

CITY OF RICHMOND
DEPARTMENT OF PROCUREMENT SERVICES
RICHMOND, VIRGINIA
(804) 646-5716
March 18, 2010



Request for Proposal No. C10243-1
Enterprise Resource Planning (ERP) System

Due Date: Friday, May 7, 2010
Time: 3:30P.M.

Receipt Location: City Hall, 900 East Broad Street, 11th floor, Room 1104

Pre-Proposal Conference

A Pre-proposal meeting will be held for this project. The meeting will be held on Thursday, April 8, 2010 @ 10:00 a.m. Location: Richmond City Hall, 900 East Broad Street, Room 1104, Procurement Services Conference Room

Request for Proposal Prepared by:

Name: Erna G. Robinson, CPPB
Title: Senior Contract Specialist
Telephone (804) 646-5796 Fax (804) 646-5989
Email: erna.robinson@richmondgov.com
Department of Procurement Services
www.RichmondGov.com/business/bids_proposals

Signature Sheet

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth in RFP #C10243-1

My signature warrants that I have not employed or retained any firm or person other than a bona fide employee working solely for the firm to solicit or secure this contract and have not paid or agreed to pay any firm or person other than a bona fide employee working solely for the firm any fee, commission, percentage, brokerage fee, gifts or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the City shall have the right to annul or void this Contract without liability or, in its sole discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

My signature also certifies that this firm has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to the City of Richmond, and that there are no principals, officers, agents, employees, or representatives of this firm that have any business or personal relationships with any other companies or persons that could be considered as a conflict of interest or a potential conflict of interest to the City of Richmond, pertaining to any and all work or services to be performed as a result of this request and any resulting contract with the City of Richmond.

I hereby certify that I am authorized to sign as a Representative for the Firm:

Complete Legal Name of Firm:

Order from Address:

Remit to Address

Fed ID No.:

***Virginia License Number**

Signature:

Name (type/print):

Title:

Telephone:

(___) _____ **Fax No.:** (___) _____

EMAIL:

Date:

To receive consideration for award, this signature sheet should be return to the Department of Procurement Services as it shall be a part of your response.

* Please note that state law requires most business entities to register with the Commonwealth of Virginia's State Corporation Commission to obtain legal authorization to transact business in Virginia

STATEMENT OF NO OFFER

Offerors not submitting an offer for the commodity or service requested must fax this form to the Procurement Office at (804) 646-5716 prior to the solicitation due date. Questions concerning requirements must be brought to the attention of the Procurement Official responsible for this solicitation **at least five (5) business days prior to the solicitation closing date.**

RFP#: _____ Service: _____

Decline to submit an offer on the RFP for the following reasons:

- ☐ Unable to meet statement of needs
- ☐ Requirements are unclear or restrictive (explain in remarks)
- ☐ Unable to meet required delivery or performance date
- ☐ Unable to meet insurance requirements
- ☐ Insufficient time to respond to the solicitation
- ☐ Do not offer requested commodity or service, please remove our name from the City of Richmond's bidder's list for this commodity or service only.
- ☐ Other (explain in remarks)

Remarks:

Contractor's failure to return completed form may result in the removal from the City of Richmond bidder's list for the commodity or service requested above.

Company Name: _____

Authorized Representative: _____

Signature: _____

Telephone: _____

Date: _____

PART I STATEMENT OF NEEDS

1.0 Introduction

- A. Currently, the City has separate Finance, Procurement, Time and Attendance, Payroll, Human Resources, and Revenue and Collection systems, as well as a variety of spreadsheets and user databases for performing daily tasks. The computer systems supporting these core business functions are technologically outdated, have limitations in their capabilities, and are not well integrated. Additionally, there are many redundant agency-level systems that are not compatible with the core systems.
- B. Interviews and group work sessions with City personnel were conducted to supplement research and clarify points identified during the review of existing documentation. Additionally, a review of system documentation, and existing system functionality and potential areas of improvement for the future system was performed with DIT. This information assisted in creating a mutual understanding of the types of functionality desired (but not available) in the current environment.
- C. Organizational Change Management (messaging, buy-in, training and on-going support) is a critical and program. For challenging part of this the Offeror who chooses to bid for the implementation portion of this program, references that demonstrate the ability to successfully manage and deliver this type of work are crucial.
- D. As of the date on which this Request for Proposals is issued, the City Council has appropriated \$1,500,000.00 for all payments by the City under all contracts resulting from this Request for Proposals. The Using Agency plans to seek sufficient additional appropriations prior to the planned award of a contract or contracts pursuant to this Request for Proposals so that, as required by City Code § 74-62(a), funds are available for the first fiscal period at the time of contracting. No contract will be awarded pursuant to this Request for Proposals unless and until sufficient funds are available in accordance with City Code § 74-62(a). Any contract awarded pursuant to this Request for Proposals will be subject to annual appropriations as provided in Part III ("Terms and Conditions"), Section 3.4 ("Subject-to-Appropriations") of this Request for Proposals.

1.1. Purpose

- A. The City of Richmond (the City) is issuing this Request for Proposal (RFP) for the purpose of obtaining information and bids related to its Enterprise Resource Planning (ERP) Project. It is the City's preference to enter into an agreement with an Offeror(s) who can provide either (1) the software package, (2) the implementation and organizational change management support or (3) both. Third party applications for some modules shall also be considered but shall be fully disclosed in the RFP response.
- B. The City is also interested in Offeror proposals for Hosting / Application Service Provider (ASP) services for those functions noted in the Scope and Business Requirements documents.
- C. The City is seeking responses from Offerors who can demonstrate that they possess the application knowledge, business acumen, organizational, functional, project management and

technical capabilities to perform the services, and meet or exceed the requirements and service levels specified herein. The City and the Offeror(s) will negotiate a final contract incorporating appropriate portions of the Offeror's response to the RFP.

- D. The City reserves the right to negotiate one or more contracts (software, implementation, and ASP-Hosting) depending on which proposals it deems to be in the best interests of the City in accordance with Part II ("Instructions to Offerors"), Section 6.1.2 ("Multiple Awards").

1.2. Project Approach

- A. Implementation offerors shall describe their approach to work with the City's Project Manager in the proposal.
- B. The City's approach to implementing the software solution will be "plain vanilla" = minimizing the number of modifications to the new system. The City will focus on inputs, business rules and outputs required to run its operations. We expect the implementer Offeror to know the software solution and guide the City on what configuration settings to choose based on the City's inputs, business rules and outputs. We expect the City's business processes to change based on the new system. It is understood that some new processes may have an increased level of effort at the micro level; however, at the macro level the overall level of effort will be less than current processes.
- C. The offeror shall have the experience and skill set to design develop and implement the necessary organizational change management to address all the new process changes.

1.3. Project Strategies

- A. Offerors shall describe their approach to meet these strategies.
 - 1. Business process and quality improvements are the most significant and challenging strategy of this project. The City must improve accuracy, efficiency and transparency by following best practice processes guided by the implementer and software.
 - a. An extension of this strategy is when confronted with the need to either change existing business processes or modify the software, it is the City's intent to change business processes. Exceptions may include requirements dictated by law, ordinance, productivity or quality issues.
 - 2. The City recognizes the need for a complete and implemented organizational change management strategy. The change management strategy will involve development and implementation of messaging/communications, training, and post implementation operational support to reduce the fear and increase buy-in across all affected organizations.

1.4. Business Objectives

- A. Offeror shall define, in the proposal, how the software will help achieve or support these objectives.
- B. Offeror shall define, in the proposal, how you will quantify, qualify, and report on reaching these objectives.
- C. The business objectives are as follows:

1. Improve Transparency and Ability to Manage & Report on Financials
 - a. Re-architect the Chart of Accounts to:
 - i. Greatly enhance the ability to report citywide expenditures by service area or program through implementation of citywide account coding standards for classifying agency programs.
 1. Monthly-Quarterly-Annual Comprehensive Annual Financial Report (CAFR) at a push of a button.
 2. Monthly-Quarterly-Annual Cash Based Accounting at a push of a button.
 - ii. Improve the City's ability to budget and measure operations, project successes based on performance metrics.
 - iii. Facilitate City compliance with the Governmental Accounting Standards Board's financial reporting requirements for state and local governments as well as federal and state reporting requirements.
 - iv. Provide financial management analysis of programs, operations, and public services.
2. Improve Business Process & Efficiency
 - a. Standardize business processes and practices to conform to Generally Accepted Accounting Principles (GAAP), City ordinances, federal and state law, regulations and requirements, and citywide policies where necessary.
 - b. Redesign business processes to match the selected ERP solution processes as long as they do not cause undue hardship on the City or its employees.
 - c. Enable the City to more efficiently conduct business with its Contractors and service providers through expansion of electronic commerce.
 - d. Improve the City's ability to conduct business, human resources, and technology planning based on reliable, timely, and efficient financial and HR data.
 - e. Enable workflow with associated document management and separation of duties to:
 - i. eliminate the need for multiple emails with attachments
 - ii. reduce the need for searching shared drives for related files
 - iii. reduce overall paper flow
 - iv. control and streamline approval processes via the separation of duties
3. Improve Employee Competence
 - a. Develop the capability and competence level of Richmond's employees to maintain the system after it has been implemented, and its stability assured. Exception: If the solution is hosted at a Contractor's site, ASP, then the Contractor shall be responsible for system maintenance.
 - b. Provide end users, management and system administrators with the necessary training to enable them to perform their duties, create reports and extract data required to meet business needs and objectives.

4. Improve Controlled Access to Information
 - a. Using role based security, allow end users to access appropriate level of information needed to effectively and efficiently manage various operations and projects.
 - b. Make information more readily available, as appropriate, to all City agencies, local governments, the general public, and the business community.
 - c. Provide employees, retirees, and fiduciaries direct access, as appropriate, to personnel, payroll, time and attendance, benefit and retirement information.

1.5. Technology Objectives

- A. Software Offeror shall define, in the proposal, how the software will help achieve or support these objectives.
- B. Implementation Offeror shall define, in the proposal, how the Offeror will quantify, measure and report on reaching these objectives.
- C. The technology objectives are as follows:
 1. Replace the systems in scope with a system that draws off one database of record, eliminating the need to manage multiple databases within this scope.
 2. Reduce the number of separate information systems and the interfaces that connect them.
 3. Use the ERP system as a technical and business foundation upon which to automate and integrate additional processes and functions in the future.
 4. Where necessary, provide standard interfaces between the ERP system, the revenue administration system (MUNIS), Comprehensive Information Management Systems (CIMS), Customer Information System (CIS), Harmony Case Management System, not to preclude any other school based information system (MapNet, FAMIS, NUMERA, ParentLink) and agency program-specific information systems that are consistent with the City's Enterprise-Wide Technical Architecture.
 5. Where appropriate, implement electronic signature technology within the ERP system.
 6. Reduce the City's dependency on the Mainframe platform

1.6. Optional Objectives

- A. The optional objectives are as follows:
 1. Take advantage of the Intranet by installing a solution that does not require any software installed on the client.
 2. Leverage Hosting / ASP Services. If the Offeror either supplies or has a third party relationship that can host the solution off-site and meet backup and Disaster Recovery requirements, the City may consider this.

- B. The Offeror shall also state in the proposal, whether or not it offers services for the objective identified in section 1.6(A)(2) above. If so, the Offeror shall include its approach and estimated costs for doing so.

1.7. Scope of Work

- A. The Scope of this RFP is broken down into three General Requirement categories:
 - 1. Software
 - 2. Implementation Services
 - 3. Hosting / Application Service Provider (ASP) Services
- B. Offerors may submit proposals for one or more of the above three (3) General Requirement categories. Separate contracts may be awarded for each of the three General Requirement categories. The City may choose not to award a contract for any or all of the three General Requirement Categories.

2.0 Proposal Requirements and Deliverables

2.1. Points of Contact

2.1.1. Contract Specialist

The City's Contract Specialist for this contract is:

Erna G. Robinson, CPPB
Senior Contract Specialist
Department of Procurement Services
City of Richmond
900 East Broad Street, Room 1104
Richmond, Virginia 23219
Telephone: (804) 646-5796
Fax: (804) 646-5989
E-Mail: erna.robinson@richmondgov.com

2.2. Proposal Contents

- A. The proposal shall include all of the information set forth in this section and be organized as set forth in this section. A soft copy of the entire proposal shall be included on a CD within the proposal.
- B. Proposals should be organized in a uniform matter to make review and comparison easier for the evaluation committee. Require that the offerors use tabs to organize information such as project approach, references, subcontractors, and key personnel for easy reference. Describe each tab in a separate section, indicating the tab's number and heading in the caption. Tabs should meet the needs of the particular procurement and not be uniform. Tabs should be organized to facilitate ease of comparison of proposals with the stated evaluation criteria and with each other. If cost is an evaluation factor, either include a tab for a cost proposal or specify that cost proposals are to be submitted in a separate sealed envelope, whichever is appropriate for the procurement.

2.2.1. Tab 1 – Signed Forms.

This tab shall include the completed and signed Signature Sheet, Addenda Acknowledgement and Office of Minority Business Development Forms included with this Request for Proposals.

2.2.2. Tab 2 – Executive Summary

This tab shall provide a brief summary of the proposal's contents, emphasizing any unique aspects or strengths of the proposal. This section shall also address how the proposal shall address the Purpose, Project Approach, Project Strategies, Business Objectives, Technology Objectives, and Optional Objectives for the Scope of Work. The Executive Summary shall not exceed three pages.

2.2.3. Tab 3 – Software

- A. This tab shall describe in detail the Offeror's proposal for providing the Software Solution as described in this General Requirements section 3.1 Software.

Must include a detailed description of how each proposed module, the overall system and supporting deliverable meet:

1. Requirements described in Section 3.1 Software
2. The attached ERP Requirements.xls document
3. Application Knowledge
4. Business Acumen, needs of City's of similar size or complexity
5. Business Objectives
6. Technology Objectives
7. Software section of the General Requirements in this RFP
8. How the modules integrate with all other modules of the software solution
9. How the modules pull from a centralized database, eliminating redundancy and creating the ability to cross-reference single persons with multiple accounts; note how your solution is able to ensure that one person with several name derivations is identified and tied cross-module.

- B. Meeting the Requirements as listed in the ERP Requirements.xls file. This Excel file shall be filled out as instructed in that document's Instructions & Guidance tab, printed in profile format and included in this tab. Additionally, a soft copy of this excel file shall be included, on a CD, in the proposal. The table below gives the definitions to be used when rating the proposed modules' ability to meet the requirement.

Rating	Definition
4	Standard. Is available in the current release. Software supports this requirement. No customization or modification is required.
3	Is available with third-party application. The Offeror has established a relationship (for example, as an OEM) with a business partner to provide this functionality, which doesn't need any customizing or work around. Indicate the name of the application recommended and the number of installs completed.

2	Functionality is provided by the Offeror, but it requires customization. The functionality can be accomplished with the Offeror's product, but needs customizing or a work around. Identify any areas where modification will affect the application upgrade path.
1	Functionality is provided, but it requires customized integration with a third party. The Offeror has established a relationship with a business partner to provide this functionality, but it needs customizing or a work around. Identify any areas where modification will affect the application upgrade path.
0	Functionality is not provided. The software does not meet the requirement.
F	<i>Future release: The requirement will be available in a future release (indicate anticipated time of update: month and year).</i>

- C. Some of the individual requirements will consist of multiple items. The answer given shall apply to all items of the requirements unless otherwise noted in the comments column. If the Offeror can provide all items within the statement, the Offeror shall state "No exception" in the comments column.
- D. If the requirement requires modification at additional cost, the cost of such modification shall be listed in the "comments" column provided. The Excel spreadsheet limits data in a cell. If the comments exceed this limitation, the Offeror shall provide comments on separate sheets with the comments clearly labeled with the requirement identification number(s).
- E. The Offeror shall also describe the ability to meet the Software Engineering Institute's Capability Maturity Model (Software, Systems and or Integrated models – CMM or CMMi) for Software and or Systems Engineering.
- F. The Offeror shall address how it meets all other sections outlined in the Software section of the General Requirements.

2.2.4. Tab 4 – Implementation Services

This tab shall describe in detail the Offeror's proposal for:

1. Meeting the requirements identified in Section 3.2 Implementation Services
2. Project Management, as defined by the Project Management Institute's The Standard for Project Management
3. How the Offeror meets or exceeds Project Management standards as defined in the Software Engineering Institute's Capability Maturity Model (Software, Systems and or Integrated models)
4. Resourcing to include roles, responsibilities, level of effort, duration, cost and other pertinent information
5. High Level Timeline
6. Detailed schedule for the Initiation phase
7. Burn rate budget by month and summed up by quarter and year. The budget year shall be July 1 to June 30.
8. Organizational Change Management. Note: this section shall receive one of the highest weightings on the selection.

9. Pre and Post Implementation Support Plan
10. Ability to meet the Software Engineering Institute's Capability Maturity Model (Software, Systems and or Integrated models) for Software Engineering and Systems Engineering
11. Software solution application knowledge
12. Business Acumen for cities of similar size and complexity
13. Meeting the Project Strategies
14. Meeting the Project Business Objectives
15. Meeting the Project Technical Objectives

2.2.5. Tab 5 – Hosted / Application Service Provider Services

This tab shall include a list of available services, options, option pros and cons, and option costs to host the overall solution.

2.2.6. Tab 6 – Offeror History

This tab shall include a comprehensive narrative history of the firm, including the development of its experience in providing services similar to those described in this Request for Proposal. Offeror shall describe the size of their organization, years in business, office locations and any pending or previous litigations filed against the organization.

2.2.7. Tab 7 – Key Personnel

This tab shall include the resumes of the Offeror's key staff members (Account Executive, Project Management Team, Architecture Team, Technical Team and others as needed). It shall identify the specific employees assigned to provide the services solicited by this Request for Proposals. For each key person identified by the Offeror, this tab shall include the following information, provided in resume format:

1. Name and title.
2. Office location and city of residence.
3. Project responsibilities and roles.
4. Educational background.
5. Professional registrations and memberships (if applicable).
6. Years of relevant experience.

2.2.8. Tab 8 – Subcontracting

This tab shall identify any of the required services that you intend to subcontract, if any, providing the following information:

1. Reasons for subcontracting.
2. Proposed sub-contractor responsibilities.

3. Identity of proposed sub-contractors, including location, relevant personnel and experience, previous use as a sub-contractor, and any other relevant supporting information.

2.2.9. Tab 9 – References

- A. This tab shall include the names, addresses, email address and telephone numbers of at least five other local governments with whom Offeror has worked during the last five years that are similar in size and complexity to the City of Richmond. This tab shall also briefly identify the project, location, services performed, and costs associated with the implementation. If possible, the City prefers references that were managed by the same project manager recommended for the City of Richmond.
- B. This section of the RFP response shall also include an affirmative statement that the Offeror grants its consent for the City to contact the Offeror's references for purposes of evaluating the Offeror for this Contract and acknowledges that any information obtained from the Offeror's references shall not be disclosed to the Offeror. The Offeror shall use the reference form provided in Appendix to submit this information.
- C. This tab shall also include the name and contact information of one former client that has elected to leave the Offeror. The Offeror shall describe why the client left, and what steps the Offeror has taken to correct the issues that resulted in the client's departure.

2.2.10. Tab 10 - Business Organization and Credentials

This section shall include a synopsis of the Offeror's business qualifications to include but not limited to independently audit financial statements for the previous three (3) years in conformity with GAAP.

3.3 The Selection Process

The selection process will be conducted in accordance with City of Richmond, Virginia Code requirements.

- A. **Review of Written Proposals-** Using the criteria described in the "Proposal Evaluation Criteria" section of this RFP and with emphasis on professional competence, the City of Richmond ranking committee shall review all proposals received to determine those individuals/companies who are fully qualified, responsible and suitable to provide the services set forth by this Request for Proposal.
- B. **Discussion and Interviews-** The City of Richmond's ranking committee then shall hold one or more discussions and interviews with two or more of the responding offerors who have been deemed by the committee to be fully qualified, responsible and suitable to provide the services set forth by this Request for Proposal. Such discussions and interviews shall gather additional information; pursue the qualifications, expertise and experience pertinent to services described by this Request for Proposal. The City may require public presentations by offeror(s) regarding their qualifications, approach to the project, and ability to furnish the required services and equipment. During the discussion and interview stage, the offeror(s) and the committee may pursue alternative concepts and approaches for the project.
- C. **Evaluation and Ranking-**Using all of the information developed during the proposal review and discussion and interview stages, the committee shall rank the responding proposals according to the evaluation criteria given below. The City of Richmond shall then select in

order of preference two or more of the offerors whose professional qualifications are deemed most meritorious. Upon completion of negotiations with the top two or more ranking firms a determination is made to enter into contract negotiations. If a contract satisfactory and advantageous to the City can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror whose proposal is determined in writing to be the most advantageous to the City, taking in consideration the price and the other criteria set forth in this proposal.

3.4 Proposal Evaluation Criteria

During the review of written responses, each criterion below will be ranked. Each criterion has been assigned a point value that weights the criterion's significance to the project as noted below. The City of Richmond criteria shall include the following factors; which shall be considered in the evaluation and ranking process.

A. The following tables will be used in the evaluation of each Offeror for each section of the General Requirements.

B. The Scope of this RFP is broken down into 3 General Requirement categories:

1. Software
2. Implementation Services
3. Hosting / Application Service Provider Services

Offerors may submit proposals for one or more of the above three General Requirement categories. Separate contracts may be awarded for each of the three General Requirement categories. The City may choose not to award a contract for any or all of the three General Requirement Categories.

3.5 Software Evaluation Criteria

The Evaluation Committee shall use the following evaluation criteria in ranking and selecting Offerors for negotiation pursuant to this Request for Proposals:

Area	Description	Maximum Score
MBE/ESB Commitment	In accordance with City Code § 74-71(e), this criterion considers the Offeror's "good faith minority business enterprise and emerging small business participation efforts" as defined in City Code § 74-4. Pursuant to City Code § 74-71(e), an Offeror must receive at least 15 points under this criteria in order to be selected for negotiations, unless granted a waiver by the Chief Administrative Officer. The MBE/ESB participation goal for this contract is 0%. See section 2.4 of the Instructions to Offeror and 2.6.2 and 3.9 of the Terms and Conditions for the MBE/ESB provisions.	30 pts.
Compliance with Software Requirements	This criterion considers the extent of the Offeror's compliance and willingness to comply with all of the terms, conditions and other requirements of the Request for Proposals, the <i>Business and Interface Requirements</i> document and resulting contract. The responses in Tab 3 – Software along with any additional communications will be used in this criterion.	15 pts.
Experience	This criterion considers (i) the Offeror's past performance on any similar size and scope City contracts, (ii) the results of reference	15 pts.

	checks and (iii) the Offeror's experience in providing the software product and supporting services solicited by this Request for Proposals as set forth in the Offeror's proposal.	
Technical Capability	This criterion considers both the qualifications of the Offeror's software solution to meet the strategy, objectives and software requirements solicited by this Request for Proposals and materials that the Offeror proposes to use in delivering the software solution solicited by this Request for Proposals.	15 pts.
Accessibility	As required by City Code § 74-73, this criterion considers "the degree of accessibility that the Offeror will be able to provide to the city officials who will be administering the contract." This criterion recognizes the need for close cooperation and communication between the City, its Project Manager, other City Staff and the Offeror in order to achieve the objectives of the contract resulting from this Request for Proposals.	5 pts.
Cost	As allowed by City Code § 74-71(e), this criterion considers the price of the services solicited by this Request for Proposals. Offeror will be evaluated on their pricing scheme as well as on their price in comparison to other Offeror.	20 pts.
	Maximum Total Points Awarded:	

3.6 Implementation Evaluation Criteria

The Evaluation Committee will use the following evaluation criteria in ranking and selecting Offerors for negotiation pursuant to this Request for Proposals:

Area	Description	Maximum Score
MBE/ESB Commitment	In accordance with City Code § 74-71(e), this criterion considers the Offeror's "good faith minority business enterprise and emerging small business participation efforts" as defined in City Code § 74-4. Pursuant to City Code § 74-71(e), an Offeror must receive at least 15 points under this criteria in order to be selected for negotiations, unless granted a waiver by the Chief Administrative Officer. <u>The MBE/ESB participation goal for this contract is 5%.</u> See section 2.4 of the Instructions to Offeror and 2.6.2 and 3.9 of the Terms and Conditions for the MBE/ESB provisions.	30 pts.
Experience	This criterion considers (i) the Offeror's past performance on any similar size and scope City contracts, (ii) the results of reference checks and (iii) the Offeror's experience in providing the Implementation services and supporting services solicited by this Request for Proposals as set forth in the Offeror's proposal.	20 pts.
Compliance with Implementation Services Requirements	This criterion considers the extent of the Offeror's compliance and willingness to comply with all of the terms, conditions and other requirements of the Request for Proposals and resulting contract. The responses in Tab 4 – Implementation Services along with any additional communications will be used in this criterion.	15 pts.
Technical Capability	This criterion considers both the qualifications of the Offeror's Implementation services, with special focus on Organizational Change Management capabilities, to meet the strategy, objectives and software requirements solicited by this Request for Proposals and materials that the Offeror proposes to use in delivering the software solution solicited by this Request for Proposals.	15 pts.
Accessibility	As required by City Code § 74-73, this criterion considers "the degree of accessibility that the Offeror will be able to provide to the city officials who will be administering the contract." This criterion recognizes the need for close cooperation and communication between the City, its Project Manager, other City Staff and the Offeror in order to achieve the objectives of the contract resulting from this Request for Proposals.	5pts.
Cost	As allowed by City Code § 74-71(e), this criterion considers the price of the services solicited by this Request for Proposals. Offeror will be evaluated on their pricing scheme as well as on their price in comparison to other Offeror.	15 pts.
	Maximum Total Points Awarded: 100pts	

3.7 Hosting/Application Service Provider Evaluation Criteria

The Evaluation Committee will use the following evaluation criteria in ranking and selecting Hosting / Application Service Provider Offerors for negotiation pursuant to this Request for Proposals:

Area	Description	Maximum Score
MBE/ESB Commitment	In accordance with City Code § 74-71(e), this criterion considers the Offeror's "good faith minority business enterprise and emerging small business participation efforts" as defined in City Code § 74-4. Pursuant to City Code § 74-71(e), an Offeror must receive at least 15 points under this criteria in order to be selected for negotiations, unless granted a waiver by the Chief Administrative Officer. <u>The MBE/ESB participation goal for this contract is 0%.</u> See section 2.4 of the Instructions to Offeror and 2.6.2 and 3.9 of the Terms and Conditions for the MBE/ESB provisions	30 pts.
Experience	This criterion considers (i) the Offeror's past performance on any similar size and scope City contracts, (ii) the results of reference checks and (iii) the Offeror's experience in providing the Hosting / Application Service Provider services and supporting services solicited by this Request for Proposals as set forth in the Offeror's proposal.	15 pts.
Technical Capability	This criterion considers both the qualifications of the Offeror's software solution to meet the strategy, and objectives solicited by this Request for Proposals and materials that the Offeror proposes to use in delivering the Hosting / ASP solution solicited by this Request for Proposals.	20 pts.
Cost	As allowed by City Code § 74-71(e), this criterion considers the price of the services solicited by this Request for Proposals. Offeror will be evaluated on their pricing scheme as well as on their price in comparison to other Offerors.	15 pts.
Compliance with Requirements	This criterion considers the extent of the Offeror's compliance and willingness to comply with all of the terms, conditions and other requirements of the Request for Proposals and resulting contract. The responses in Tab 5 – Hosted / Application Service Provider Services along with any additional communications will be used in this criteria.	10 pts.
Accessibility	As required by City Code § 74-73, this criterion considers "the degree of accessibility that the Offeror will be able to provide to the city officials who will be administering the contract." This criterion recognizes the need for close cooperation and communication between the City, its Project Manager, other City Staff and the Offeror in order to achieve the objectives of the contract resulting from this Request for Proposals.	10pts.
	Maximum Total Points Awarded: 100pts	

4 General Requirements

4.1 Software

- A. This section pertains to the Offeror who shall provide the solution software including any third party products. The Software Offeror shall focus their proposal response based on this section and the separately attached business requirements.
- B. The scope of the solution shall include all City agencies. The below table represents prioritized phases with associated modules. The City understands the below combinations may be changed based on the Offeror's software solution.

Phase 1	Phase 2	Phase 3	Phase 4
General Ledger Accounts Payable Procurement Contract Management Financial Reporting Budget	Grant Management & Accounting Fixed Assets Work Orders & Capital Projects	Human Resources Time & Attendance Payroll Retirement	Cash Management Debt Management Inventory & Asset Management

- C. As stated above, the City expects a significant level of business process improvement throughout implementation of the new ERP system and intends to adopt the best practices offered by the selected Offeror. Offeror(s) who are invited to demonstrate their product shall be prepared to discuss the application's and implementer's best practices.

4.2 Business, Reporting & Interface Requirements

- A. Attached to this Request for Proposal is an Excel file called ERP Requirements.xls that contains 17 Tabs by module or interfaces indicating the requirements for each module and the related interfaces.
- B. The Offeror shall complete the attached ERP Requirements excel file and return it as part of the proposal. Offeror shall be evaluated based on the response to this section.

4.3 Integrated Software Solution

The solution shall provide integrated application modules for each of the scope items. The Solution shall also be flexible enough to include relevant information for all interfaced sources to support a total view. To this end, the City expects the Solution to utilize a centralized relational database and utilizes common features (security, system utilities, menu design, key mapping, tables, etc.), where practical. Offeror shall be evaluated based on the response to this section.

4.4 Scope of Required Applications

- A. The geographic deployment of this solution shall be in the City of Richmond and surrounding counties using existing LAN/WAN infrastructure. Hosting may be within City Hall or at a Hosting / Application Service Provider.
- B. The City presupposes that two instances of the solution may be necessary, (1) for the City of Richmond and (2) for Richmond Public Schools. It is understood this supposition could change based on the technology and or implementation strategy that is detailed in the Offeror's proposal.
- C. Remote access is required over the Internet via the City's existing Cisco Systems VPN Client 5.0.00.0340 for Windows and WinNT.
- D. The City's current financial system, Advantage, currently supports approximately 450 users. The City's current payroll system, TEMS, currently supports approximately 110 users. **Richmond Public Schools current financial and payroll system, CIMS, currently supports approximately 220 users.**
- E. The solution shall be able to support up to 4,500 to 9,000 end users, depending on the number of instances **and should be scalable to support more users/agencies in future.** NOTE: Concurrent use of all modules in scope will experience about 1,000 concurrent power users. However, with the employee and self service requirement, the system will also be accessed by an additional 10,000 non-power users for read only, personal information updates, time entry and benefits administration.

4.5 System Scope

- A. Following is a list of the main functional requirements detailed in the phases the City anticipates implementing as part of an integrated ERP software solution. The detailed Business and Interface Requirements components of this RFP have been organized along these headings.
- B. The following tables represent:
 - 1. System Function
 - 2. Current System(s) Used
 - 3. High level functional requirements for the new system. Reference the Business and Interface Requirements document for further details.

4.6 Phase 1 Detail

Functional Requirement Heading	Current System	Represents the Following Functions & Processes
General Ledger	Advantage CGI CIMS for Schools	1. Defines the General Ledger structure. 2. Identifies needs for fund accounting and reporting. 3. Defines processing of journal entries including sub-ledgers and other systems. 4. Defines Debt Management and Cash Management forecasting.

Accounts Payable	Advantage CGI CIMS for Schools	1. Extends from the procurement process. 2. Supports Vendor invoice matching, approval, and entry. 3. Support Vendor invoice controls. 4. Supports invoice payment discounting. 5. Provides payment processing for Vendor invoices, employee travel and expense re-imbursements, and other payments, including voter registration payments, and citizen refunds. 6. Integrated with Encumbrances for expense control, with Grants and Contracts for cost tracking, and with Fixed Assets for asset management.
Procurement	Advantage CGI CIMS for Schools	1. Follows Procurement lifecycle from cradle to grave (inception of concept through contract closeout). 2. Supports Vendor contracts. 3. Routes purchase requisitions through to the issuance of purchase order. 4. Provides Vendor Self Service. 5. Extends to Accounts Payable process.
Contract Management	Advantage/ Contract Tracking (In House) CIMS for Schools	1. Automate the processes associated with establishing contracts with suppliers and managing the termination, completion and renegotiation of contracts 2. Make the processes more manageable by holding all contracts as electronic documents in one place and by using workflow and scheduling.
Financial Reporting	Business Objects CIMS for Schools	1. Ability to produce Comprehensive Annual Financial Report (CAFR) at the push of a button. 2. These items relate to reporting activities within each functional area as well as enterprise reporting.
Budget	Brass CGI Budget Generator for Schools	1. Supports the development of budget amounts for organizational units and funding sources by period. 2. Supports the ongoing process of budget re-allocations.

4.7 Phase 2 Detail

Functional Requirement Heading	System	Represents the Following Functions & Processes
Grant Management & Accounting	Advantage / Grant Mgmt System (In House) CIMS for Schools	1. Supports the Grants process from cradle to grave (????) 2. Supports the setup and tracking of grant expenditures and funding. 3. Supports city, state, and federal compliance and reporting requirements.

Fixed Assets	Advantage / Excel CIMS for Schools	1. Extends from the Procurement / Accounts Payable process. 2. Accounting for both financial and physical control over assets.
Work Orders & Capital Projects	Advantage, City Works (In-House), Excel FAMIS for Schools	1. Ability to track components and associated costs of capital projects prior to be placed into service. 2. Track the total cost of a capital project as its accumulated until the project is completed. 3. Automated workflow from inception of project through project close.

4.8 Phase 3 Detail

Functional Requirement Heading	System	Represents the Following Functions & Processes
Human Resources	TEMS CIMS for Schools	1. Extensive HR management for tracking employees from cradle to grave, administering benefits, including labor contract rules. 2. Applicant tracking and hiring. 3. Provides employee self service.
Payroll	TEMS CIMS for Schools	1. Supports city, state, and federal compliance and reporting requirements. 2. Processing of payroll and compliance reporting
Retirement	Retirement Actuary/ Payroll/AR (In House) CIMS and VRS for Schools	1. The system has the ability to retrieve, track and maintain all City employee payroll and payroll history data. 2. The system has the ability to receive interfaces from RBHA and the Schools with employee payroll data. 3. The system has the ability to process retiree payroll as well as retrieve, track and maintain all retiree payroll and payroll history data. 4. The system has the ability to capture and maintain user-defined rules and perform retirement and actuary calculations. 5. The system has an HRIS module to provide Active Employee (Member) and Retiree Self Service functionality. 6. The system has the ability to maintain Member and Retiree contact detail.

4.9 Phase 4 Detail

Functional Requirement Heading	System	Represents the Following Functions & Processes
Cash Management	Excel CIMS for Schools	Cash Management modules compile information to facilitate the strategy by which a company administers and invests its cash.

Debt Management	MUN-EASE Excel	1. Track financial information and report on individual bond issues and project allocations.
Inventory & Asset Management (hard assets)	City Works / CIMS for Schools	1. Track product usage 2. Track maintenance costs 3. Maintain inventory at optimum levels.
Point of Sale	Horizon & CIMS for Schools	1. Tracks food sales for meals (25,000 users)

4.10 The City is also interested in the Offeror's capability to provide products and services for the following:

Additional Product Integration	System	Represents the Following Functions & Processes
Document Management	ApplicationXtender	1. Integration to solution that provides an ability to store documents at point of entry, link to appropriate information sources within ERP solution, tracking, viewing and drilldown of documents at all levels are required.
Portal	Excel	1. Comprehensive web solution for all majors aspects of City information; integrated with ERP solution and other applications. 2. Provide consistent intuitive self-service functionality for
Enterprise Reporting, Analysis & Planning, including potentially: Business Intelligence/Data Warehouse	Enterprise Business Objects	1. Ability to integrate with a data warehouse operational data sourced from multiple application data sources, including ERP Solution. 2. Support 20 plus year of historical information plus flexible but detailed interface to operational data; ability to present information and analysis as defined by user. 3. Flexible, user-friendly reporting and query tools.

4.11 Software System Availability

- A. The system is expected to available on a 24/7 basis except for scheduled maintenance, version upgrades and emergency "fixes". Web enabled and IVR applications are also available on a 24/7 basis.
- B. System maintenance, back up, and recovery operations shall be executed on an "off peak" schedule and not interfere with system operations during defined working hours. The Contractor is expected to provide "fixes" for known problems and implementation instructions. Major version updates shall be scheduled in advance with adequate notice to allow for full regression testing ensuring integrity of data and operations during any transition period. The Offeror shall provide a quotation of the costs necessary to maintain this operational capability. Offeror shall be evaluated based on the response to this section.

4.12 Source Code Access

- A. The Offeror shall provide access the solution's product source code, technical documentation, and user documentation to the City of Richmond to be secured in a location determined by the City of Richmond. The code shall be kept current with any changes in code or documentation forwarded within 30 calendar days of the release. The proposal shall document how this shall be achieved.

4.13 Third Party Products

- A. The Offeror shall explicitly state the name of any third-party products that are part of the proposed solution to the City.
- B. The proposal shall describe any third party products, features or other value added components recommended for use with the proposed system that have not been specifically requested in this RFP.
- C. For Offeror's product the proposal shall state whether the Offeror's proposal includes the third-party product, license amounts, or whether the City shall have to contract on its own for the product.
- D. The Offeror shall also provide proof that it has access to the third-party software source code (owned or in escrow) and that the Offeror has the ability to provide long-term support for the third-party software components of its system. The Offeror shall provide the City with copies of license agreements that the City will be expected to sign as part of the Offeror's proposal.
- E. Consideration of these product features or other value-added components shall be given where they may be of value to the City.
- F. Offeror shall include the cost of any third party products, including the software license cost, maintenance, implementation, training cost, and any other related costs in the total cost of this proposal.

4.14 Documentation

- A. The City requires complete and timely documentation suitable to all users, including but not limited to: end users, train-the-trainer, City's application security support, City's application end user support, business application administration, technical system administrator, technical resources: DBA (example: Data Dictionary, Database Architecture), and hardware support. The proposal shall document how this will be achieved.

4.10 Help Desk Support

- A. The Offeror shall provide Implementation and End User Help Desk services Monday through Friday from 7am to 7pm EST and emergency services after normal working hours, during weekends and holidays and provide a description of those services.
- B. The City's expectation is to have a full range of services, technical and full application support during defined working periods. For off-hours and emergency situations, the City requires phone access and a 2 hour call back period to address problems. The City

expects problems to be logged and escalated promptly per the signed contract. The Offeror is expected to report status and actively communicate with the City's Project Manager until the problem is completely resolved. The Help Desk shall operate from a central location providing a toll free number for the City. The proposal shall document how this shall be achieved. Offeror shall be evaluated based on the response to this section.

4.11 Proof-of-Concept Demonstration

- A. After the evaluation phase, a subset of Offerors shall demonstrate their solutions using specific data from the organization — for executives, project team members, technical staff and selected end users.
- B. Offerors shall plan to bring their own computer hardware, software, sample data and projection hardware to the demonstration. Network and dial-up connectivity shall be provided by the organization if required.
- C. Instructions for the proof-of-concept demonstration shall be provided in writing under separate cover. Specific points of evaluation shall be stressed in the separate cover document.

4.12 Implementation Services

This section pertains to Offerors who wish to submit their proposal for Implementation Services for the software and any third party products. The Implementation Offeror shall focus their proposal response based on this section and the separately attached business and interface requirements.

4.13 Project Management

- A. The City expects the Offeror to develop a project plan, supporting schedules that meet the Project Management Institute's *Project Management Body of Knowledge* at a minimum.
- B. Stronger candidates shall be able to demonstrate, by conversations with and letters of recommendation from previous customers, compliance with the Software Engineering Institute's Capability Maturity Model (Key Process areas noted below) and PMI's Project Management standards.
- C. Offeror shall provide:
 - 1. Project management methodology, practices, and procedures
 - 2. The number of qualified project managers employed by the Offeror
 - 3. What project management tools shall be used, how they shall be used and how they relate to the method used.
 - 4. PMI, CEI, TQM, IEEE, ISO and other related Certifications held.
- D. The Offeror shall provide the City with samples of:
 - 1. Implementation Program Plan (Based on PMI and SEI standards)
 - 2. Implementation Project Plans for each Phase of Scope (Based on PMI and SEI standards)
 - 3. Project Timelines and Schedules with specific Milestones or Deliverables tied to a pay schedule. The Implementation Offer shall provide their approach on milestones.
- E. Offeror shall be evaluated based on the response to this section. Software Engineering Standards
 - 1. Project Planning (L2)
 - 2. Project Monitoring & Control (L2)

3. Process & Product Quality Assurance (L2)
4. Requirements Management (L2)
5. Measurement & Analysis (L2)
6. Configuration Management (L2)
7. Requirements Development (L3)
8. Organizational Training (L3)
9. Product Integration (L3)
10. Risk Management (L3)
11. Technical Solution (L3)
12. Validation (L3)
13. Verification (L3)

4.14 Project Plan

The City's expectation is the Project Plan for each Scope Phase shall, at a minimum, include the following sub sections. If the Offeror does not intend to meet this minimum requirement, please indicate the reasons. Offeror shall be evaluated based on the response to this section.

4.15 Integration Management

Project Integration Management includes the processes required to ensure the various elements of the Project are properly coordinated. It involves making trade-offs among competing objectives and alternatives in order to meet or exceed stakeholder needs and expectations.

4.16 Scope Management

Scope Management shall provide a detailed documented basis for what is in scope, out of scope and how future project scope decisions shall be made. It shall be clearly documented so that both business and technical people can maintain a common understanding of project scope. The Scope is the sum of the product and services to be provided for both the project and each phase.

4.17 Project Communication Management

- A. The City anticipates the need to be able to provide frequent and regular progress updates and status reports to various City leaders, staff, and constituent groups.
- B. As part of this implementation plan, the Offeror shall provide a detailed communication plan that shall include discussion of key implementation metrics that shall be used to track progress; types of communication methods (i.e., memo, email, one-on-one meetings, project team meetings, constituent group meetings, online web progress reporting tools, etc.) that the Offeror shall use; frequency of these communications; and key Offeror point-of-contact with overall responsibility for ensuring these communications are provided as scheduled.

- C. Additionally, the Offeror shall make key project leaders and staff available for certain meetings that shall be required shall major issues arise during the implementation that significantly impact the schedule, budget, or efficacy of the ERP solution.

4.18 Risk Management

Project Risk Management includes the processes concerned with identifying, analyzing, and responding to Risks and Issues. It includes maximizing the results of positive events and minimizing the consequences of adverse events. It is expected the risk management plan shall include periodic – minimally quarterly – reviews or potential risks with associated mitigation plans and actual issues along with their associated implemented mitigation plans.

4.19 Quality Management

The purpose of the Quality Management Plan is to establish standard guidelines and procedures for managing quality throughout the Project. The processes are required to ensure that the Project shall satisfy the City's needs. It includes all the activities of the overall management function that determine the quality policy, objectives and responsibilities and implements them by means such as quality planning, quality control, quality assurance, and quality improvement, within the quality system.

4.20 Project's Defined Software Process

Define the Software Life Cycle being used by this project. Describe the project's processes and standards.

4.21 Resource Management/ Project Team Organizational Structure

- A. As part of the RFP response, the Implementation Offeror shall specify all personnel required for Project Management for each Phase of Scope, depicted above. The Offeror shall provide the role, responsibilities and position requirements. Project Team Organizational Structure shall include, but is not limited to: Software Vendor, Implementation Vendor, The City of Richmond, Third Party and the ASP sections.
- B. Unless otherwise indicated, it is expected the below roles shall be an Offeror employee or subcontractor. We anticipate that a single resource shall perform multiple roles.

4.22 Offeror Level of Role Expectations

The implementation offer shall include their approach to Roles and Responsibilities in the proposal. Resumes shall be provided for the all team members along with level of effort. If invited by the City to demonstrate Offeror software, all team members shall be present at the onsite demonstration. Any change of Personnel, after contract approval, shall be reviewed and approved, in writing, by the City.

4.23 City Team Roles and Responsibilities

The Offeror shall include an anticipated representation of the resource requirements that shall be expected of the City during this project. Each role with the associated skill set, responsibilities, level of effort and duration by project phase shall be detailed in the response.

4.24 Time Management

Involves identifying and documenting the specific activities that shall be performed in order to produce the deliverables and sub-deliverables identified in the work breakdown structure. Implicit in this process is the need to define the activities such that the Project objectives shall be met. Derive the input from the Work Breakdown Structure.

4.25 Proposed Project

- A. The Offeror shall propose a Project Time-Line or the approach to develop one so the project can meet the strategy and objectives. The representation below is an example of how the project timeline might flow for each project's scope. Each Scope Phase timeline includes (this is not an all inclusive or exhaustive list):
- 1) Standard Project Management and Software Engineering Practices
 - 2) Business Process Re-Engineering
 - 3) Business, Technical, Interface, Data Conversion Requirements
 - a) Documenting inputs, business rules outputs, mapping
 - b) Configuration of the system to meet requirements
 - 4) Test Planning, Case Development and Execution (Includes bug identification-fix-test cycles)
 - 5) Development of all documentation for that scope phase
 - a) Technical (data dictionary, data base design & mapping, system architecture, technical operating environment)
 - b) Requirements
 - c) Test case development, execution, results
 - d) End User, System Admin, Security
 - 6) Communication Plan and execution of same
 - 7) Training (Management, end users, report analyst, others as defined in the projects)
 - 8) Post implementation operational support (3-6 months)

4.26 Cost Management

Cost Management includes the processes required to ensure that the Project and supporting Phases are completed within the approved budget. Project cost management is primarily concerned with the cost of the resources needed to complete project activities. However, project cost management shall also consider the effect of project decisions on the cost of using the project product.

4.27 Organizational Change Management

- A. As stated in the project objectives above, the City wishes to maximize its use of the new ERP system capabilities and anticipates that this goal shall require it to undertake business process changes that shall or shall not have a significant impact on City operations and personnel.

- B. The Offeror shall include their approach to Organizational Change Management (OCM) in their proposal. This shall be one of the more critical evaluation criteria. The Offeror shall also include samples of typical OCM deliverables in the proposal.
- C. Because of the critical nature of this portion, the Offeror shall be evaluated based on the response to this section to a much higher degree.

4.28 OCM Plan

As part of the proposal, the Offeror shall provide a sample of the OCM Project Plan and enterprise wide set of process for managing people through change, ensuring:

- 1) Continued commitment and accountability from Executive and Functional Governance members
- 2) Creates and maintains commitment and accountability from managers
- 3) Re-engineered processes rather than technology
- 4) Instituting visionary organizational change management
- 5) Planning for post-implementation turnover and production support
- 6) Skill transfer from contracted project workers to City of Richmond employees
- 7) Number of required maintenance staff
- 8) Building organizational change management competencies.
- 9) Integrating organizational change management into each project
- 10) On-going communication and training programs during the project life cycle, post project implementation.
- 11) Creating Internal (City) Change Management Champions
 - a) Assess knowledge skills and abilities, mapping these against those needed for the new processes,
 - b) Create / Update organization charts, update job descriptions
 - c) Respected individuals in a department that can help others with fear, uncertainty and doubt
- 12) Communicate clear, concise and simple messages on a regular basis to minimize the rumor mill.

4.29 OCM Position statements

These position statements shall be actively used to guide and mature the City's processes:

- A. **Definition:** The City defines organizational change management as, "The organized, systematic application of knowledge, tools, and resources of change that provide organizations with a key process to achieve our business objective and meet the needs of our Citizens in a most responsible and cost efficient way"
- B. **Mission:** The City defines this as providing the "structure and guidance necessary to effectively prepare organizations for the successful acceptance of cultural change in order to meet the City's strategy and achieve their department level business strategy."
- C. **Objectives:** The organizational change management team's objectives are to:
 - 1. Provide awareness
 - 2. Ensure understanding
 - 3. Facilitate acceptance
 - 4. Care, listen and respond
 - 5. Manage people's expectations
 - 6. Ensure readiness

4.30 OCM Training Plan

- A. The Offeror shall include their approach to an OCM Training Plan in their proposal. This shall be one of the more critical evaluation criteria. The Offeror shall also include an OCM Training Plan sample.
- B. It is the City's intention that the Implementation Offeror shall coordinate the training of City personnel in the use of their application and that satisfactory implementation of an approved training plan shall be a key component of this project's deliverables. The OCM Training Plan shall map to the objectives of the OCM Plan.
- C. The Offeror shall:
 - 1. Describe their technical training method, practices, and procedures.
 - 2. Describe experience in designing, developing, and implementing training programs. Provide examples of training material.
 - 3. Describe experience in designing, developing, and implementing post implementation – post training on-going support projects. Provide examples of post implementation support material.
 - 4. Describe flexibility in meeting unusual training needs, such as ability to develop a program to meets the City's needs.
 - 5. Provide the number of qualified trainers employed by the Offeror.
 - 6. Provide statement on capability of providing onsite and offsite training and describe Offeror's training facilities.
 - 7. Provide Certifications held.
 - 8. Provide a sample detailed plan for training. This information shall include:
 - a. The role and responsibility of the software and/or Offeror in the design and implementation of the training plan (e.g., development of customized training materials, delivering training to City end-users).
 - b. The role and responsibility of the City staff in the design and implementation of the training plan.
 - c. Overview of proposed training plan/strategy, including options for on-site or off-site training services, for the core project team, end-users, and technology personnel.
 - d. Proposed training schedule for City personnel of various user and interaction levels.
 - e. Descriptions of Classes/Courses proposed in the training plan. (The Offeror shall specify the unit of measure for its training (e.g., units, classes, days, etc.) and define the hours associated with these units of measure.) The Offeror shall be very clear about exactly what training courses are included in the cost of the proposal.
 - f. The knowledge transfer strategy proposed by the software and/or Offeror to prepare City staff to maintain the system after it is placed into production.
 - g. Detailed description of system documentation and resources that shall be included as part of the implementation by the Offeror including, but not limited to, detailed system user manuals, "Quick Reference" guides, Online support, Help-Desk support, user group community resources, and others as available.

4.31 Pre and Post Implementation Support Plan

- A. The Offeror shall include their approach to an OCM Pre and Post Implementation Support Plan in their proposal. This shall be one of the more critical evaluation criteria. The Offeror shall also include an OCM Pre and Post Implementation Support Plan sample.
- B. In addition to the above, the Offeror shall provide a description regarding their approach to software support during the implementation and after go-live. Offeror shall describe what level of support is available under the proposed fee structure. If varying levels of support are available, this section of the Offeror's response shall clarify these potential services and highlight the level of support that has been proposed.

4.32 Software and System Engineering

- A. Offeror shall be evaluated based on the response to this section.
- B. For each type of service proposed, Offeror shall provide and describe multiple labor categories based on a range of expertise and experience. Descriptions of labor categories shall include examples of skill sets and project work scope. The following specific information is required for each type of service that is being proposed.

4.33 Software and System Engineering

4.34 Development, Programming, and Database Administration Services

- A. Provide a statement of systems development method, practices, and procedures.
- B. Describe experience in all phases of the Systems Development Life Cycle in the environments listed in the Scope of Services.
- C. Provide the number of qualified systems development, system programmer, and database administrator staff employed by the Offeror.
- D. Describe experience in evaluating, installing, configuring, integrating, and maintaining commercial products.
- E. Provide Certifications held.

4.35 Analytical Services

- A. Provide the number of qualified business analysts employed by the Offeror.
- B. Describe method, practices, and procedures for analytical services.
- C. Provide an overview of the various business and technical environments in which the Offeror has experience.
- D. Describe the Offeror's experience with small, medium and large-scale projects.
- E. Discuss different tools and methods used by the Offeror. When different tools/methods are used, describe in what situations each are viable or preferred, or, provide sanitized versions of actual documentation provided as part of different methods.
- F. Provide Certifications held.

4.36 Computer Network Services

- A. Describe Offeror's response time options and service method according to problem severity.
- B. Describe Offeror's experience with wireless network connectivity, maintaining TCP/IP networks, and backend systems, e.g., directory services, mail services, MS Back Office servers and enterprise servers.
- C. Discuss Offeror's ability to diagnose, install, and configure software and City provided hardware, including upgrades and enhancements.
- D. Provide Certifications held.

4.37 Desktop Support and Help Desk Services

- A. Provide the number of qualified support personnel employed by the Offeror.
- B. Discuss experience with Desktop tools and how they are used in support of desktop software installation, inventory control, remote control, and troubleshooting.
- C. Provide Certifications held.

4.38 Information Security Services

- A. Provide a statement describing Information Security integration into Systems Development Life Cycle methodology, practices, and procedures.
- B. Describe Secure Coding and Secure Design Best Practices used to code and design secure systems and secure infrastructure.
- C. Describe experience in Information Security Best Practices listed in the Scope of Services.
- D. Provide the number of qualified Information Security staff employed by the Offeror.
- E. Describe experience in evaluating, installing, configuring, integrating, logging, auditing, monitoring, reporting security violations and maintaining commercial information security products.
- F. Provide the Offeror's Information Security Policy, Privacy Policy, and Breach Notification Policy.
- G. Provide Certifications held.

4.39 Architectural Services

- A. Provide the number of qualified architectural staff employed by the Offeror.
- B. Describe architectural methodologies, practices, and procedures.
- C. Describe experience in all phases of the Systems Development Life Cycle in the environments listed in the Scope of Services.
- D. Describe experience in evaluating and integrating commercial products.
- E. Describe experience with both small and large-scale projects.
- F. Describe experience with service-oriented architecture.
- G. Provide Certifications held and certifying authority.

4.40 Standard Development Services

- A. Describe Development Services that include all phases of the systems development lifecycle project management (both Agile and Waterfall).
- B. Provide Certifications held and certifying authority.

4.41 SEI Capability Maturity Model Integrated

Selection of both the Implementer and Software product shall be impacted by the CMM or CMMI certification level. Although certification is not required, It is expected that both the Offeror and Software Product company have documented and follow, at a minimum, the below listed practices. The definition of these practices is referenced in the CMM or CMMI models.

Level 2

- 1. Configuration Management
- 2. Project Monitoring and Control
- 3. Project Planning
- 4. Process and Product Quality Assurance
- 5. Requirements Management

Level 3

- 1. Integrated Project Management
- 2. Organizational Innovation and Deployment

3. Organizational Process Definition
4. Organizational Process Focus
5. Organizational Training
6. Product Integration
7. Risk Management
8. Technical Solution
9. Validation
10. Verification

4.29 System Requirements

The Offeror shall supply the system requirements to the City. This shall include, but is not limited to: hardware, supporting software, network capability, processing throughput, database requirements, communication requirements, interface requirements, security specifications, number of supported users, etceteras.

4.30 Hardware

- A. Software Offeror shall be required to define and approve the hardware and configuration of hardware and networks to support the solution. The Offeror's staff shall work with the City's technical staff to document, develop, configure and place into production all required hardware and network services.
- B. Software Offeror shall be required to define and document the hardware maintenance schedule required to support the software maintenance plan.

4.31 Interfaces

- A. The Offeror shall include the proposed strategy for interfacing to all applications described in the Integration Requirements tab of the ERP Requirements.xls file. During the implementation program, Offeror shall conduct the work necessary to gain an understanding of the existing environment and the interfaces that shall need to be developed.
- B. Software Offeror shall be required to lead the development of internal and external interfaces. The Offeror's staff shall work with the City's technical staff to document, develop, execute and test all internal and external interfaces to ensure no errors occur.

4.32 System and Module Configuration Guidance

The Offeror shall include the proposed strategy for system and module configuration. Areas may include: Business Rules, Business Processes, inputs, outputs and other variables to allow the system to support the requirements.

4.29 Documentation

- A. The City requires complete and timely documentation suitable to all users, including but not limited to: end users, train-the-trainer, City's application security support, City's application end user support, business application administration, technical system administrator, technical resources: DBA, and hardware support.
- B. The Offeror shall provide an overview of the user and technical documentation provided with the software applications (by application proposed). The City requires documentation that

describes the features and functions of the proposed application software, but additionally that can be tailored to the specific and unique needs of the City. The documentation shall be provided for both users and the technical personnel who shall administer and maintain the system. It is desirable that differing levels of documentation (user documentation and technical documentation) exist. This documentation shall be provided in written form for each application module, with a minimum of three (3) copies of each documentation type for each application module being provided with the application software.

- C. The Offeror shall be responsible for providing City specific documentation that describes how processes are run related to City tasks. Documentation, including training manuals and agendas shall be provided by the Offeror before each training session with City staff.
- D. The below sections are not a complete representation; however the City has called them out for expectation and clarity sake.

4.30 Technical Operating Environment

The Offeror shall develop and deliver a Technical Operating Environment document to minimally include:

1. Hardware-Software-Communications Environment
2. Overall System Framework (Global Parameters, External Interfaces, and Data Flows)
3. Tool Requirements (Run Time Tools, Development and Test Tools)
4. System Standards (Programming Standards, Security Requirements)
5. Backup and Recovery Procedures
6. Hours of Availability and Coverage
7. Installation Standards
8. Technical Constraints
9. References

4.31 Configuration Management Plan

The Offeror shall develop and deliver a Configuration Management Plan to minimally include:

1. Configuration Management Environment (Computing Platforms, Tools & Techniques)
2. Environment Migration Plans (Development to Test to Verification to Train to Production)
3. Activities (Document Management, Source Code Management, Application Build Procedures, Testing Support, Migration Support, Change Requests, Backup and Recovery)
4. Third Party Software

4.32 Data

The Offeror shall develop and deliver the following data related documents to minimally include:

- 1) Data Dictionary
- 2) Database Architecture
- 3) Data Mapping for Conversion

4.33 Data Conversion

- A. The City's current information management system consists of multiple source systems. The Offeror shall describe how all files shall be converted to the proposed System (e.g., through software conversion aids/utility programs or special programs that shall be written, the actual conversion procedures, etc.). The Offeror's proposal must explain clearly how it will approach developing the data conversion plan, and what processes must be undertaken by the Offeror's project team to convert existing data as well as to interface with identified source systems. A conversion schedule shall identify planned conversion steps, estimated hours, and what resources shall be required (Client or Offeror) for all pertinent legacy data.
- B. Offeror shall document, design and convert legacy data. The Offeror's staff shall work with the City's business and technical staff to document, develop, scrub, execute and test all data mapping to ensure no errors occur.

4.34 Software Customization Plan

While it is the City's intent to utilize the Offeror's system's existing capabilities and embedded best-practice business processes, it recognizes that it shall have some critical work-processes that require some amount of software customization. As part of this project plan the Offeror shall provide a detailed software customization plan that includes anticipated customizations and their impact to the overall project schedule, budget, and final success. This software plan shall describe the process that the City and the Offeror shall engage in for accepting the software modifications.

4.35 Testing

- A. The Offeror shall provide a testing plan that describes all phases of testing, unit, system, regression, parallel, and user acceptance testing. It is the City's expectation that the testing plan govern all phases of the project and that the Offeror shall also provide assistance during user acceptance testing. The City shall be responsible for developing the user acceptance test scripts; however, during testing the Offeror shall have resources available to assist documenting test results, defect reporting and correction, and scheduling retesting activities. .

4.36 Environments

The Offeror shall include the following in their proposal. Indicate your approach and required hardware, software and costs to support development, testing, pre-production, production and training environments.

4.37 Deliverables

- A. The Offeror shall propose the deliverables to support the overall project and each phase. The Offeror shall explicitly state if there is an expectation of payment tied to those deliverables and define what the payment is. The Offeror shall also state the responsibility the City, Offeror, Offeror or any third party play in the deliverables (Responsible to Deliver, Approver, Support, Inform)
- B. The Offeror shall develop a "Deliverables Dictionary" as part of its proposal and project plan. The City anticipates the Deliverables Dictionary will be a listing of key Project deliverables that includes a brief explanation of the deliverable, any pertinent information

and connection to other deliverables, and a cross-reference to the deliverable in the Offeror's project plan. The Deliverables Dictionary, at a minimum, shall include deliverables that are either key to the project success or tied to a payment.

- C. Also, the Offeror shall provide a separate terminology dictionary that lists various ERP system terms, acronyms, and other such items that shall be used as part of its communications throughout the implementation.

4.38

4.39 Hosting / ASP Services

- A. If the Offeror either supplies or has a relationship with a third party for hosting / ASP services, the Offeror shall submit a description and cost of those services in response to the RFP that map to the items defined in the scope.
- B. The City has not defined requirements for this portion of the RFP. Rather, the City shall evaluate proposals for this service based on the evaluation criteria set forth in section 2.4.3 ("Hosting / Application Service Provider Evaluation Criteria") above.

END OF STATEMENT OF NEEDS

PART II
INSTRUCTIONS TO OFFERORS

1.0 Interpretations.

- 1.1 Incorporation of City Policies and Procedures.** This Request for Proposals is subject to the provisions of Chapter 74 of the Code of the City of Richmond, as amended, and the Policies and Procedures of the Department of Procurement Services, as amended, which are hereby expressly incorporated into this Request for Proposals by reference. Offerors may inspect copies of these documents at the City's website, www.RichmondGov.com.

1.2 Explanations to Offerors.

- 1.2.1 Inquiry.** All inquiries requesting clarification of this Request for Proposals should be made in writing no later than ten (10) business days prior to the closing date to:

Erna G. Robinson, CPPB
Senior Contract Specialist
900 East Broad Street, Room 1104
Richmond, Virginia 23219
Phone: (804) 646-6009
Fax: (804) 646-5989
E-mail: erna.robinson@richmondgov.com

If submitting an inquiry by facsimile transmission, the offeror should notify the Procurement Officer by telephone that the person is faxing the inquiry. All inquiries should clearly state the number of this Request for Proposals. Because each offeror may have different needs for information, that offeror must make whatever inquiries it deems necessary in order to respond to the Request for Proposals. Inquiries that the Procurement Officer determines to be pertinent to all solicited contractors will be answered by addenda to all solicited firms.

- 1.2.2 Form of Explanation.** No oral explanation in regard to the meaning of this Request for Proposals will be made and no oral instructions will be given before the award of the contract. Any explanation, interpretation or modification of the Request for Proposals that is pertinent to all solicited offerors will be made only by an addendum duly issued by the City, a copy of which will be mailed or delivered to each offeror known to have received the Request for Proposals. The City shall not be responsible for any other explanations or interpretations anyone presumes to make on behalf of the City before the expiration of the ultimate time set for the receipt of proposals.
- 1.2.3 Addenda.** From time to time, addenda may be issued that will provide clarifications or supplemental information about the Request for Proposals documents. All firms receiving Request for Proposals documents issued by the City will be provided copies of addenda. If an offeror fails to acknowledge any addendum that (i) has a material effect on the proposal (i.e., that relates to price, quantity, quality or delivery) and (ii) is not merely administrative, the City may consider that offeror's proposal incomplete, and the proposal thus may be rejected or receive a lower score in the evaluation process. The offeror shall acknowledge receipt of all addenda as part of its proposal and on the form provided for that purpose by the City. The offeror shall be solely responsible for verifying the existence of all addenda items.
- 1.3 No Contact Policy.** Any contact with any City representative concerning this Request for Proposals other than that outlined in section 1.2 ("Explanation to Offerors") above is prohibited. Any such unauthorized contact may disqualify the offeror from this procurement.

- 1.4 **Pre-Proposal Meeting.** A Pre-proposal meeting will be held for this project. The meeting will be held on Thursday, April 8, 2010 @ 10:00 a.m. Location: Richmond City Hall, 900 East Broad Street, Room 1104, Procurement Services Conference Room
- 1.5 **Other Documents.** The Statement of Needs and the Terms and Conditions attached to this Request for Proposals are hereby expressly made a part of and incorporated into this Request for Proposals. The Terms and Conditions shall be a part of any contract that results from this Request for Proposals. This Request for Proposals also includes a sample of the City's form contract as an attachment. All conditions contained in this attached contract are hereby expressly made a part of and incorporated into this Request for Proposals.
- 1.6 **Disqualification Due to Participation in Preparation of Solicitation.**
- 1.6.1 **Prohibition.** City Code § 74-348 (a) prohibits any person who, for compensation, prepares a solicitation for or behalf of the City from submitting a response to that solicitation or any portion thereof.
- 1.6.2 **Definition.** For purposes of this section 1.6, the word 'prepares' has the meaning set forth in City Code § 74-348(b) and this includes but is not limited to the following:
- (1) Serving as a director or deputy of the agency which has initiated the procurement;
 - (2) Serving as the director of procurement services after the department of procurement services has received information on an agency's intent to procure;
 - (3) Serving as the procurement manager for the agency which has initiated the procurement;
 - (4) Serving as the procurement officer in charge of the procurement;
 - (5) Assisting in the development of specifications for invitations for bids or requests for proposals;
 - (6) Attending an evaluation committee meeting is closed to the public;
 - (7) Voting on or scoring a bid or proposal; or
 - (8) Any other participation in the procurement process which could lead to unfair advantage.
- 1.6.3 **Disqualification and Waiver.** Pursuant to City Code § 74-348©, the Chief Administrative Officer shall make the determination that a person is disqualified from submitting a response to a particular solicitation because of that person's participation in preparing that solicitation.
- 1.6.4 **No Contact Policy and Waiver.** If a person planning to submit a response to a solicitation contacts the Chief Administrative Officer concerning such a disqualification, such a person and the person's firm shall be disqualified from responding to the solicitation for violating the City's no contact policy because the person discussed the solicitation with a City representative other than the contract specialist responsible for the procurement.
- 1.6.5 **Appeal of Disqualification.** In accordance with City Code § 74-348(d), any person who has been disqualified pursuant to this section 1.6 and City Code § 74-348 may appeal the Chief Administrative Officer's determination of disqualification by following the administrative appeals procedure set forth in the City Code § 740193 or by instituting legal action as provided in City Code § 74-193 or by instituting legal action as provided to City Code § 74-194.
- 2.0 **Preparation of Proposals.**

- 2.1 **General Requirements.** The proposal must be typed and bound and should be presented as described in the paragraphs that follow. All pages in the proposal must be consecutively numbered. To be considered substantive, the proposal must respond to all requirements of this part of the Request for Proposals. Information supplied must be current and up to date. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If the offeror supplies publications to respond to a requirement, the response must include reference to the document number and page number to provide a quick reference for the Evaluation Committee. Proposals not providing this reference will be considered to have no reference included in the additional documents. The proposal must include all the information defined below and be organized as set forth in the Statement of Needs.
- 2.2 **Substantive Nature of Proposals.** Proposals that are not substantive may be considered non-responsive. It is not sufficient for the offeror to address the proposal in general terms or in terms other than those outlined in the proposal. Proposals should be prepared simply and economically, providing a straightforward, concise description of the offeror's ability to meet the requirements set forth in the Request for Proposals.
- 2.3 **Authorized Signature.** All proposals must be signed in order to be considered. If the offeror is a firm or corporation, the offeror must show the title of the individual executing the proposal and a resolution authorizing the individual to sign the proposal and any subsequent contract.
- 2.4 **MBE/ESB Participation.** When the City of Richmond establishes a goal for MBE/ESB participation on a city project, all minority and non-minority prime contractor/vendors are required to have MBE/ESB participation.
- 2.4.1 **Policy.** It is the policy of the City to encourage minority participation in all City contracts. To advance this policy, the City encourages minority participation through subcontracting, joint ventures, or other methods in contracting for services.
- 2.4.2 **Certification.**
- A. All Minority Business Enterprise subcontractors and vendors must be registered with the City of Richmond's Office of Minority Business Development (OMBD) and certified by the Commonwealth of Virginia Department of Minority Business Enterprise or a comparable certifying entity as a Minority Business Enterprise. Enterprise or a comparable certifying entity as a Minority Business Enterprise. OMBD reserves the right to accept the certification of other certifying agencies.
 - B. All Emerging Small Business subcontractors and vendors must be certified by the City or Richmond's Office of Minority Business Development (OMBD).
- 2.4.3 **Evaluation.**
- A. In the proposal evaluation process, up to 30 points will be given to those proposals that have documented past good faith efforts and have proposed MBE/ESB participation that relate to the established goal. All MBE/ESB forms that relate to this matter must be included in the prime contractors/vendors response. All documentation as it relates to past good faith efforts and proposed MBE participation must be submitted on the required forms in order to expedite the evaluation process. We have attached the Participation Commitment and the Current and Past Good Faith Effort forms for completion. The offeror should complete all pertinent MBE/ESB forms or risk forfeiting the 30 points assigned to Minority Business Enterprise and Emerging Small Business participation.
 - B. The City of Richmond encourages MBE/ESB participation on all City of Richmond contracts. If the City of Richmond waives the setting of goals, it is up to the prime contractor/vendor to determine whether or not they will voluntarily have MBE/ESB participation. Voluntarily committing to MBE/ESB participation allows the prime contractor/vendor to use this commitment as past good faith efforts for credit on future projects that have MBE participation with the City. When presenting MBE/ESB participation, use the forms created by the Office of Minority Business Development

(OMBD) (MBE-1, MBE-2 and Good Faith Effort) in order to properly document your participation efforts.

- 2.5 **Faith-Based Organizations.** The City does not discriminate against faith-based organizations. By signing its proposal, the offeror, if a faith-based organization, agrees that it understands the requirements of City Code § 74-47 (Va. Code § 2.2-4343.1).
- 2.6 **Licenses, Permits and Fees.** All proposals submitted shall have included in the prices submitted the cost of any business or professional licenses, permits or fees required by the City of Richmond or the Commonwealth of Virginia.
- 2.7 **Public Inspection of Records.**
- 2.7.1 **In General.** All proceedings, records, contracts and other public records relating to the procurement transaction that this Request for Proposals concerns shall be open to the inspection of any citizen or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.
- 2.7.2 **Inspection by Offerors.** Any offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed, but prior to award, except in the event that the City decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.
- 2.7.3 **Proprietary Information.** Pursuant to City Code § 74-5(f) (Va. Code § 2.2-4342(F)), trade secrets or proprietary information submitted by an offeror in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, provided that the offeror (i) invokes the protections of this section prior to or upon submission of the data or other materials, (ii) identifies the data or other materials to be protected, and (iii) states the reasons why protection is necessary.
- 2.8 **Use of Brand Names.** Where a brand or trade name appears in the specifications, it is understood that the brand or trade name referred to, or its approved equal, shall be furnished. If, however, the offeror proposes similar but not identical items, it must furnish full particulars. If no mention is made of any exceptions, it is assumed that the offeror's pricing is for the article mentioned and not an approved equal and the offeror will be required to deliver the exact article specified.
- 2.9 **Descriptive Literature.** Each offeror shall submit with its proposal descriptive literature of equipment or supplies that the offeror proposes to furnish if such articles are of a different manufacture than those specified in this Request for Proposals. Should the description furnished in such literature differ from the specifications submitted by the City and should no mention be made to the contrary, the description shall be construed to mean that the offeror proposes to furnish equipment or supplies in accordance with such description and not in accordance with the City's specifications, and the City will evaluate the offeror's proposal accordingly.
- 3.0 **Warranties and Representations of Offeror.**
- 3.1 **Compliance with Request for Proposals Documents.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that the offeror is in compliance with all terms and conditions of this Request for Proposals.
- 3.2 **Ethics in Public Contracting** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that (i) it has not violated any provisions of federal law, the Code of Virginia, the Richmond City Charter, or the Richmond City Code (ii) its proposal is made without any understanding, agreement, or connection with any other person, firm, corporation, or joint venture making a proposal for the same purposes, and is in all respects fair and without collusion or fraud, (iii) it has not

offered or received any kickbacks or inducements from any other contractor, supplier, manufacturer or subcontractor in connection with its proposal and (iv) it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. The offeror further warrants and represents that no officer, employee or other person whose salary is payable in whole or in part by the City is, shall be, or become interested, directly or indirectly, as a contracting party, partner, stockholder, surety or otherwise, in this proposal, in the performance of the contract, in the supplies, materials, or equipment and work or labor to which it relates, or in any portion of the profits thereof. In addition, the offeror warrants and represents that the provisions of City Code §§ 74-341—74-352 (Va. Code §§ 2.2-4367—2.2-4377) pertaining to offerors, contractors and subcontractors apply to this project. The offeror agrees that if these warranties and representations are in any respect breached, such breach shall constitute a material breach of any contract that the City may award to the offeror and the offeror shall pay to the City the full price agreed by the City to be paid for the supplies, materials, equipment or services to be furnished under its proposal.

- 3.3 **Lawful Age and No Others Have Interest.** By signing its proposal in response to this Request for Proposals, the offeror represents that the offeror is of lawful age and that no other person, firm, corporation or joint venture has any interest in this proposal or in the contract proposed to be entered into.
- 3.4 **No Debts to City.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that it is not in arrears to the City, upon debt or contract; is not a defaulter, as surety or otherwise, upon any obligation to the City; and has not been delinquent or unfaithful in any former contract with the City.
- 3.5 **Offeror Not Debarred.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that neither its organization nor any of its officers, directors, partners or City is currently barred from bidding on contracts by any agency of the federal government, any agency of the Commonwealth of Virginia, any agency of any other state, or any other public body or agency thereof.
- 4.0 **Submission of Proposals.**
- 4.1 **Copies.** Offerors should submit an original (so marked) and **(10) ten** copies & (1) CD of their proposals, signed by the offeror's contractually binding authority.
- 4.2 **Labeling.** All proposals must be sealed and labeled (on the outside of the sealed container), with the label displaying the following information:

Proposal for **Enterprise Resource Planning (ERP) System**
Request for Proposals No. **C10243-1**
Name of offeror
Address of offeror
E-mail Address
Receipt and Closing Date: **Friday, May 7, 2010 @ 3:30 p.m.**

- 4.3 **Recipient.** All proposals are to be addressed and delivered by the date and time specified on the cover to:

Erna G. Robinson, CPPB
Senior Contract Specialist
Department of Procurement Services
City of Richmond
900 East Broad Street, Room 1104
Richmond, Virginia 23219

- 4.4 **Transmittal Letter.** The proposal should include a transmittal letter that lists the following:

Firm's Name
Firm's Address
Contact Name & Telephone Number
Fax Number & E-mail Address

- 4.5 **Closing Date.** To be considered, a proposal must arrive at the address set forth in section 4.3 ("Recipient") on or before the time and date set forth on the cover sheet of this solicitation. The City will not accept a proposal that is late. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposals. The offeror shall not make any other distribution of proposals. However, materials or information received from a prospective contractor as result of a request by the Procurement Officer shall not be considered a violation of this section.
- 4.6 **Multiple Proposals.** An offeror may submit more than one proposal. At least one of the proposals should be complete and should comply with all of the instructions contained in this Request for Proposals. Additional proposals may be in abbreviated form following the same format and providing only the information that is different from that in the complete proposal.
- 4.7 **Separate Proposals.** Proposals for separate Requests for Proposals shall not be combined on the same form or placed in the same envelope. At its option, the City may decline to consider such proposals.
- 4.8 **Return of Proposal.** All proposals submitted pursuant to this Request for Proposals will become the property of the City and will not be returned. However, if any portion of the proposal is marked "proprietary," is highlighted and otherwise meets the requirements of section 74-5 of the Code of the City of Richmond, the City will return such portion after award of the contract, if the offeror so requests and at the offeror's expense. Budgets and price quotations are considered public information in proposals submitted to the City. Classifying budgets and price quotations as "proprietary" or "confidential" may render the proposal non-responsive. Classifying aspects of the proposal that are not trade secrets or proprietary may render the proposal non-responsive.
- 5.0 **Evaluation and Selection Process.**
- 5.1 **Opening.** At the designated time and date, the Department of Procurement Services will open and list the proposals for the record. This is not a public opening. The proposals, if responsive, will then be forwarded to the using agency and Evaluation Committee to initiate the review and selection process. Responses received after the date and time specified in section 4.5 ("Closing Date") will be deemed non-responsive and will be returned unopened.
- 5.2 **Evaluation.** During the evaluation phase, an Evaluation Committee will review the proposals to ascertain which proposals address all the requirements of the Request for Proposals and to conduct an analysis of the adequacy of the proposals. Proposals determined to be technically non-responsive or not as responsive as other proposals will be eliminated at this stage. Once it has determined which offerors are qualified, the Evaluation Committee may interview selected offerors to clarify specific matters presented in the proposals. The Evaluation Committee will use information gained during these interviews together with information presented in the proposal to rank offerors in accordance with criteria stated in the Request for Proposals. The selected offeror will be required to assume responsibility for all services offered in its proposal. The Evaluation Committee reserves the right to conduct presentations and visit the premises of the offeror, as it deems necessary.
- 5.3 **Samples.** The offeror shall furnish the City with samples of items, if requested, without charge, upon request and within ten calendar days of such request. The offeror's failure to provide such samples within the specified time frame or to otherwise comply with this section shall be sufficient cause for the City, at

its sole option, to deem the offeror's proposal to be non-responsive. If not destroyed and upon request at the time of submission, the City will return samples at the offeror's expense.

- 5.4 **Tests.** The City reserves the right to conduct any test it may deem advisable and to make all evaluations necessary.
- 5.5 **Negotiation with Offerors.**
 - 5.5.1 **In General.** The City may undertake negotiations with offerors whose proposals show them to be qualified, responsible and capable of performing the work in accordance with the stated criteria. The City reserves the right to negotiate with a selected offeror in order to best serve the needs of the City in respect to both cost effectiveness and comprehensive program design.
 - 5.5.2 **Procedure.** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposals, including price if so stated in the Request for Proposals. Negotiations shall then be conducted with each of the offerors so selected. (See City Code § 74-71; see also Va. Code § 2.2-4301.)
- 6.0 **Award and Execution of Contract.**
 - 6.1 **Award.** The City will make the award to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in this Request for Proposals.
 - 6.2 **Rejection of Proposals.** The City reserves the right to reject any or all proposals, in whole or in part, and to delete items prior to making the award, whenever it is deemed in the sole opinion of the City to be in its best interest. The City reserves the right to negotiate with the selected offeror in order to best serve the needs of the City in respect to both cost effectiveness and comprehensive program design.
 - 6.3 **Nondiscrimination in Award.** The City shall not discriminate against any offeror in the solicitation or award of a contract based on this Request for Proposals because of race, religion, color, sex, national origin, age, disability, faith-based organizational status or any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the using agency has made a written determination that employing ex-offenders on the specific contract is not in its best interest.
 - 6.4 **Notice of Award.** Following the selection of an offeror and the signing of a contract, the Procurement Officer will notify those offerors whose proposals are not selected of the name of the selected offeror. Offerors should note that it may take up to two months to award this Contract.
 - 6.5 **Contractual Obligation.** The proposal submitted by the selected contractor and this Request for Proposals shall become an attachment to the contract signed by the City and the selected offeror. Price quotations and other time-dependent information contained in proposals should be valid for a minimum of 90 days from the closing date of this Request for Proposals. The City may undertake negotiations with offerors whose proposals show them to be qualified, responsible and capable of performing the work in accordance with the stated criteria. The City shall not be liable for any costs incurred by offerors in connection with the preparation or submission of proposals and related materials or negotiations.
 - 6.6 **When Contractual Obligation Arises.** No contract shall result from the submission of any proposal and no liability shall accrue with respect thereto until a written contract and any other necessary documents have been fully and completely executed by both the successful offeror and the City.

- 6.7 **Contract Execution Requirements.** Upon notice of the award of a contract pursuant to this Request for Proposals, the successful offeror shall sign the final contract document, a sample of which is included with this Request for Proposals, upon receipt thereof from the Procurement Officer and furnish the insurance documents required by the Terms and Conditions included with this Request for Proposals. The offeror shall furnish the City with the signed contract and the required insurance documents within 15 calendar days after the date of the notice of award or within such further time as the City may allow. Once the City has received the signed contract and insurance documents from the successful offeror, the City's representatives will then sign the contract.

END OF INSTRUCTIONS TO OFFERORS

PART III

TERMS AND CONDITIONS

1.0 Duration of Contract.

1.1 Commencement and Expiration. This Contract shall commence on the Commencement Date set forth in the Program Management Contract and shall expire one year later, unless terminated earlier in accordance with the provisions of this Contract.

1.2 Extension of Contract. The City reserves the right to extend the Contract for any reason for a period or periods up to but not to exceed 12 months. This extension clause may be exercised when the City determines that an extension of the Contract is advantageous to the City. Any extension beyond 12 months will be subject to the City's renewal clause as set forth in this Contract. This provision in no way affects or alters the City's ability to renew the Contract consistent with the renewal option clause. If it is then decided to renew the resulting Contract, the renewal date will commence on the day following the last day of the contract extension.

1.3 Renewal. The City may, at its sole option, renew this Contract for up to four one-year renewal terms by furnishing the Contractor with written notice of its decision to renew at least 60 calendar days before the expiration of the then-current term.

2.0 Contractor Responsibilities.

2.1 Independent Contractor. The Contractor shall provide the services required under this Contract as an independent contractor.

2.2 Advertising. The Contractor shall not use any indication of its services to the City for commercial or advertising purposes. However, the Contractor may list the City as a reference account for prospective customers.

2.3 Anti-Kickback Provision. The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any company or person other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the City shall have the right to annul or void this Contract without liability or, in its sole discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

2.4 Century Compliance. The Contractor warrants that the hardware, software and firmware products, provided for the City's use or used by the Contractor to provide any service or commodity that is the subject of this Contract, individually and in combination, shall successfully process, store and perform calculations with dates regardless of the century in which the dates occur.

2.5 Compliance with Laws. The Contractor shall comply with the provisions of any statutes, ordinances, rules, regulations, or other laws enacted or otherwise made effective by any local, state, or federal governmental entity which may be applicable to the performance of this Contract and shall obtain all necessary licenses and permits thereunder.

2.6 Contractor Misrepresentation.

- 2.6.1 **In General.** If the Contractor knowingly makes a material misrepresentation in submitting information to the City, such misrepresentation will be sufficient grounds for rescinding the award of this Contract.
- 2.6.2 **MBE/ESB Participation.** By issuing the Request for Proposals, the City intends that MBE / ESB participation proposed as part of any proposal in response hereto be binding on the Contractor. Consequently, if the Contractor falsely representing proposed MBE/ESB participation or failing to comply with proposed participation, may be in breach of contract. Upon determination of a breach, the City shall have all available remedies for breach of contract, which may include, but is not limited to, one or more of the following: (i) forfeiture, (ii) investigation, and (iii) debarment.
- 2.7 **Drug-Free Workplace.**
- 2.7.1 **Policy.** City Council Resolution No. 2000-R197-191 prohibits the City from contracting with any contractor that fails to comply with this policy. The Contractor by its signature hereto certifies that it has taken and shall continue to take appropriate and effective action to (1) educate its employees about the dangers of drug abuse in the workplace; (2) monitor compliance of all employees with the Drug-Free Workplace requirements through an initial employment and follow-up random testing program; (3) provide its employees with effective drug counseling, rehabilitation and employee assistance programs, any or all; (4) discipline employees who violate the requirement of a drug-free workplace, and (5) minimize, to the greatest extent possible, the risks of drugs entering the workplace. The Contractor is also prohibited from contracting with any other party that fails to comply with this policy. Failure by the Contractor or its subcontractor to comply with the provisions outlined above will be cause for termination of the Contract.
- 2.7.2 **Contractor's Plan.** The Contractor shall implement and maintain a Drug-Free Workplace Plan specific to the services and work covered by this Contract that is implemented and effectively used throughout the duration of this Contract to accomplish the requirements of section 2.7.1 ("Policy") above.
- 2.8 **Human Rights.**
- 2.8.1 **Civil Rights Act Compliance.** During the performance of this Contract, the Contractor agrees, pursuant to Resolution No. 74-R8-11 adopted February 25, 1974 by the Council of the City of Richmond, to comply fully with Titles VI and VII of the Civil Rights Act of 1964, as amended, and all regulations promulgated thereunder.

The essence of this requirement is found in the United States Code Annotated, Title 42, Section 2000e-2, which states in part:

- a. It shall be an unlawful employment practice for an employer:
 - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
 - (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex or national origin."

By entering into this Contract, the Contractor certifies that it has complied with Titles VI and VII of the Civil Rights Act of 1964, as amended.

2.8.2 **Richmond City Code Compliance.** Pursuant to section 74-74 of the Code of the City of Richmond (2004), as amended:

- (a) During the performance of this Contract, the Contractor agrees as follows:
 - (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - (2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
 - (3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (b) During the performance of this Contract, the Contractor shall include the provisions of subsection (1) of the section in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

2.9 **Intellectual Property.** The Contractor represents and warrants that all goods and services that it will furnish under this Contract do not and will not infringe on any valid copyright, patent, service mark or trademark. The Contractor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by the Contractor or used by the Contractor in the performance of its services. The Contractor shall defend, hold harmless and indemnify the City from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.

2.10 **Personnel.** The personnel designated in the management summary for key positions shall not be changed except with the permission of the City. The City will only approve such change when, in its opinion, the substitute personnel have equal or greater qualifications and experience than those they replace.

2.11 **Property of Work.**

2.11.1 **Work Product.** Any material, report or product, whether in electronic or paper form, that results from the execution of this Contract shall be the sole property of the City. The Contractor shall not copyright any material or reports. Upon request, the Contractor shall turn over all work papers and related documents to the City.

2.11.2 **City Property.** Any data or material with which the City furnishes the Contractor shall remain the property of the City. When it no longer needs such data or material for its performance of this Contract, the Contractor shall return such data or material to the City or destroy such data or material using a method approved by the City.

3.0 **Payment.**

- 3.1 **Basis.** The City shall pay the Contractor for all goods delivered and services performed under this Contract in accordance with the pricing provisions set forth in the Statement of Needs and the Contractor's final proposal.
- 3.2 **Schedule.** The Contractor shall invoice the City once per quarter, with approved invoice documentation due by the 25th day of each month.
- 3.3 **Terms.** The City shall pay the Contractor as follows: Net 30 days.
- 3.4 **Subject-to-Appropriations.** All payments and other performance by the City under this Contract are subject to annual appropriations by the City Council; consequently, this Contract shall bind the City only to the extent that the City Council appropriates sufficient funds for the City to perform its obligations hereunder.
- 3.5 **When City Obligated to Pay.** The City shall not be obligated to purchase or pay for any goods or services covered by this Contract unless and until they are ordered and either delivered or performed, as the case may be.
- 3.6 **Offset Clause.** Pursuant to the Richmond City Charter, the City may withhold the payment of any claim or demand by any person, firm or corporation against the City until any delinquent indebtedness or other liability due the City from such person, firm or corporation shall first have been settled and adjusted.
- 3.7 **Taxes.** All prices shall be submitted exclusive of direct Federal, State and Local Taxes. The City shall not be liable for the payment of any taxes levied by any local, state, or federal governmental entity against the Contractor, and the Contractor shall pay all such taxes; furthermore, should the City nevertheless pay any such taxes, the Contractor shall reimburse the City therefor.
- 3.8 **Invoices.** The Contractor shall submit invoices in four copies identifying each item billed as well as both the Price Agreement Release Number and the Price Agreement Number. All invoices submitted by the Contractor shall set forth each item billed in sufficient detail to enable the City to ensure that the item was ordered and corresponds with the contract price for such item.
- 3.9 **MBE/ESB Participation—Reporting Requirement.** In cases where the Contractor uses a minority subcontractor or vendor, it shall indicate the percentage of the invoiced amount that such minority subcontractor or vendor performed on the MBE-3 form available on the City's website. The Contractor shall submit this form directly to the Office of Minority Business Development. The Contractor may contact the City's Office of Minority Business Development at (804) 646-3985 for questions or clarifications on the reporting policy. At the end of its performance of this Contract, the Contractor shall submit a summary in a format designated by the City of all payments made to minority subcontractors or contractors.
- 3.9 **Payment by EDI.** Prior to the City's execution of the Contract, the Contractor shall execute and finish the City with an EDI Payment Agreement for Contractors in the form attached to this solicitation in order to facilitate the City's payment, at its option, of any or all amounts due under this Contract through electronic data interchange.
- 4.0 **Indemnification and Insurance.**
- 4.1 **Indemnification.** The Contractor shall indemnify, defend and hold harmless the City, its officers, agents and employees from and against any and all losses, liabilities, claims, damages and expenses (including court costs and reasonable attorneys' fees) arising from any material default or breach by the Contractor of its obligations specified in this Contract, as well as all claims arising from errors, omissions, negligent

acts or intentional acts of the Contractor, its officers, agents and employees. Further, the Contractor shall assume the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of the Contractor, its subcontractors, its agents or its employees under or in connection with this Contract. The Contractor shall hold harmless and indemnify the City and its agents, its volunteers, its servants, its employees, and its officers from and against any and all claims, losses or expenses, including but not limited to court costs and attorneys' 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 damage, real or alleged. The Contractor shall, upon written demand by the City, assume and defend at the Contractor's sole expense any and all such claims or legal actions.

4.2 **Insurance.** The Contractor shall provide and maintain throughout the life of this Contract insurance in the kinds and amounts specified in this section with an insurer licensed to transact insurance business in the Commonwealth of Virginia. Each insurance policy, endorsement and certificate of insurance shall be signed by duly authorized representatives of such insurers and shall be countersigned by duly authorized local agents of such insurers.

4.2.1 **Costs and Premiums.** The Contractor shall pay all premiums and other costs of such insurance. The consideration paid or to be paid to the Contractor for the performance of the Contract includes the premiums and other costs of such insurance, and the City shall not be responsible therefor.

4.2.2 **Policy Requirements.** All insurance contracts and policies shall provide, or be endorsed to provide, as follows:

- (i) Subrogation against the City shall be waived.
- (ii) The City and its officers, employees, agents and volunteers shall be named as an additional insured.
- (iii) Coverage will not be canceled, non-renewed or materially modified in a way adverse to the City without 45 days' written notice to the City.
- (iv) The insolvency or bankruptcy of any of the insured shall not release the insurer from its obligation to satisfy claims otherwise within the coverage of such policies.

No insurance contract or policy shall be expanded to afford coverage which is greater than the maximum coverage approved for writing in the Commonwealth of Virginia.

4.2.3 **Evidence to Be Furnished.**

4.2.3.1 **Endorsements.** The Contractor shall furnish the City with a copy of the policy endorsement naming the City and its officers, employees, agents and volunteers as an additional insured for each policy required under this section 4.2 ("Insurance"). The Contractor shall furnish the City with copies of such other endorsements as may be required under this Contract upon request by the City therefor.

4.2.3.2 **Certificates of Insurance.** The Contractor shall furnish the City with a certificate of insurance evidencing the above coverage, indicating that the City and its officers, employees, agents and volunteers are named as additional insured and that the coverage will not be canceled, non-renewed or materially modified in a way adverse to the City without 45 days' written notice to the City. All certificates of insurance shall show the City's Contract Number.

- 4.2.3.3 **Contracts and Policies.** The Contractor is not required to furnish the City with copies of insurance contracts or policies required by this section 4.2 (“Insurance”) unless requested at any time by the City’s Director of Procurement Services.
- 4.2.4 **Schedule of Coverage.** The Contractor shall provide and maintain the following types of insurance in accordance with the requirements of this section 4.2 (“Insurance”):
- (i) Commercial General Liability Insurance with a combined limit of not less than \$1,000,000 per occurrence.
 - (ii) Automobile Liability Insurance with a combined limit of not less than \$1,000,000 per occurrence.
 - (iii) Statutory Workers’ Compensation and Employers’ Liability Insurance with the Alternate Employer Endorsement WC 000301.
 - (iv) Professional Liability (i.e., Errors and Omissions) Insurance with limits of not less than \$1,000,000 per occurrence.
- 5.0 **Assignment, Delegation and Subcontracting.**
- 5.1 **By City.** The City may assign its rights or delegate its duties, in whole or in part, under this Contract by written notice delivered to the Contractor. Such transfer of rights or duties shall take effect upon the date specified in the notice or upon the assumption, if necessary, of the delegated duties by the assignee, whichever is later.
- 5.2 **By Contractor.** The Contractor shall not assign its rights or delegate its duties, or any part thereof, under this Contract without the prior written consent of the City. Further, the Contractor shall not assign, sublet or transfer its interest or any part thereof in this Contract by means or as part of any sale, merger, consolidation, assignment or any other event that would result in new or different ownership, control, operation or administration of the Contractor’s business affairs without the prior written consent of the City.
- 5.3 **Subcontracting.** This Contract shall not be subcontracted without the prior written approval of the City’s Director of Procurement Services.
- 6.0 **Remedies and Termination.**
- 6.1 **Default.** In case of default of the Contractor or if the Contractor fails to deliver the supplies or services ordered by the time specified, the City, after due notice in writing, may procure them from other sources and hold the Contractor responsible for any excess cost occasioned thereby. This remedy shall be in addition to any other remedies available to the City.
- 6.2 **Termination with Cause.**
- 6.2.1 **Notice.** The City may terminate this Contract with cause at any time for the Contractor’s failure to perform its obligations under this Contract or to otherwise adhere to the terms and conditions of this Contract by delivery of written notice to the Contractor of the City’s intent to so terminate. Such notice shall be delivered at least seven calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.
- 6.2.2 **Cure.** If the Contractor cures the failure to perform or otherwise adhere to the terms and conditions of this Contract to the City’s satisfaction, indicated in writing to the Contractor, during this seven calendar day period, then the City’s notice of termination with cause shall be deemed null and void.

- 6.2.3 **Effect.** Upon such termination, the City shall be liable only to the extent of reimbursable costs submitted by the Contractor and approved by the City up to the time of termination and upon delivery to the City of all completed or partially completed work performed by the Contractor. The City shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation.
- 6.3 **Termination without Cause.**
- 6.3.1 **Notice.** The City may terminate this Contract without cause by delivery of written notice to the Contractor of the City's intent to so terminate. Such notice shall be delivered at least 90 calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.
- 6.3.2 **Effect.** Upon such termination, the City shall be liable only to the extent of reimbursable costs submitted by the Contractor and approved by the City up to the time of termination plus such portion of the fixed fee to which the Contractor may be entitled under this Contract as a result and upon delivery to the City of completed or partially completed work. The City shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation.
- 6.4 **Termination by Contractor.**
- 6.4.1 **Notice.** The Contractor may terminate this Contract if the City Council does not appropriate sufficient funds for the City to perform its obligations under this Contract by delivery of written notice to the City of the Contractor's intent to so terminate. Such notice shall be delivered at least 45 calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.
- 6.4.2 **Cure.** If the City cures the non-appropriation of funds by appropriating sufficient funds during this 45 calendar day period, then the Contractor's notice of termination shall be deemed null and void.
- 6.4.3 **Effect.** Upon such termination, the Contractor shall have no further obligations under this Contract.
- 6.5 **Waiver.** The waiver by either party of any term or condition of this Contract shall not be deemed to constitute either a continuing waiver thereof or a waiver of any further or additional right that such party may hold under this Contract.
- 7.0 **Dispute Resolution.**
- 7.1 **Governing Law.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Contract, or the rights and obligations of the City and the Contractor in connection with this Contract, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.
- 7.2 **Construction and Interpretation.** Each of the parties has had the opportunity to have its legal counsel review this Contract on its behalf. If an ambiguity or question of intent arises with respect to any provision of this Contract, this Contract will be construed as if drafted jointly by the parties. Neither the form of this Contract, nor any language herein, shall be construed or interpreted in favor of or against either party hereto as the sole drafter thereof.
- 7.3 **Contractual Claims.**

- 7.3.1 **Notice and Submission.** The Contractor shall give written notice of its intention to file a contractual claim at the time of the occurrence or the beginning of the work upon which the claim is based. In addition to such notice of its intention to file a claim, the Contractor shall submit all contractual claims, whether for money or other relief, in writing to the Director of Procurement Services no later than 60 calendar days after final payment. (See City Code § 74-192(a); see also Va. Code § 2.2-4363(A).)
- 7.3.2 **Required Contents of Claim Submission.** The Contractor's claim submission shall (i) set forth the primary, secondary and indirect claim issues in a clear, concise manner, (ii) identify the specific contract provisions, schedule impact and cost consequences related to each claim issue, and (iii) include all factual data supporting the claim as well as all supporting cost and delay data. The Director of Procurement Services, in the Director's sole discretion, may return claim submissions lacking any of the elements enumerated in the preceding sentence for resubmission or review the claim as though the missing elements are not factually present to support the claim. Such return of a claim submission shall not toll the 60-day period within which the Contractor must submit a claim.
- 7.3.3 **Procedures and Time Limit.** The procedures set forth in this section 7.3 ("Contractual Claims") and in City Code § 74-192 shall govern the consideration of contractual claims. The Director of Procurement Services shall issue a written decision on a claim no later than 90 calendar days after receipt of such claim in writing from the Contractor. (See City Code § 74-192(b); see also Va. Code § 2.2-4363(B).)
- 7.3.4 **No Action before Decision.** The Contractor may not invoke administrative procedures as provided in City Code § 74-193 or institute legal action as provided in City Code § 74-194 prior to receipt of the decision on the claim, unless the Director of Procurement Services fails to render such decision within the 90-day time limit. A failure of the Director of Procurement Services to render a final decision within the 90-day time limit shall be deemed a final decision by the City denying the claim. (See City Code § 74-192(c); see also Va. Code § 2.2-4363(D).)
- 7.3.5 **Finality of Decision.** The decision of the Director of Procurement Services shall be final and conclusive unless the Contractor appeals within 30 calendar days of the date of the final decision on the claim by the Director either as provided in City Code § 74-193 for administrative appeals or, in the alternative, by instituting legal action as provided in City Code § 74-194. (See City Code § 74-192(d); see also Va. Code § 2.2-4363(E).)
- 7.3.6 **No Cessation of Performance.** Nothing in this section 7.3 ("Contractual Claims") shall be construed to authorize or permit the Contractor, while pursuing, by any available procedure, an appeal of a contractual claim or dispute, to cease performance of the Contract while such claim or dispute is pending. (See City Code § 74-192(e).)
- 7.4 **Alternative Dispute Resolution.** The Director of Procurement Services, with the concurrence of the City Attorney, may agree in writing on behalf of the City to submit particular disputes arising from this Contract to arbitration and to utilize mediation and other alternative dispute resolution procedures; however, any such procedures entered into by the City shall be nonbinding. (See City Code § 74-195; see also Va. Code § 2.2-4366.)
- 7.5 **Forum and Venue Choice.** Any and all disputes, claims and causes of action arising out of or in connection with this Contract, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in a federal or state court located in the city of Richmond, Virginia. The Contractor accepts the personal jurisdiction of any court in which an action is brought pursuant to this article for purposes of that action and waives all jurisdiction- and venue-related defenses to the maintenance of such action.

8.0 **Miscellaneous Provisions.**

- 8.1 **Audit.** The City reserves the right to audit all aspects of this Contract, including but not necessarily limited to (i) the Contractor's financial capability and accounting system, (ii) the basis for progress payments, (iii) the Contractor's compliance with applicable laws and (iv) appropriate vendor records. The City further reserves the right to review, on demand and without notice, all files of the Contractor or any subcontractor or vendor employed by the Contractor to provide services or commodities under this Contract where payments by the City are based on records of time, salaries, materials or actual expenses. In cases where the Contractor maintains multiple offices, the Contractor shall maintain all records subject to audit under this provision locally or in a manner deliverable at the Contractor's expense to a location in the metropolitan Richmond area.
- 8.2 **Captions.** This Contract includes the captions, headings and titles appearing herein for convenience only, and such captions, headings and titles shall not affect the construal, interpretation or meaning of this Contract.
- 8.3 **Force Majeure.** If either party is unable to perform its obligations under this Contract due to acts of God or circumstances beyond its reasonable control, such obligations shall be suspended as long as those circumstances persist, provided that the delaying party promptly notifies the other party of the delay and the causes. Except where the delay is caused by an act or omission of the delaying party, any costs arising from such delay shall be borne by the party incurring the delay.
- 8.4 **Merger / Entire Agreement.** This Contract, including the exhibits incorporated herein, constitutes both a complete and exclusive statement and the final written expression of all the terms of this Contract and of the entire understanding between the Contractor and the City regarding those terms. No prior written agreements or contemporaneous or prior oral agreements between the Contractor and the City regarding this Contract's subject matter shall be of any effect.
- 8.5 **Modification.** This Contract shall not be amended, modified, or otherwise changed except in the form of a City Contract Supplement signed by the authorized representatives of the Contractor and the City in accordance with the City's Purchasing Policies and Procedures.
- 8.6 **No Third-Party Beneficiaries.** Notwithstanding any other provision of this Contract, the City and the Contractor hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Contract; (ii) the provisions of this Contract are not intended to be for the benefit of any individual or entity other than the City or the Contractor; (iii) no individual or entity shall obtain any right to make any claim against the City or the Contractor under the provisions of this Contract; and (iv) no provision of this Contract shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase "individual or entity" means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, sub-vendors, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Contract.
- 8.7 **Notices.**
- 8.7.1 **In General.** Any written notice by either party to the Contract shall be sufficiently given by any one or combination of the following, whichever shall first occur: (i) delivered by hand to the last known business address of the person to whom the notice is due, (ii) delivered by hand to the person's authorized agent, representative or officer wherever they may be found or (iii) enclosed in a postage prepaid envelope addressed to such last known business address and delivered to a United States Postal Service official or mailbox. Notice is effective upon such delivery.
- 8.7.2 **Address.** All notices to the City shall clearly indicate the City's Contract Number and shall be directed to both:

Director of Procurement Services
Department of Procurement Services
City of Richmond
900 East Broad Street, Room 1104
Richmond, Virginia 23219

All notices to the Contractor shall be directed to the contact person stated at the address given in the Contractor's proposal.

END OF TERMS AND CONDITIONS

PART IV

SPECIAL TERMS AND CONDITIONS

- 1.0 **Definitions.** For the purposes of these Special Terms and Conditions, the following terms shall have the meanings ascribed to them below, unless the context clearly indicates that another meaning was intended:
- 1.1 **Acceptance.** “Acceptance” shall mean the City’s signature of the Certificate of Acceptance for each item of Licensed Software. The verb “accept” shall also have this meaning. The Certificate of Acceptance shall include as a required attachment an Acceptance Checklist upon the contents of which the parties shall mutually agree.
- 1.2 **Certificate of Installation.** “Certificate of Installation” shall mean a written document, which the **Contractor** shall deliver to the City, which authorized representatives of both the **Contractor** and the City must sign, and which confirms that the **Contractor** has installed the Licensed Software at the City’s premises, that the **Contractor** has delivered the Documentation to the City’s premises, and that the Licensed Software and Documentation comply materially with the specifications contained in the **Contractor**’s Documentation.
- 1.3 **Code.** “Code” shall mean computer programming executable code and shall include any Enhancements or updates thereto created by the **Contractor**. Unless otherwise specified, Code shall include Object Code only.
- a. **Object Code** – “Object Code” shall mean the machine-readable form of the Code.
- b. **Source Code** – “Source Code” shall mean the human-readable form of the Code, which Article XIX below requires the **Contractor** to escrow.
- 1.4 **Confidential Data.** “Confidential Data” shall mean all data that the City supplies to the **Contractor**. Virginia law may prohibit the unauthorized disclosure, dissemination or release of much of the data that the City will supply to the **Contractor** to enable the **Contractor** to meet its obligations under this Contract.
- 1.5 **Days.** Unless modified with the word “calendar,” “Days” shall mean business days observed by the City. The City’s business day is between 8:00 A.M. and 5:00 P.M. (Eastern Time), Monday through Friday, excluding City holidays.
- 1.6 **Defect.** “Defect” shall mean any failure by the Licensed Software or any phase or component thereof to conform in any material respect to the **Contractor**’s Documentation.
- 1.6.1 **Level 1 Defect.** “Level 1 Defect” shall mean a Defect that prevents system users from accessing, using, or benefiting from the Licensed Software, that compromises the City’s applicable associated business processes, or that has an adverse impact on the integrity of the data, whether these failures are catastrophic or random losses of functionality or data.
- 1.6.2 **Level 2 Defect.** “Level 2 Defect” shall mean a Defect that prevents only certain system users from accessing, using, or benefiting from all or part of the Licensed Software or that causes intermittent errors in the use of the Licensed Software.
- 1.6.3 **Level 3 Defect.** “Level 3 Defect” shall mean a Defect that is either cosmetic in nature or does not have an adverse impact on users in the normal use of the Licensed Software.
- 1.7 **Delivery.** When describing software, “Delivery” shall mean the point before Installation at which the **Contractor** has physically or electronically provided such software to the City’s premises. When

describing deliverables other than software, “Delivery” shall mean the point at which the **Contractor** has physically or electronically provided such items or services to the City’s premises. The verb “deliver” shall also have these meanings.

- 1.8 **Documentation.** “Documentation” shall mean the **Contractor**’s standard software manuals, entity relationship models, data dictionaries, release notes, and user’s guides pertaining to the Licensed Software.
- 1.9 **Enhancement.** “Enhancement” shall mean any software change, modification, improvement, translation, service, development, upgrade or update or collection thereof resulting in functional changes to the Licensed Software that do not constitute solely a Problem Correction. The **Contractor** and the City shall define any Enhancements in a written statement of work signed by both parties.
- 1.10 **Installation.** “Installation” shall mean the installation, as that term is generally used in the software industry, of hardware or software for the City on the City’s equipment or at the City’s premises undertaken at the City’s direction. The verb “install” shall also have this meaning.
- 1.11 **Intellectual Property Law or Intellectual Property Rights.** “Intellectual Property Law” or “Intellectual Property Rights” shall refer to any patents, patent rights, patent applications, copyrights, copyright registrations, trade secrets, trademarks, and service marks.
- 1.12 **Licensed Software.** “Licensed Software” shall mean the computer programming executable Object Code as well as any other linked or attached software routines either embedded or otherwise required for the software licensed to the City by the **Contractor**. This Contract may refer either to all of the Licensed Software generally or to particular Licensed Software products. This definition excludes all computer software not developed by the **Contractor** that might be used in conjunction with the Licensed Software, such as third party report generators, word processors, etc.
- 1.13 **Problem.** “Problem” shall mean any of the types of problems defined as follows:
 - 1.13.1 **Major Application Problem.** “Major Application Problem” shall mean that the Licensed Software is not functioning to the point that the Licensed Software is the cause of the City not being able to enter and store data at any point when using the Licensed Software. Therefore, the Licensed Software is down or non-operational.
 - 1.13.2 **Minor Application Problem.** “Minor Application Problem” shall mean that the Licensed Software functions with inconveniences or programmatic error; however, the Licensed Software has not stopped the City’s daily operations or affected the City’s data.
 - 1.13.3 **Non-Application Problem.** “Non-Application Problem” shall mean a Problem that a source other than the Licensed Software, such as a hardware failure or a network malfunction, has caused.
- 1.14 **Problem Correction.** “Problem Correction” shall mean either (i) a modification of or addition to the Licensed Software that, when made or added to the Licensed Software, establishes material conformity of the Licensed Software to the functional specifications accompanying the Licensed Software or (ii) a procedure or routine that, when observed in the regular operation of the Licensed Software, eliminates the practical adverse effect on the City of a material nonconformity with the functional specifications.
- 1.15 **Proprietary Information.** “Proprietary Information” shall mean any data, information, or material for which the **Contractor** (i) invokes the protections of section 74-5 of the Code of the City of Richmond (2004), as amended, prior to or upon submission of the data or other materials, (ii) identifies the data or other materials to be protected as Proprietary Information, and (iii) states the reasons why protection is necessary. Proprietary Information shall include any information belonging to the **Contractor** in which the **Contractor** holds any Intellectual Property Rights.

- 1.16 **Software Release.** “Software Release” shall mean a new version of the Licensed Software that may include both Problem Corrections and Enhancements.
- 1.17 **Vendor Proprietary Information Software.** Section 2.2-3705.1(6) of the Code of Virginia defines “Vendor Proprietary Information Software” to mean “computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.” For the purposes of this Contract, “Vendor Proprietary Information Software” shall mean the Licensed Software and any Enhancements that the **Contractor** makes thereto.
- 2.0 **Project Plan.**
- 2.1 **Generally.** The **Contractor** shall develop a Project Plan with assistance from the City’s Project Manager. The Project Plan shall further define the services to be provided by the **Contractor** pursuant to the Statement of Needs and shall set forth a schedule for the implementation of these services. The Project Plan shall contain all of the elements stated in the Statement of Needs. The City must approve the Project Plan before the Project Plan can take effect.
- 2.2 **Modification of Project Plan.** Changes in or modifications to the Project Plan shall take effect only if agreed to by both the **Contractor** and the City and only if expressed in a written Memorandum of Understanding signed by the **Contractor**’s Project Manager and the City’s Project Manager.
- 2.3 **Version Control.** As part of the Project Plan, the **Contractor** shall furnish the City with Documentation of the **Contractor**’s automated version control procedures. Such procedures shall be used to track all changes and Enhancements both to the Licensed Software and to the Source Code held in escrow. These procedures shall include methods that will provide the City with automated verification of version control. Such methods shall include an automated way of verifying the version of the **Contractor**’s Code that users are executing in their computing environment. Based on the release version, users should be able to review their release version against a master list of Enhancements for the entire system.
- 2.4 **Quality Assurance.** As part of the Project Plan, the **Contractor** shall provide written documentation of its quality assurance procedures. Further, the **Contractor** shall promptly report to the City:
- a. Any Defect or other malfunction discovered in the Licensed Software, any Enhancements thereto, or any Error Corrections thereto;
 - b. Any knowledge of circumstances that reasonably could result in a malfunction or could lead to a delay in the performance of the services required by this Contract; and
 - c. The **Contractor**’s proposed solutions to the problems described in subsections (a) and (b) above.
- 2.5 **Time of the Essence.** The parties hereto agree that time is of the essence in the performance of this Contract. The **Contractor** understands that the delivery and installation of its products and services within the timeframes and guidelines specified by the Project Plan is essential to this Contract’s success.
- 2.6 **Change Requests.** All requests to modify the quantity or the quality, or both, of hardware, software or services acquired under this Contract shall be handled only in accordance with the procedures established by the City’s Department of Procurement Services and the applicable laws of the City of Richmond and the Commonwealth of Virginia. Change orders that have been approved by the City and the Contractor shall become supplements to this Contract.
- 3.0 **Acceptance Testing.**

- 3.1 **Acceptance Test Plan.** The City shall develop the Acceptance Test Plan with assistance from the **Contractor's** Project Manager to provide guidance and standards for the acceptance testing process for the Licensed Software and any data conversion that the **Contractor** may undertake. The **Contractor** shall provide scripts with step-by-step templates to facilitate the Acceptance Testing using the City's functional requirements listed in the Statement of Needs. The Acceptance Test Plan shall include an Acceptance Checklist for each delivered and installed Licensed Software product. The Acceptance Test Plan, upon approval by the City's Project Manager, shall be incorporated into and made a part of the Project Plan as an exhibit thereto. Further, the Acceptance Checklist for each Licensed Software product, upon approval by both the **Contractor's** Project Manager and the City's Project Manager, shall be incorporated into and made a part of the Certificate of Acceptance for that Licensed Software product. Acceptance Testing shall not commence until an Acceptance Test Plan has been developed and approved by the City and the **Contractor**.
- 3.2 **Minimum Test Plan Elements.** The Acceptance Test Plan shall include, at a minimum, detailed functionality testing, stress testing, disaster recovery, and response time elements for testing the performance of each Licensed Software or hardware product. This section shall not be interpreted or construed to limit the required contents of the Acceptance Test Plan or to require the City to accept an Acceptance Test Plan containing only the elements set forth in this section.
- 3.3 **Testing for Data Conversion.** The City shall be responsible for testing the accuracy of the data conversion of selected data sets that the City provides to the **Contractor**. Specific processes and benchmarks for data conversion acceptance testing shall be in accordance with the Acceptance Test Plan.
- 3.4 **Testing for Licensed Software.** Once an Acceptance Test Plan has been developed and approved by the City and the **Contractor**, the City shall initiate acceptance testing one (1) day following its receipt of the Certificate of Installation for each Licensed Software product ordered pursuant to this Contract. The City shall have up to thirty (30) days to conduct its acceptance testing of each Licensed Software product for which it has received a Certificate of Installation. During this period, the City will verify that the Licensed Software and any Enhancements delivered and installed meet the standards set forth in the Acceptance Checklist, the Acceptance Test Plan, and the **Contractor's** proposal (Exhibit B) and that these products contain no Defects. The City, at its sole discretion, may suspend acceptance testing for a period of five (5) days to allow the **Contractor** to correct any Level 1 Defects. The City shall furnish the **Contractor** with its acceptance test results, including all Level 1 Defects, Level 2 Defects, and Level 3 Defects identified during the acceptance testing of each Licensed Software product, in writing within five (5) days of the last day on which the City conducts acceptance testing.
- 3.5 **Cure of Acceptance Test Failure.** Beginning on the first day following the initial thirty (30) day acceptance test period, the **Contractor** shall have five (5) days to correct any Level 1 Defects not already corrected during any discretionary suspension of acceptance testing by the City pursuant to Section 3.4 ("Testing for Licensed Software") of these Special Terms and Conditions, ten (10) days to correct any Level 2 Defects that the City identifies during its acceptance testing, and fifteen (15) days to correct any Level 3 Defects that the City identifies during its acceptance testing. Following the fifteenth (15th) day, the City shall have ten (10) days to retest the Licensed Software, from the date on which the City receives notice from the Contractor that the Contractor has fixed the Defect. Notwithstanding any other provision of this Contract to the contrary, the City may, at its sole discretion, terminate this Contract on the fifth (5th) day of the period provided to the **Contractor** to correct a Level 1 Defect in accordance with Section 6.2 ("Termination for Cause") of the Terms and Conditions if the **Contractor** fails to correct any Level 1 Defect within this time frame.
- 4.0 **Project Responsibilities of the City.**
- 4.1 **City Products.** Any Code segments, reports, screens, or new and independent applications that access data from or through the Licensed Software that the City develops and builds without any billable development assistance from the **Contractor** shall remain the sole property of the City.

- 4.2 **Maintenance of Equipment.** The City shall maintain all equipment owned or leased by the City in good working order and in accordance with manufacturer's specifications. The City shall be responsible for the continued availability of other computer or communications hardware and software necessary to ensure the timely delivery of the Licensed Software and any Enhancements or Error Corrections.
- 4.3 **Compliance with Instructions and Procedures.** The City shall comply with all operating instructions for the Licensed Software and any Enhancements or Error Corrections thereto that the **Contractor** delivers to and installs at the City's premises and that the City accepts. Except as this Contract otherwise provides, the City shall be responsible for the supervision, management and control of the City's use of the Licensed Software, including, without limitation, the implementation of (i) sufficient procedures to satisfy the City's requirements for the security and accuracy of the input that the City provides and (ii) reasonable procedures to verify reports and other output from the **Contractor** within the required time frames.
- 5.0 **Project Responsibilities of the Contractor.**
- 5.1 **Changes in Installation Schedule.** The **Contractor** shall promptly notify the City of any changes needed to the Project Plan based on delivery problems or other factors beyond the **Contractor's** reasonable control. If these problems persist, the **Contractor** shall seek a mutually agreeable alternate solution with the City.
- 5.2 **Background Checks.** Certain individuals associated with the **Contractor** may require access to Confidential Data in order to perform services or provide products pursuant to this Contract; therefore, the City may need to perform background checks on all non-City individuals who will have access to Confidential Data. The **Contractor** shall provide and shall cause any subcontractors to provide the consent to such background checks, in the form required by the using agency, of each individual who will require access to Confidential Data to perform services or provide products pursuant to this Contract. Consequently, the **Contractor** shall, within thirty (30) calendar days notice by the City of the signing of this Contract, furnish the City with the completed background check forms from each individual who will require access to Confidential Data to perform services or provide products pursuant to this Contract. The City shall reasonably expedite all background checks. If the **Contractor** fulfills the obligations imposed by this section in a timely manner, any delays in the City's completion of background checks shall not be considered delays by the **Contractor** in meeting the milestones as required by the Project Plan.
- 5.3 **Protection of Confidential Data.** The **Contractor** shall take all steps necessary to ensure that any Confidential Data provided by City to the **Contractor** in furtherance of the performance of this Contract are not disclosed to the public or to any organizations or individuals, unless the City first approves such disclosure in writing. The **Contractor** acknowledges its understanding that the laws of the Commonwealth of Virginia prohibit the release of Confidential Data to unauthorized individuals or organizations and that the **Contractor** may be liable under those laws for any Confidential Data that it releases to individuals or organizations without written authorization from City. Therefore, the **Contractor** shall implement procedures to safeguard any Confidential Data provided by City in support of this Contract to the **Contractor** or to any subcontractor thereof from access by individuals or entities other than its own employees or those of its subcontractors using the Confidential Data in the performance of this Contract. The **Contractor** shall instruct its employees and those of its subcontractors not to copy or duplicate in any manner other than as required for the normal course of business in the performance of this Contract, or make any disclosures with reference to, any Confidential Data provided by the City.
- 5.4 **Project Manager.** The **Contractor** shall provide a Project Manager, approved by the City, to oversee the project until its completion. The **Contractor's** Project Manager shall oversee the overall project on behalf of the **Contractor** and shall be on-site during all major project activities as defined in the Project Plan approved by the City.

6.0 **License.**

- 6.1 **Ownership.** The **Contractor** shall have sole and exclusive ownership of all right and interest in and title to the Licensed Software and all Enhancements thereto (including ownership of all trade secrets and copyrights pertaining thereto), subject only to the rights and privileges expressly granted by the **Contractor** in this Contract or otherwise. This Contract does not provide the City with title to or ownership of the Licensed Software, but only a right of limited use in the Licensed Software. Title and all ownership and Intellectual Property Rights in the Licensed Software shall remain with the **Contractor** and shall not pass to the City unless specifically provided for in Section 9.0 (“Source Code Escrow”) of these Special Terms and Conditions. The City shall keep the Licensed Software free and clear of all claims, liens, and encumbrances. However, all data processed by the Licensed Software shall remain the City’s property.
- 6.2 **Grant of Software License.** The **Contractor** grants to the City a non-exclusive, non-transferable license for the City’s personnel to use Licensed Software. The Licensed Software may be used only for, by, or on behalf of the City. This license excludes use by any third parties whose use is not provided for herein. The City shall not use, copy or modify the Licensed Software or any copy, adaptation, transcription or merged portion thereof, except as expressly authorized by the **Contractor** in this Contract or otherwise. The City shall not install the Licensed Software on any other computer system or use it at any other location without the **Contractor**’s express authorization obtained in advance, which shall not be unreasonably withheld.
- 6.3 **Term of License.** Notwithstanding the provisions of Section 1.0 (“Duration”) of the Terms and Conditions, the term of this license with respect to the Licensed Software shall commence upon the Delivery and Installation of the Licensed Software and shall remain in force perpetually so long as the parties perform as provided herein until the City ceases its use of the Licensed Software.
- 6.4 **Archive Copies.** The City shall be entitled to make two (2) copies of the Licensed Software for archival purposes and to make one (1) additional copy each time an operating copy becomes unusable and must be replaced, but only if the City first ensures that all copies it makes of the Licensed Software under this section include screen displays of the **Contractor**’s proprietary or intellectual property notices as recorded on the original copy provided by the **Contractor** and the City affixes a label to each disk, reel, or other housing for the medium on which each copy is recorded setting out the same proprietary or intellectual property notices as such appear on the unit of the Licensed Software from which the copy is made in the same manner.
- 6.5 **Termination of License for Violation of Conditions.** If the City uses, copies or modifies the Licensed Software or transfers possession of any copy, adaptation, transcription or merged portion of the Licensed Software to any other party in any way not expressly authorized by the **Contractor** in this Contract or otherwise, the license that this Contract grants shall automatically terminate.
- 6.6 **Effect of License Expiration or Termination.** Upon expiration or termination of this license, the City shall return or certify the destruction of all copies of the Licensed Software, Documentation, and Source Code in its custody or possession to the **Contractor** within thirty (30) calendar days of such expiration or termination, and the City shall no longer use the Licensed Software, unless such termination shall have resulted from the **Contractor**’s insolvency or other defaults, in which case such use of the Licensed Software shall be governed by Section 9.0 (“Source Code Escrow”) of these Special Terms and Conditions. Further, upon expiration or termination of this license, all rights that the **Contractor** has granted to the City will terminate and will revert to the **Contractor**.
- 7.0 **Proprietary Information.**

- 7.1 **Applicability.** This article shall not be applicable to and shall impose no obligation on the recipient with respect to any portion of Proprietary Information which:
- a. Was at the time received generally known or available to the public;
 - b. Becomes available to the public through no act or omission of the recipient, its agents, assignees, employees, or successors-in-interest; or
 - c. Must be released pursuant to (i) the Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700—2.2-3714, as amended, (ii) any other applicable law, or (iii) a lawful court order entered by any court of competent jurisdiction.

The City's obligations under this article shall remain in effect for as long as the City continues to use or possess the Licensed Software or any trade secrets derived therefrom.

- 7.2 **Intellectual Property Rights in Licensed Software.** The **Contractor** claims and reserves all rights and benefits in the Licensed Software and the Documentation that Intellectual Property Law provides. The Licensed Software is a commercially valuable, proprietary product of the **Contractor**, the design and development of which reflect the effort of skilled development experts and the investment of considerable time and money. The **Contractor** treats the Licensed Software as confidential, and the Licensed Software contains substantial trade secrets of the **Contractor**, which the **Contractor** has entrusted to the City in confidence to use only as expressly authorized by the **Contractor** in this Contract or otherwise.
- 7.3 **Confidentiality.** The **Contractor** and the City shall keep in confidence and shall not disclose to others any Proprietary Information furnished by one party to the other in furtherance of the performance of this Contract.
- 7.4 **Vendor Proprietary Information Software.** The City recognizes the proprietary nature of the **Contractor's** Licensed Software and agrees that such Licensed Software constitutes Vendor Proprietary Information Software that is exempt from the disclosure requirements of the Virginia Freedom of Information Act. Thus, the City shall not disclose or release the Vendor Proprietary Information Software to any party requesting it pursuant to the Virginia Freedom of Information Act or to any other party. The City shall not, at any time, disclose or disseminate the Licensed Software to any person who does not need to obtain access thereto consistent with the City's rights under this Contract or other applicable agreements. Under no circumstances shall the City "unlock" the Code of the Licensed Software, as the term is generally used in the trade, unless authorized by this Contract or other applicable agreements. The City shall devote its best efforts to ensure that all of its personnel and all other persons afforded access to the Licensed Software shall protect it against improper use, dissemination, or disclosure.
- 7.5 **Source Code.** The **Contractor** shall furnish the City with Source Code for the Licensed Software pursuant to Section 9.0 ("Source Code Escrow") of these Special Terms and Conditions. The City acknowledges and agrees that this Source Code is proprietary to the **Contractor**, is confidential, and is treated as a trade secret owned by the **Contractor**. The City shall not disclose this Source Code to any third party or parties.
- 7.6 **Data.** The **Contractor** and the City shall ensure that any data or portions thereof provided by one party to the other in furtherance of the performance of this Contract are not made available by either party or its agents, assignees, employees, or successors-in-interest to the public or to any organizations or individuals, unless such shall be approved in writing by the party to whom the data to be made available belongs.
- 7.7 **Return of Proprietary Information.** Upon termination or expiration of this Contract, the **Contractor** and the City agree to return to each other Proprietary Information in its possession or control and belonging to the other party, except to the extent that the party to whom the Proprietary Information belongs may provide otherwise in writing.

ARTICLE XVIII – WARRANTY

8.0 **Warranty.**

8.1 **Licensed Software Warranty.** The **Contractor** warrants, for the City’s benefit alone, that the Licensed Software conforms in all material respects to the specifications for the current version or any upgraded versions of the Licensed Software as described in the Documentation.

8.2 **Patent Indemnity.** The **Contractor** shall defend at its own expense any action brought against the City to the extent that it is based on a claim that the software supplied by the **Contractor** infringes a United States patent, and the **Contractor** shall pay any costs that are attributable to any such claim.

8.3 **Virus Free Software.** All of the **Contractor**’s products delivered to, installed for, and accepted by the City shall be free of any known computer viruses, hidden “logic bombs”, and any other such Code which could be activated inadvertently or otherwise at a later date or time.

8.4 **Current Version.** The **Contractor** warrants that all software provided to the City under this Contract shall be the latest version when installed, in current production by the **Contractor** at the time of Delivery to the City, and covered under the **Contractor**’s standard warranty.

8.5 **Remedy.** As one remedy available to the City for any material nonconformity or Defect in the Licensed Software for which the **Contractor** is responsible, the **Contractor** shall correct or cure such nonconformity or Defect. The **Contractor** shall not be obligated, however, to correct, cure, or otherwise remedy any nonconformity or Defect in a module of the Licensed Software if the City has made any changes whatsoever to that module, if that module has been misused or damaged in any respect, or if the City has not reported to the **Contractor** the existence and nature of such nonconformity or Defect upon discovery thereof.

8.6 **Refund.** If only the **Contractor** has made changes to the Licensed Software and the **Contractor** cannot make Licensed Software conform to specifications, then the **Contractor** shall refund all amounts related to the nonconforming individual application module of the Licensed Software.

9.0 **Source Code Escrow.**

9.1 **Escrow.** Pursuant to the terms of this Contract, the **Contractor** shall deposit one (1) copy each of all Code, maintained in both Object Code (i.e. machine-readable) and Source Code (i.e. human-readable) formats, to be used by the City only as this article authorizes. Each deposit shall include instructions describing how the Code is compiled and linked. Any failure by the **Contractor** to perform any obligation imposed by this article shall be considered a material breach of the Contract by the **Contractor**.

9.2 **Ownership and Other Warranties.** The **Contractor** warrants to the City that the **Contractor** possesses all the rights in the Licensed Software necessary to enter into this Contract and to deposit the Licensed Software with City pursuant to its terms. Further, the **Contractor** warrants the accuracy, completeness, functionality and performance of all Source Code and other materials escrowed as required by this section to the extent this Contract requires the **Contractor** to make such warranty with regard to the Object Code associated therewith.

9.3 **Deposit of Source Code.** Within thirty (30) calendar days of the City’s payment in full for accepted Licensed Software, the **Contractor** shall deposit the Source Code in escrow. The **Contractor** shall make arrangements with Iron Mountain to declare the City as a beneficiary using the City’s existing agreement

with Iron Mountain. The **Contractor** shall either deliver the Source Code to Iron Mountain if the **Contractor** does not already have the Source Code escrowed with Iron Mountain or link the **Contractor's** agreement with Iron Mountain to the City's agreement with Iron Mountain if the Source Code is already escrowed with Iron Mountain. Upon request, the City shall furnish the **Contractor** with a copy of the City's agreement with Iron Mountain and an example of the forms that the **Contractor** must use in order to meet this requirement. The City shall not be liable for any expenses associated with the deposit of Source Code as required by this Contract.

- 9.4 **Updates.** During the term of the license granted by this Contract, as long as any support arrangement with the **Contractor** remains in effect, the **Contractor** shall deposit in escrow in accordance with Section 9.3 ("Deposit of Source Code") of these Special Terms and Conditions the Source Code for every update, correction, or new release of the Licensed Software provided to the City in Object Code form. The City shall not be liable for any expenses associated with any escrow deposit.
- 9.5 **Title.** The **Contractor** shall have sole and exclusive ownership of all right, title, and interest in and to the Source Code escrowed, including ownership of trade secrets and copyrights pertaining thereto, subject only to the rights and privileges expressly granted by the **Contractor**. This Contract does not provide City with title or ownership of the Source Code escrowed, but only a right of limited use. The City shall keep the Source Code free and clear of all claims, liens, and encumbrances.
- 9.6 **Release of Source Code to City.** The Source Code deposited in escrow pursuant to this Contract shall be released to the City only upon the occurrence of any of the following events:
- a. If the **Contractor** dissolves or otherwise goes out of business;
 - b. If the **Contractor** makes a general assignment for the benefit of creditors or voluntarily or involuntarily becomes bankrupt and does not cure such bankruptcy within ninety (90) calendar days;
 - c. If the **Contractor** decides to discontinue maintenance or support services or both for its latest version of the Licensed Software; or
 - d. Such other events as the City's agreement with Iron Mountain may provide at the time the parties sign this Contract.

If the City must pay any fee to obtain release of the Source Code as allowed under this Contract, the **Contractor** shall promptly remit such sum to the City. Upon the **Contractor's** request, the City shall furnish the Contractor with a copy of the City's agreement with Iron Mountain

- 9.7 **Use of Source Code to Cure Problems.** In the event that a Major Application Problem remains unresolved for a period of ten (10) calendar days after the City has notified the **Contractor** of the Problem, the City shall have a limited right to access the Source Code in order to effect repair of the Problem. When the Problem is resolved, the City shall return the Source Code to escrow.
- 9.8 **Return of Source Code to the Contractor.** When the City has determined that the Licensed Software is no longer required, the City shall return the Source Code to the **Contractor**. The City agrees not to modify the Source Code without the prior written approval of the **Contractor**, which approval shall not be unreasonably withheld.
- 9.9 **Miscellaneous Escrow Provisions.** The following additional terms and conditions shall apply to the escrow of the Source Code required by this article:

- a. Should the City make any payment to Iron Mountain to cure a default on the part of the **Contractor** of the agreement with Iron Mountain if the Contractor chooses to escrow the Source Code with Iron Mountain, the **Contractor** shall promptly remit such sum to the City.
- b. Should the **Contractor** fail to pay to, on behalf of or for the benefit of the City any amount that the **Contractor** is required to pay under this article, the City may withhold such sum from any future payments that this Contract would otherwise require the City to pay the **Contractor** without prejudice to any other remedies at law or afforded by this Contract that the City may have.

10.0 **Maintenance and Support Responsibilities of the City.**

- 10.1 **Access to Facilities.** To assist the **Contractor** in the performance of its maintenance and support obligations hereunder, the City shall provide access to its facilities in accordance with any applicable security procedures of the City. The **Contractor** shall give the City prior notification when access is required.
- 10.2 **Remote Access Services.** To assist the **Contractor** in the performance of its obligations under this Contract, the City shall provide Remote Access Services to the **Contractor** in accordance with the City's current security policies and procedures for such Remote Access Services.
- 10.3 **Duplication of Problem.** The City shall provide the **Contractor** with information sufficient for the **Contractor** to duplicate the circumstances under which a Problem with the Licensed Software became apparent.
- 10.4 **City Representative for On-Site Support.** A representative of the City shall be present when the **Contractor** provides any on-site support. If such City representative is not present when the **Contractor's** representative arrives on site, the **Contractor** shall perform no work and shall charge the City for the time of the **Contractor's** representative.
- 10.5 **Operating System Compatibility.** The City shall request that the **Contractor** review, at no charge to the City, each operating system or operating system upgrade that the City wishes to implement in conjunction with the Licensed Software before implementation to verify that the upgrade is compatible with the Licensed Software. The **Contractor** shall inform the City whether the proposed upgrade is compatible with the Licensed Software in sufficient time to avoid any delay in the City's implementation.
- 10.6 **Responsibility for Hardware.** The City shall be responsible for procuring, installing, and maintaining all equipment, telephone lines, modems, communications interfaces, and other hardware necessary to operate the Licensed Software and to obtain from the **Contractor** the maintenance and support services provided for hereunder.
- 10.7 **System Administrator Identification.** The City shall advise the **Contractor** of its selection for each of its Systems Administrators. The City reserves the option to replace any System Administrators with new System Administrators at the City's sole discretion. If the City replaces any System Administrators, the City shall notify the **Contractor** in writing of such replacement within five (5) days of such replacement.
- 10.8 **Authorized Contacts.** The City intends that the maintenance and support provisions of this Contract cover only calls received from persons identified for the **Contractor** in writing by the City as a current System Administrator. Therefore, the **Contractor** shall not respond to and shall not bill the City for calls received from anyone not identified in writing by the City as a current System Administrator.

11.0 **Maintenance and Support Services.**

- 11.1 **Support.** Throughout the term set forth in Section 6.3 (“Term of License”) of these Special Terms and Conditions for the license granted in Section 6.0 (“License”) of these Special Terms and Conditions, the **Contractor** shall render the following services from 8:00 A.M. to 5:00 P.M. Eastern Time, Monday through Friday, excluding City holidays, in support of all Licensed Software provided to the City under that license:
- a. **Control Center.** The **Contractor** shall maintain a program control center capable of receiving by telephone any operator reports of system irregularities.
 - b. **Hot Line.** The **Contractor** shall maintain a telephone hot line that allows the City to report system problems and seek assistance in use of the Licensed Software.
 - c. **Staff.** The **Contractor** shall maintain a trained staff available during the hours stated above (i) to answer questions concerning the Licensed Software and system operations, (ii) to identify and isolate the source of Problems and (iii) to properly assign the Problem to technical staff, prioritizing the call based on the response times set forth in Section 12.1 (“Response Times”) of these Special Terms and Conditions.
 - d. **Tracking.** The **Contractor**’s staff shall assign a tracking number to uniquely identify each Problem or other request for support.
- 11.2 **Problem Correction.** Throughout the term set forth in Section 6.3 (“Term of License”) of these Special Terms and Conditions for the license granted in Section 6.0 (“License”) of these Special Terms and Conditions, the **Contractor** shall correct Problems reported by the City in accordance with the terms and conditions of this Contract within the response time based on the level of the reported Problem as defined by Section 12.1 (“Response Times”) of these Special Terms and Conditions. The **Contractor** shall, after verifying that such a Problem is present, initiate work within the response time specified in Section 12.1 (“Response Times”) of these Special Terms and Conditions in a diligent manner toward development of a Problem Correction. Following completion of the Problem Correction, the **Contractor** shall provide the Problem Correction through a “temporary fix” consisting of sufficient programming and operating instructions to implement the Problem Correction, and the **Contractor** shall include the Problem Correction in all subsequent Software Releases.
- 11.3 **New Software Releases.** The **Contractor** may, from time to time, issue to its customers generally, including the City, new Software Releases containing Problem Corrections, minor Enhancements, and, in certain instances if the **Contractor** so elects, major Enhancements. Throughout the term set forth in Section 6.3 (“Term of License”) of these Special Terms and Conditions for the license granted in Section 6.0 (“License”) of these Special Terms and Conditions, the **Contractor** shall provide the City with one copy of each new Software Release without additional charge. The **Contractor** shall provide reasonable assistance to help the City install, test and operate each new Software Release, provided that such assistance, if required to be provided at the City’s facilities shall be subject to such charges as this Contract allows. The contractor shall install new Software Releases in a test environment provided by the City, and all new Software Releases shall be subject to Acceptance by the City.
- 11.4 **Requests for Additional Services.** Throughout the term set forth in Section 6.3 (“Term of License”) of these Special Terms and Conditions for the license granted in Section 6.0 (“License”) of these Special Terms and Conditions, the **Contractor** shall consider and evaluate the development of Enhancements for the specific use of the City and shall respond to the City’s requests for additional services pertaining to the Licensed Software (including, without limitation, data conversion and report-formatting assistance), provided that such services, if agreed to be provided, shall be subject to supplemental charges mutually agreed to by the **Contractor** and the City.
- 11.5 **Training.** The **Contractor** shall offer training for all supported releases of the Licensed Software.

12.0 **Response Requirements and Remedies.**

12.1 **Response Times.** The **Contractor** shall meet the following response time requirements for properly reported Problems:

12.1.1 **For Major Application Problems.** Response times for a Major Application Problem shall be in accordance with the five-step process outlined below.

12.1.1.1 **Step 1.** A System Administrator designated pursuant to Section 10.7 (“System Administrator Identification”) of these Special Terms and Conditions shall make initial contact with the **Contractor** to report the Major Application Problem.

12.1.1.2 **Step 2.** Within two (2) hours of the initial contact, the **Contractor** shall respond to the City’s initial contact to solicit specific details on the Major Application Problem.

12.1.1.3 **Step 3.** Within four (4) hours of the **Contractor**’s response to the City’s initial contact, the **Contractor** shall confirm to the City that a Major Application Problem exists and that the **Contractor** has begun working towards a Problem Correction.

12.1.1.4 **Step 4.** Within six (6) hours of the **Contractor**’s response to the City’s initial contact, the **Contractor** shall furnish the City with a Problem Correction for the Major Application Problem, if completed, or a problem status resolution report, if the Problem Correction is not completed.

12.1.1.5 **Step 5.** Within twelve (12) hours of the **Contractor**’s response to the City’s initial contact, the **Contractor** shall furnish the City with a Problem Correction for the Major Application Problem, if completed, or a problem status resolution report, if the Problem Correction is not completed. The **Contractor** shall furnish the City with a problem status resolution report every twelve (12) hours until the **Contractor** furnishes the City with a Problem Correction for the Major Application Problem.

12.1.1.6 **Resolution.** The Contractor shall furnish the City with a Problem Correction for the Major Application Problem within seventy-two (72) hours starting with the initial contact of the Major Application Problem by the City to the Contractor. Should the Problem Correction not be completed within seventy-two (72) hours after the City’s initial report of the Major Application Problem to the Contractor, the Contractor shall be liable to the City for liquidated damages as set forth in Section 12.4 (“Liquidated Damages”) of these Special Terms and Conditions. Liquidated Damages shall apply to each Major Application Problem not resolved through a Problem Correction within a seventy-two (72) hour period.

12.1.2 **For Minor Application Problems.** Response times for a Minor Application Problem shall be in accordance with the five-step process outlined below.

12.1.2.1 **Step 1.** A System Administrator designated pursuant to Section 20.7 above shall make initial contact with the **Contractor** to report the Minor Application Problem.

12.1.2.2 **Step 2.** Within two (2) hours of the initial contact, the **Contractor** shall respond to the City’s initial contact to solicit specific details on the Minor Application Problem.

12.1.2.3 **Step 3.** Within four (4) hours of the **Contractor**’s response to the City’s initial contact, the **Contractor** shall confirm to the City that a Minor Application Problem exists and that the **Contractor** has begun working towards a Problem Correction.

- 12.1.2.4 **Step 4.** The **Contractor** shall use its best efforts in accordance with the industry standard for software maintenance and support of this type to provide a Problem Correction in the form of a workaround solution to the Minor Application Problem, if appropriate.
- 12.1.2.5 **Step 5.** The **Contractor** shall incorporate a permanent Problem Correction for the Minor Application Problem into the next Software Release.
- 12.1.2.6 **Resolution.** If the **Contractor** issues a Software Release to the City within six (6) months of the initial contact to which Step 1 above refers, the **Contractor** may furnish the City with the Problem Correction for the Minor Application Problem in that Software Release. If the **Contractor** does not issue a Software Release to the City within six (6) months of the initial contact to which Step 1 above refers, the **Contractor** shall furnish the City with a Problem Correction for the Minor Application Problem within six (6) months of that initial contact. Should the Contractor not furnish the City with a Problem Correction for the Minor Application Problem within six (6) months of the City's initial contact, the Contractor shall be liable to the City for liquidated damages as set forth in Section 12.4 ("Liquidated Damages") of these Special Terms and Conditions. Liquidated Damages shall apply to each Minor Application Problem not resolved through a Problem Correction within a six (6) month period.
- 12.2 **Escalation Procedure.** The **Contractor** shall furnish the City with an escalation procedure. The escalation procedure shall contain specific points of contact and the direct dial phone number of each point of contact. The final escalation point of contact shall be the president or chief executive officer of the **Contractor**. The City may invoke the next step in the escalation procedure when the **Contractor** does not respond to the City within the response time required by Section 12.1 ("Response Times") of these Special Terms and Conditions.
- 12.3 **Use of Source Code to Cure Problems.** In the event that a Major Application Problem remains unresolved for a period of ten (10) calendar days after the City has notified the **Contractor** of the Problem, the City shall have a limited right to access the source code held in escrow pursuant to Section 9.0 ("Source Code Escrow") of these Special Terms and Conditions in order to repair of the Problem. When the Problem is resolved, the City shall return the source code to escrow.
- 12.4 **Liquidated Damages.** The **Contractor** acknowledges that it understands and agrees to the following:
- a. That (i) time is of the essence for the **Contractor's** performance of maintenance and support responsibilities specified in Sections 11.0 ("Maintenance and Support Services") and 12.0 ("Response Requirements and Remedies") of these Special Terms and Conditions for Major and Minor Application Problems, (ii) the City's damages for the **Contractor's** failure to meet the maintenance and support requirements specified in Sections 11.0 ("Maintenance and Support Services") and 12.0 ("Response Requirements and Remedies") of these Special Terms and Conditions for Major and Minor Application Problems cannot be accurately ascertained or definitely measured, (iii) payments specified in this section are due the City as damages resulting from late performance, not as penalties, and (iv) the payment of liquidated damages under this section is in lieu of actual damages for such failures by the **Contractor**.
 - b. Should the **Contractor**, through no fault of the City, fail to meet the response requirements set forth in Section 12.1 ("Response Times") of these Special Terms and Conditions for Major Application Problems, the **Contractor** shall pay the City one thousand (\$1,000.00) for each calendar day or portion thereof thereafter that the **Contractor** does not meet such requirement.
 - c. Should the **Contractor**, through no fault of the City, fail to meet the response requirements of set forth in Section 12.1 ("Response Times") of these Special Terms and Conditions for Minor Application Problems, the **Contractor** shall pay the City one hundred dollars (\$100.00) for each calendar day or portion thereof thereafter that the **Contractor** does not meet such requirement.

- d. Liquidated damages shall continue to accrue through the City's Acceptance of the **Contractor's** Problem Corrections for each Major Application Problem up to a maximum of one hundred percent (100%) of the total annual value of the amounts paid to the **Contractor** by the City during the term or renewal term of the Contract during which the **Contractor's** failure occurred.
- e. Liquidated damages shall continue to accrue through the City's Acceptance of the **Contractor's** Problem Corrections required under Section 12.0 ("Response Requirements and Remedies") of these Special Terms and Conditions for Minor Application Problem up to a maximum of ten percent (10%) of the total annual value of the amounts paid to the **Contractor** by the City during the term or renewal term of the Contract during which the **Contractor's** failure occurred.
- f. The City may withhold any liquidated damages from its payments to the Contractor subsequent to the **Contractor's** failure to meet the response requirement. If such liquidated damages exceed such payments owed by the City, the Contractor shall pay the City any remaining balance within thirty (30) calendar days of notice of such.
- g. The **Contractor** hereby waives any defenses as to the validity of any liquidated damages stated in this Contract as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

END OF SPECIAL TERMS AND CONDITIONS