract. The City of Hampton reserves the right to review subcontracting plans and good faith efforts to ensure that both goals are achieved.

The City of Hampton will utilize a performance evaluation process that will include documenting the quality of work and business practices of all vendors used on City contracts of \$100,000 and above.

The following forms are attached for use by bidders to ensure consistent submission of required data. These forms must be submitted with the proposal response.

CITY OF HAMPTON

**SUBCONTRACTOR/SUPPLIER UTILIZATION FORM
POTENTIAL MINORITY AND WOMAN-OWNED BUSINESS PARTICIPATION**

Project no. _____ Date submitted: _____

Bid goal % _____ Total Contract Value _____

Firm name	Certification no.	Type (M/W)	Percent bid	Dollar value	Type of work

I/We propose that the certified DMBE businesses will be used on this contract as stated herein and assure that during the life of the contract. I/We will meet the goal established by the City of Hampton.

Bidder _____

Signature_____

Title _____ Date _____

CITY OF HAMPTON

SUBCONTRACTOR/SUPPLIER SOLICITATION AND UTILIZATION FORM (ALL)

Project no. _____ Date _____

The bidder certifies that this form accurately represents its solicitation and utilization or non-utilization as indicated of the DMBE certified minority and woman-owned businesses listed below for performance of work on this project. The bidder certifies that he/she has had direct contact (email, fax, phone) with the named firms regarding performing work on this project.

Bidder _____ Signature _____

Vendor no.	Name of firm	Telephone no.	SWAM Yes/No	Utilized Yes/No