

CONTRACT TERMS AND CONDITIONS

The resulting contract with the successful bidder will be subject to the following terms and conditions:

Insurance

Contractor shall purchase and maintain the following insurance coverage:

- a. Workers Compensation
As statutorily required by the Commonwealth of Virginia. Employers Liability, \$1,000,000.
- b. Commercial General Liability Minimum Limits
General Liability:

\$1,000,000	General Aggregate Limit
\$1,000,000	Products & Completed Operations
\$1,000,000	Personal and Advertising Injury
\$1,000,000	Each Occurrence Limit
\$ 50,000	Fire Damage Limit
\$ 5,000	Medical Expense Limit
- c. Auto Liability insurance
Coverage sufficient to cover all vehicles owned, used, or hired by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Limits
Automobile Liability:

\$1,000,000	Combined Single Limit
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- d. Should the Contractor lease his equipment, it shall be the Contractor's responsibility to obtain any necessary additional insurance, at Contractor's expense.
- e. A certificate evidencing the above insurance coverage shall be provided by the Contractor to the City of Suffolk prior to the commencing work. The City of Suffolk shall be named as an Additional Insured; endorsements of same shall be submitted with certificate. It shall be the Contractor's responsibility to keep the required insurance coverage's in full force, and without lapse, during the entire term of this agreement. Notices of cancellation or any changes to insurance shall be provided to the City of Suffolk thirty (30) days prior to the effective date of such change or cancellation.
- f. All insurance shall be placed with insurers maintaining an A.M. best rating of no less than A: VII.

Hold Harmless Clause

The Contractor shall, during the term of the contract, indemnify and hold harmless the City of Suffolk from and against any and all losses, damages, claims, fines, penalties, suits and costs, including bodily injury or death of any person(s), or loss or damage to property, as well as fines, assessments and penalties imposed by any authority which may arise out of any violations of law by, and all acts

and omissions of the Contractor, the Contractor's agents, employees occurring in connection with the products, completed operations, and other services covered herein.

Safety

All Contractor and subcontractor performing services for the City are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and City Safety and Occupational Health Standards and any other applicable rules and regulations. Also all Contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

Anti-Discrimination

By submitting their bids, bidders certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia 2.2.4343.1E).

In every contract over \$10,000 shall include the following provisions:

- A. During the performance of this contract, the Contractor agrees as follows:
 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, service disabled veterans or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 - B. The Contractor will include the provisions of No. 1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
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Ethics in Public Contracting

By submitting a bid, the bidder certifies that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. (Code of Virginia 2.2.4367)

Compliance with Federal Immigration Law

Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth of Virginia knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

Debarment Status

By submitting a bid, bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

Antitrust

By entering into a contract, the Contractor conveys, sells, assigns, and transfers to the City of Suffolk all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Suffolk under said contract.

Drug-Free Workplace

During the performance of this contract, the Contractor agrees to (1) provide a drug-free workplace for the Contractor's employees; (2) post in conspicuous place, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (3) state in all solicitation or advertisement for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

Exemption from Taxes

The City is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate indicating the City's tax exempt status will be furnished by the City of Suffolk.

Faith Based Organization

City of Suffolk does not discriminate against faith-based organizations.

Substitutions

NO substitutions or cancellations permitted after award without written approval by the Purchasing Agent.

Method of Payment

Contractor shall submit invoices in duplicate for each delivery, such statement to include detailed breakdown of all charges, and shall be based on completion of tasks or deliverables.

Invoices shall be submitted to using departments.

Upon acceptance of work, the City will render payment within forty-five (45) days of receipt of invoice.

Individual Contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide their federal employer identification number on the pricing form.

Assignment of Contract

This contract may not be assigned in whole or in part without the written consent of the Purchasing Agent.

Termination

Subject to the provisions below, the contract may be terminated by the City upon thirty (30) days advance written notice to the other party; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the contract may be extended upon written approval of the City until said work or services are completed and accepted.

- a. Termination for Convenience
In the event that this contract is terminated or canceled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
 - b. Termination for Cause
Termination by the City for cause, default or negligence on the part of the Contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.
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Non-Appropriation

Notwithstanding anything contained herein to the contrary, this contract shall be terminated if all of the following events shall have occurred.

- a. Funds are not appropriated for a subsequent fiscal period during the term of this contract for the acquisition of substantially the same functions as provided for herein, and written notice thereof is given to the CONTRACTOR at least (30) days prior to the first day of such subsequent fiscal period or within five (5) days of the approval of the final budget for such fiscal year, whichever occurs later.
- b. CITY has exhausted all funds legally available for payment under this contract.

Upon such termination, CONTRACTOR'S only remedy shall be to terminate the contract at the end of the fiscal period during which notice is give; and payment in compliance with the contract for materials, goods, and services rendered there under during the fiscal year at the end of which termination occurs, without penalty, termination, profit or overhead expenses of any kind, shall constitute full performance on the part of the CITY.

Severability

If any part, term, or provision of this agreement, shall be found by the Court to be legally invalid or unenforceable, then such provision or portion thereof, shall be performed in accordance with applicable laws. The invalidity or unenforceability of any provision or portion of any contract document shall not affect the validity of any other provision or portion of the contract document.

Changes and Additions

It shall be the responsibility of the Contractor to notify the City, in writing, of any necessary modifications or additions in the Scope of this Agreement. Compensation for changes or additions in the Scope of this Agreement will be negotiated and approved by the City, in writing.

It is understood and agreed to by both the City and the Contractor that such modifications or additions to this Agreement shall be made only by the full execution of the City's standard Agreement change order form. Furthermore, it is understood and agreed by both parties that any work done by the Contractor on such modification or addition to this Agreement prior to the City's execution of its standard Agreement change order form shall be at the total risk of the Contractor and said work may not be compensated by the City.

Payment to Subcontractor

Payments to subcontractor shall be made in accordance with § 2.2-4354 of *Code of Virginia (1950)*, as amended. Unless otherwise specified in this Agreement, interest shall accrue at the rate of one percent (1%) per month.

Conflict of Interest

Contractor shall not accept or receive commissions or other payments from third parties for soliciting, negotiating, procuring, or effecting insurance on behalf of the City.

Responsibility of Contractor

The Contractor shall, without additional costs or fee to the City, correct or revise any errors or deficiencies in his performance. Neither the City's review, approval or acceptance of, nor payment for any of the services required under this Agreement shall be deemed a waiver of rights by the City, and the Contractor shall remain liable to the City for all costs which are incurred by the City as a result of the Contractor's negligent performance of any of the services furnished under this Agreement.

Controlling Law; Venue; Pending/during Litigation

This Agreement is made, entered into, and shall be performed in the City of Suffolk, Virginia, and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to its conflict of law rules. In the event of litigation concerning this Agreement, the parties agree to the exclusive jurisdiction and venue of the Circuit Court of the City of Suffolk, Virginia; however, in the event that the federal court has jurisdiction over the matter, then the parties agree to the exclusive jurisdiction and venue of the U.S. District Court for the Eastern District of Virginia, Norfolk Division.

The Contractor shall not cause a delay in services because of the pending or during litigation proceedings, except with the express, written consent of the City or written instruction/order from the Court. negotiating, procuring, or effecting insurance on behalf of the City.

Taxes in Arrears

No bid or proposal will be accepted from or Contract awarded to any person, firm or corporation that is in arrears, or is in default to the City upon any debt or Contract, or that is a defaulter as surety or otherwise upon any obligation to the City.

Compliance with State Law, Foreign and Domestic Business authorized to Transact Business in the Commonwealth

A bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. A public body may void any contract with a business if the business fails to remain in compliance with the provisions of this section.

Entire Agreement

This Agreement comprises the entire understanding between the parties and cannot be modified, altered or amended, except in writing and signed by all parties.