

Greenberg, Rebecca

From: Amy A. Trahan <atrahan@suffolkva.us>
Sent: Friday, April 10, 2015 9:30 AM
To: Greenberg, Rebecca
Subject: [Released by User] RE: Town of Vienna question about 2014-00065-AT

Yes the first year expires this month. But it is good until 4/30/17. It has in the contract and bid documents that We have the option to renew for 2 additional years.

Amy

Amy A. Trahan
Buyer I
City of Suffolk
(757)514-4015
(757)514-7524 fax
atrahan@suffolkva.us

From: Greenberg, Rebecca [<mailto:RGreenberg@viennava.gov>]
Sent: Friday, April 10, 2015 9:07 AM
To: Amy A. Trahan
Subject: Town of Vienna question about 2014-00065-AT
Importance: High

Good morning,

Our Water Department currently rides this contract with HD Supply, it expires at the end of the month. Are you going to renew for another year? If you could let me know, as soon as possible, it would be most appreciated! Thank you.

Rebecca M. Greenberg
Public Works Specialist
Town of Vienna, Department of Public Works
127 Center St S
Vienna, VA 22180
(703) 255-6383 office
(703) 255-5722 fax
rgreenberg@viennava.gov



*** VIRGINIA FREEDOM OF INFORMATION NOTICE ***

NOTICE: This e-mail and any of its attachments may constitute a public record under the Virginia Freedom of Information Act.

Sealed bids subject to the conditions and instructions contained herein, will be received at the office of the Purchasing Agent listed above, until the time and date shown below (local prevailing time), for furnishing the items or services described in the bid.

SCOPE OF WORK – The intent of this Invitation for Bid is to establish an agreement to furnish and deliver cold water meters on an as-needed basis for a one year period. The City of Suffolk (the City) shall have the exclusive option to renew the agreement for four (4) additional one year periods under the same specifications, terms, conditions and pricing contained and quoted herein.

Bid Due: 3:00 p.m., April 17, 2014

Contract Officer: *Amy Trahan*
Amy Trahan, Buyer I, atrah@ Suffolkva.us

The Buyer, Amy Trahan, is the Contract Officer for the City of Suffolk with respect to this IFB. All questions and/or comments should be directed to her at this email address: atrah@ Suffolkva.us. The respondents to this IFB shall not contact, either directly or indirectly, any other employee or agent of the City regarding this IFB. This prohibition shall also extend to the Suffolk City Council and other elected City officials. Any such unauthorized contact may disqualify the bidder from the procurement

*** SUBMIT ENTIRE IFB AS YOUR BID PACKAGE****

In compliance with this invitation for bids, and subject to all the conditions thereof, the undersigned offers, if this bid is accepted within ninety (90) calendar days from the date of the opening, to furnish any or all of the items and/or services upon which prices are quoted, at the price set opposite each item, to be delivered at the time and place specified herein. The undersigned certifies he has read, understands, and agrees to all terms, conditions, and requirements of this bid, and is authorized to contract on behalf of firm named below.



INVITATION FOR BID

City of Suffolk

IFB #2014-00065-AT

March 12, 2014

Purchasing Division

441 Market Street, Room 105

Suffolk, VA 23434

Phone: (757) 514-7520 Fax: (757) 514-7524

<http://www.suffolkva.us/purchasing>

Water Meters

Sealed bids subject to the conditions and instructions contained herein, will be received at the office of the Purchasing Agent listed above, until the time and date shown below (local prevailing time), for furnishing the items or services described in the bid.

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Contract Officer: *Amy Trahan*
Amy Trahan, Buyer I, atrahan@suffolkva.us

The Buyer, Amy Trahan, is the Contract Officer for the City of Suffolk with respect to this IFB. All questions and/or comments should be directed to her at this email address: atrahan@suffolkva.us. The respondents to this IFB shall not contact, either directly or indirectly, any other employee or agent of the City regarding this IFB. This prohibition shall also extend to the Suffolk City Council and other elected City officials. Any such unauthorized contact may disqualify the bidder from the procurement

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Company

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ FAX : _____

E-mail: _____

Print Name: _____ Title: _____

Signature: _____ Date: _____

INVITATION FOR BID

Water Meters

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PURPOSE

The intent of this Invitation for Bid is to enter into a one year agreement (the Agreement) to furnish cold water meters to the City of Suffolk, Department of Public Utilities, for use in their water distribution system. All meters obtained through this Agreement with the City are for the City's use and will not be subject to resale. The meters will be utilized for the replacement of existing meters within the system and for new service locations. The Bid Form has a listing of meters by size that the City anticipates the procurement of under this agreement. The quantities are annual estimates only and impose no obligation on the City to purchase a minimum numbers of meters each year. The City reserves the exclusive right to renew the agreement for four (4) additional one year periods under the same specifications, terms, conditions and pricing contained and quoted herein.

COMPETITION INTENDED

It is the City's intent that this Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the Purchasing Agent in writing if any language requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by the Purchasing Agent not later than five days prior to the date set for bids to close.

SPECIFICATIONS

A. The City's Existing System

- a. The City currently has approximately 25,000 meters in service across the City.
- b. The City does not own or maintain its own customer service software and billing system. It utilizes the Customer Care & Billing (CC&B) system owned and operated by the Hampton Roads Sanitation District. The City maintains the customer data base within this system associated with City customers. CC&B provides meter read route downloads via ftp to a stand-alone PC which then downloads to one of three hand held meter reading device types (HHD's). After reading the routes, the HHD's upload through the same computer system and are ftp'd to CC&B for billing. The current PC program used to manage the import/export of information to and from the HHD's is Sensus Auto-Read.
- c. The Department's currently utilizes for all new meter installations up to one inch (1") the Sensus iPerl and currently utilizes for all new meter installations one and one half inches (1 ½") and above the Sensus Omni (R, T or F) series. All meter registers are in cubic feet.
- d. The meters are read using a hand held device (HHD) and one of three methods:
 - i. manual read and entry utilizing an AR 5002 hand held device (the Department has 9).
 - ii. touch read wand utilizing a Auto Gun 4090 (the Department has 8)
 - iii. walk-by/drive-by radio read utilizing a AR 5002

- e. It is the City's intent that all manual read meters will be upgraded to touch read upon replacement. In addition, all meters installed in new developments will be drive-by radio read.
- f. Below is a table of meters currently in service by size and current meter reading technology.

	MANUAL READ	TOUCH READ	RADIO READ
5/8"	12,127	11,313	403
3/4"	24	48	0
1"	87	110	1
1 1/2"	37	101	1
2"	33	86	1
3"	4	10	0
4"	6	10	0
6"	4	1	0
8"	1	1	0
10"	1	2	0

B. Meter Specifications

- a. All meters provided under this Agreement shall conform to the standards of the American Waterworks Association, as most recently revised and as specified herein.
- b. It is the intent of the City to migrate existing manual read meters to a common touch read system; then migrate touch read meters to the radio read system in the future, without the necessity of replacing the meters and that City wide all meters may be read utilizing one common meter reading platform. Increasing the efficiency and reliability of the meter reading function is essential to the Department's goal of providing quality customer service. The bidder shall be responsible for providing an implementation plan for that ensures that all meters shall be fully compatible with the CC&B system specified in paragraph 3 A (b). The full cost associated with the proposed implementation plan shall be the responsibility of the successful bidder. The implementation plan shall include, but not limited to, the extent required: the replacement of the meters if required, their installation, any associated installation hardware and site restoration; the replacement of the Sensus Auto Read software and associated hardware; the replacement of the City's existing three (3) touch read devices; replacement of the City's existing nine(9) manual read/drive-by radio read devices; programming or data upgrades necessary to the CC&B system; training; and any other improvements necessary, so that the City has a fully functional meter reading platform on the Vendor's new system. If the City, based upon its sole review, determines that the Vendor's plan is not acceptable, the Vendor's bid shall be rejected.
- c. All meters must read in cubic feet (CF)

- d. All meters must be new. Refurbished meters of any kind are not acceptable.
- e. All meters furnished shall be provided with a Touch Read Pad system which is Auto Gun compatible.
- f. Small Meters – five eighths inch (5/8"), three quarter inch short body (3/4" S), three quarter inch (3/4"), and one inch (1")
 - i. Electronic Register: Shall be tamper resistant, solid state, battery operated electromagnetic flow measurement system with a hermetically sealed, heat tempered glass covered, with a liquid crystal, nine programmable (9) digit display. It must have indicators for flow direction, battery life, and unit of measurement. The register shall not be removable from the measuring sensor. The register shall utilize a magnetic coupling technology to connect to a touch read or radio read system in either an inside or pit set installation.
 - ii. Measuring Element: The measuring element shall be made of a non-corrosive, lead-free glass fiber reinforced polyphenylene sulfide (PPS) based resin. A battery powered magnetic flow sensor utilizing silver/silver chloride electrodes shall be utilized to measure the velocity of the water which is linearly proportional to the volume. The measuring element shall have no moving parts and shall be specific for each meter size. The meter assembly shall have performance capability of continuous operation up to rated maximum flows, per the AWWA Standards, without affecting long term accuracy or causing any undue component wear. The measuring element flow tube shall be rectangular to create the optimal measuring area for high performance.
 - iii. External Housing: The register and measuring element shall be an integrated unit housed within a thermal plastic external casing. This integrated unit shall not be removable from the external housing. The systems shall have the size and direction of water flow through the system imprinted on the external housing. The meter main case shall be composed of a material to adhere to NSF/ANSI Standard 61, Annex F and G for non-lead regulation compliance.
 - iv. Bidders shall include manufacturer's specifications with bid.
- g. Large Meters – one and one half inches (1 1/2") through ten inches (10")
 - i. Electronic Register: Shall be tamper resistant, solid state, battery operated electromagnetic flow measurement system with a hermetically sealed, heat tempered glass covered, with a liquid crystal, nine programmable (9) digit display. The register must be an electronic device encapsulated in heat tempered glass, utilizing a liquid crystal display (LCD). It must have indicators for flow

direction, battery life, and unit of measurement. The register shall not be removable from the measuring sensor. The register shall utilize a magnetic coupling technology to connect to a touch read or radio read system in either an inside or pit set installation.

- ii. Conformance to Standards: The meter package shall meet or exceed all requirements of ANSI/AWWA Standard C-701 or latest revision for Class II turbine meter assemblies. Each meter assembly shall be performance tested to ensure compliance.
- iii. Measuring Element: The measuring chamber shall consist of a measuring element, removable housing, and all-electronic register. The measuring element shall be mounted on a horizontal, stationary stainless steel shaft with sleeve bearings and be essentially weightless in water. The measuring chamber shall be capable of operating within the accuracy standard without calibration when transferred from one main case to another of the same size. The meter shall utilize a drop-in type measuring chamber that allows replacement of the measuring chamber without the necessity of pulling the meter main case from the service location.
- iv. External Housing: The meter main case shall be composed of a material to adhere to NSF/ANSI Standard 61, Annex F and G, for non-lead regulation compliance. Successful bidder must provide proof of certification.
- v. Strainer: The meter strainer shall be integral and cast as part of the meter's main case. The strainer's screen shall have a minimum net open area of at least two (2) times the pipe opening and be a V-shaped configuration for the purpose of maintaining a full unobstructed flow pattern. The strainer body shall be a coated ductile iron fusion-bonded epoxy identical to that of the meter's main case. All fasteners shall be stainless steel.
- vi. Bidders shall include manufacturers' specifications with bid.

h. Touch Pad only

Separate and apart from the meters provided with Touch Pads above, the City will also be purchasing just Touch Read Pads alone. These Touch Read Pads shall be Auto Gun compatible. These Touch Read Pads are to be installed on existing meters that are not currently touch read equipped and/or for replacement of damaged Touch Read Pads.

C. Ordering and Miscellaneous

- a. Orders will be placed directly by City personnel as requirements dictate. The bidder will reference contract number on all invoices and correspondence.

- b. Samples maybe required for evaluation and testing by City personnel. Samples are to be delivered within seven (7) business days after request by City.
- c. Replacement parts are to be new and bidder must be able to deliver replacement parts within ten (10) business days of receipt of order. Bidder is to provide a complete parts list, including individual prices, as part of their bid. Bidder shall guarantee the availability of replacement parts for five (5) years from the date of the last meter delivery.

CONDITIONS AND INSTRUCTIONS

(Revised 1/16/14)

1. **Use of Form:** All bids shall be submitted on and in accordance with this form. If more space is required to furnish a description of the goods and/or services bid, or delivery terms, the bidder may attach a letter hereto that will be made a part of the bid. In case of a conflict with published requirements, the bid may be considered non-responsive. The City's published specifications shall supersede any additional writings submitted with the bid. Such additional writings shall be clearly marked and noted as an exception.
2. **Submittals:** All bids shall be submitted sealed, plainly marked showing the bid number, date and time. The entire solicitation document is to be returned when submitting a bid unless otherwise directed by the bid document. Failure to return all required pages may result in a determination that the submittal is non-responsive.
3. **Late Bids:** Bids and amendments thereto, if received by Purchasing after the date and time specified for bid opening, will not be considered. It will be the responsibility of the bidder to see that their bid is received by Purchasing as specified. There will be no exceptions. Date of postmark will not be considered. Telephone, facsimile, electronic and verbal bids will not be accepted. Prices or changes shown on the outside of an envelope will not be considered in determination of low bid.
4. **City Hall Closure:** If City Hall is closed for business at the time scheduled for the bid opening, for whatever reasons, sealed bids will be accepted and opened on the next business day of the City, at the original scheduled hour.
5. **Acceptance of Bid:** Receipt of the bid by the City is not to be construed as an award or an order to ship.
6. **Offer/Acceptance:** Each bid is received with the understanding that the acceptance in writing by the City of the bidder to furnish any or all of the goods and/or services described therein, shall constitute a contract between the bidder and the City, which shall bind the bidder to furnish and deliver the goods and/or services quoted at the prices stated and in accordance with the conditions of the accepted bid; and the City on its part to order from such bidder, except for causes beyond reasonable control; and pay for, at the agreed prices, all goods and/or services specified and delivered.
7. **Withdrawal of Bids:** Bidder has the right to request withdrawal of their bids from consideration due to error by giving notice not later than two business days after the bids are publicly opened. Work papers showing evidence of error(s) may be required.

Bids may be withdrawn any time prior to the bid opening. Withdrawal of bids may be accomplished by submitting such request in writing on the issuing company's letterhead either in person or by certified mail.
8. **Addenda:** If issued, addenda to this solicitation will be posted on the Purchasing website (<http://www.suffolkva.us/bids/index.jsp>). It is the bidder's responsibility to check the website or to contact the Purchasing division prior to the submittal deadline to ensure

that the bidder has a complete, up-to-date package. Acknowledgement of all issued Addenda shall be indicated on the bid form in the appropriate spaces.

9. **Governing Document:** The solicitation document maintained by Purchasing in the bid file shall be considered the official copy. In the case of any inconsistency between bid documents submitted to the City, but not clearly listed as an exception, the language of the official copy shall prevail. Furthermore, any exception or change to the specifications made by the bidder may be cause to disqualify your bid.
10. **Award:** Award will be made to the lowest responsive and responsible bidder. The quality of the goods and/or services to be supplied, their conformity with the specifications, their suitability to the requirements, the delivery, qualifications and references will be taken into consideration in making the award. The City reserves the right to refuse all bids. Determination of low bid shall be determined by the audited figure shown on the pricing page titled 'TOTAL.' In case of error in the extension of prices, the unit price shall govern. The City reserves the exclusive right to award by line, group or in total.
11. **Negotiation:** Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted; except that if the bid from the lowest responsible bidder exceeds available funds, the City may negotiate with the apparent low bidder to obtain a contract price within the available funds.
12. **Announcements:** Upon the award or the announcement of the decision to award a contract, the City will publicly post such notice on the bulletin board located outside of the Purchasing Division and on the City's web site: (http://www.suffolkva.us/bids/bid_search_awarded.jsp)
13. **City's Rights:** The City reserves the right to reject any and all bids, and to waive any informality if it is determined to be in the best interest of the City.
14. **Cooperative Agreements:** If authorized by the bidder(s), the resultant contract(s) may be extended to any jurisdiction within the Commonwealth of Virginia to purchase at the contract prices in accordance with the contract terms. Any jurisdiction using such contracts shall place its own order(s) directly with the successful contractor(s). The City of Suffolk acts only as the contracting agent and is not responsible for placement of orders, payment, or discrepancies of the participating jurisdictions. It is the contractor's responsibility to notify the jurisdictions of the availability of contract(s).
15. **Prices:** ~~Prices shall be stated in units of quantity specified.~~ No additional charges shall be passed on to the City, including any applicable taxes, delivery, or surcharges. Prices quoted shall be the final cost to the City. In case of error in the extension of prices, the unit price shall govern.
16. **Corrections:** All prices and notations should be in ink or typewritten. Mistakes may be crossed out and corrections made in ink and must be initialed and dated by the person signing the bid.
17. **Delivery:** The time of delivery must be stated in definite terms. If time of delivery for different goods and/or services varies, the bidder shall so state.

18. **Samples:** Samples, when requested, must be furnished free of expense, and upon request, if not destroyed, will be returned at the bidder's risk and expense.
19. **Brand Names:** The use of the name of a manufacturer, brand, make or catalog designation in specifying an item shall restrict bidders to the manufacturer, brand, make or catalog designation identified, unless qualified by the provision "or approved equal". If qualified by the provision "or equal" the Brand Names are used simply to indicate the character, quality and/or performance equivalence of the goods and/or services desired. The goods and/or services on which bids are submitted must be of such character, quality and/or performance equivalence that it will serve as that specified. In submitting bids on goods and/or services other than as specified, bidder shall furnish complete data and identification with respect to the alternate goods and/or services that they propose to furnish. It shall be in the City's sole judgment if a substitute product offered is an approved equal and acceptable.
20. **Standard equipment:** Any equipment delivered must be standard, new and unused equipment, latest model, except as otherwise specifically stated in the bid. Where any part or the normal accessories of equipment is not described, it shall be understood that all the equipment and accessories that are usually provided in the manufacturer's stock model shall be furnished.
21. **Silence of Specifications:** The apparent silence of these specifications and any supplemental specifications as to any detail or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and correct type, size and design are to be used. All interpretations of these specifications shall be made on the basis of this statement.
22. **Capacity of bidder:** All bids must be signed by a responsible officer or employee having the authority to bind the firm in contract. The bidder agrees that its contract performance shall be in strict conformance with the contract documents.
23. **Rights to Damages:** By signing this bid, the bidder assigns to the City any and all rights that it may have under the antitrust laws of the United States and the Commonwealth of Virginia in any way arising from or pertaining to this bid. This provision is remedial in nature and is to be liberally construed by any court in favor of the City.
24. **Anti-collusion:** The bidder certifies by signing this Invitation of Bid that this bid is made without prior understanding, agreement, or accord with any other person or firm submitting a bid for the same goods and/or services and that this bid is in all respects bona fide, fair, and not the result of any act of fraud or collusion with another person or firm engaged in the same line of business or commerce. Any false statement hereunder may constitute a felony and can result in a fine and imprisonment, as well as civil damages.
25. **Indemnification:** The Contractor shall defend, indemnify and hold the City, and the City's employees, agents, and volunteers, harmless, from and against any and all damage claim, liability, cost, or expense (including, without limitation, attorney's fees and court costs) of every kind and nature (including, without limitation, those arising from any

injury or damage to any person, property or business) incurred by or claimed against the contractor, its employees, agents, and volunteers, or incurred by or claimed against the City, the City's employees, agents, and volunteers, arising out of, or in connection with, the performance of all services hereunder by the contractor. This indemnification and hold harmless includes, but is not limited to, any financial or other loss including, but not limited to, any adverse regulatory, agency or administrative sanction or civil penalties, incurred by the City due to the negligent, fraudulent or criminal acts of the contractor or any of the Contractor's officers, shareholders, employees, agents, contractors, subcontractors, or any other person or entity acting on behalf of the Contractor. Unless otherwise provided by law, the Contractor indemnification obligations hereunder shall not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the Contractor under worker's compensation acts, disability benefit acts, other employee benefit acts, or benefits payable under any insurance policy. This paragraph shall survive the termination of the contract including any renewal or extension thereof.

26. **Copyright Protection:** The Contractor agrees to defend and save the City, its agents, officials, and employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, or which the Contractor is not the patentee, assignee, or licensee, to the same extent as provided in the above paragraph.
27. **Laws, Regulations:** The Contractor shall keep fully informed of all federal, state, and local laws, ordinances and regulations that in any manner affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances and regulations.
28. **Alien employment:** The Contractor certifies that he does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ unauthorized aliens as defined in the federal Immigration Reform and Control Act of 1986, as amended.
29. **SCC Authorization:** All bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50, as amended, shall include 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, as amended, 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.

SCC Number, or Statement: _____

Any business entity that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1, or Title 50, as amended, to be revoked or cancelled at any time during the term of the contract. The City may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

30. **Contractor's License:** If any of the services promulgated under this solicitation consist of construction work, it is required under Title 54.1, Chapter 11, Code of Virginia, for a contractor who performs or manages construction, removal, repair, or improvement when the total value referred to in a single contract or project is:

One hundred twenty thousand dollars (\$120,000) or more, or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is seven hundred fifty thousand dollars (\$ 750,000) or more shall show evidence of being licensed as a Class A Contractor.

Ten thousand dollars (\$10,000) or more, but less than one hundred twenty thousand dollars (\$120,000) or the total value of all such construction, removal, repair, or improvement undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) or more, but less than seven hundred fifty thousand dollars (\$750,000) shall show evidence of being licensed as a Class B Contractor.

Over one thousand (\$1,000) but less than ten thousand (\$10,000), or the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) shall show evidence of being licensed as a Class C Contractor.

The City shall require master certification as a condition of licensure or certification of electrical, plumbing and heating, ventilation and air conditions contractors.

A valid business license from the City may be required. The bidder shall complete whichever of the following notations as appropriate:

"Licensed Class A Virginia Contractor Number _____."

"Licensed Class B Virginia Contractor Number _____."

"Licensed Class C Virginia Contractor Number _____."

31. **Payment Terms:** Payment terms shall be 'Net 30'days, from the date of Contractor invoice approval by the City.

Payment terms, if offered, shall not be considered in determining the low bidder.

Discount period, if offered, shall be computed from the date of proper receipt of the contractor's correct invoice, or from the date of acceptable receipt of the goods and/or services, whichever is latest.

The payment terms stated herein must appear on the contractor's invoice. Failure to comply with this requirement shall result in the invoice being returned to the contractor for correction.

Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act. (1% per month)
Contractor shall submit invoices in duplicate, such statement to include detailed breakdown of all charges, and shall be based on completion of tasks or deliverables.

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

The City prefers to make payment with the City's Purchasing Card. Typically this enables faster payments to the Contractor. Are you willing and able to accept this type of payment? Yes_____ No_____

32. **Default:** In event of default by the Contractor, the City reserves the right to procure the goods and/or services from other sources, and hold the Contractor liable for any excess cost occasioned thereby. Such actions taken by the City shall not release the contractor from additional remedies that may be allowed by law.
33. **Availability of Funds:** A contract shall be deemed in force only to the extent of appropriations available to each department for the purchase of such goods and/or services. The City's extended obligations on those contracts that envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following years.
34. **Appeals Procedure:** Upon your request, administrative appeals information will be provided that shall be used for hearing protests of a decision to award, or an award, appeals from refusal to allow withdrawal of bids, appeals from disqualification, appeals for debarment or suspension, or determination of non-responsibility and appeals from decision or disputes arising during the performance of a contract. To be timely all appeals shall be made within the time periods set forth by the Virginia Public Procurement Act, §2.2-4357, et seq. Contact the buyer at once for assistance.
35. **Faith-based Organizations:** The City of Suffolk does not discriminate against faith-based organizations.
36. **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:

1. During the performance of this contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability,

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.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of Section a, b, and c above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
37. **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.

38. **Assignment of Contract:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the City.
39. **Independent Contractor:** The Contractor and any employees, agents, or other persons or entities acting on behalf of the Contractor shall act in an independent capacity and not as officers, employees, or agents of the City.
40. **Scheduling and Delays:** The parties to any contract resultant of this solicitation acknowledge that all or part of the work to be performed hereunder may be delayed and extended at the option of the City. Such delays may be caused by delays, denials and modifications of the various state or federal permits, or for other reasons. The City shall not be required to pay any of the Contractor's direct or indirect costs, or claims for compensation, extended overhead, or other damage or consequential damages arising out of or related to any delays or interruptions required or ordered by the City. If the City

delays the project for any reason for a continuous period of ninety (90) days or more, the City and Contractor will negotiate a mutually agreeable adjustment to the Contractor's award amount. Notwithstanding the above, in construction contracts, to the extent that an unreasonable delay is caused by the act or omissions of the City due to causes within the City's control, the above waiver or release shall not apply.

41. **Governing Law:** 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.

42. **Severability:** If any provision of this contract or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this contract, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected hereby, and each provision of this contract shall be valid and enforced to the full extent permitted by law.
43. **Termination for Convenience:** The City may at any time, and for any reason, terminate this Contract by written notice to Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed.

Notice shall be given to Contractor by certified mail/return receipt requested at the address set forth in Contractor's Bid Proposal or as provided in this Contract. In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by the City, at the time of termination. If the City terminates this Contract, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to the City any work completed or in process for which payment has been made.

44. **Termination for Cause:** In the event that Contractor shall for any reason or through any cause be in default of the terms of this Contract, the City may give Contractor written notice of such default by certified mail/return receipt requested at the address set forth in Contractor's Bid/Proposal or as provided in this Contract.

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

Upon termination, Contractor shall withdraw its personnel and equipment, cease performance of any further work under the Contract, and turn over to the City any work in process for which payment has been made. In the event of violations of law, safety or health standards and regulations, this Contract may be immediately cancelled and

terminated by the City and provisions herein with respect to opportunity to cure default shall not be applicable.

45. **Contact Prohibition:** Direct contact with City departments other than Purchasing, on the subject of this bid is expressly forbidden except with the foreknowledge and permission of the Contract Officer. Violation may result in a determination that your firm is ineligible for an award.

All questions shall be in writing to the Contract Officer shown on the title page of the bid. The respondents to this IFB shall not contact, either directly or indirectly, any other employee or agent of the City regarding this IFB. This prohibition shall also extend to the Suffolk City Council and locally elected officials. Any such unauthorized contact may disqualify the bidder from this procurement.

46. **Additional Conditions:** The Conditions and Instructions in this solicitation are intended to apply to the resulting contract and shall supersede any conflicting terms offered. Any additional conditions a bidder intends be considered must be submitted with the bid and noted as an exception. Such exceptions may result in a finding that the submittal is 'non-responsive' to the bid, negating possibility of an award to that bidder. Contractual documents submitted by the successful firm after an award will not be accepted.
47. **Contractor Failure to Perform:** Failure of the Contractor to perform the contract by reason of the City's non-acceptance of additional conditions submitted after the award shall result in termination of the contract by the City, and may result in debarment of the Contractor for a period of up to three (3) years. Termination and /or debarment of the Contractor shall not constitute a waiver by the City of any other rights or remedies available to the City by law or contract.
48. **Conflict:** In the event of a conflict between the contract documents, including these Conditions and Instructions, and the terms of a purchase order or related document issued by Purchasing, the contract documents shall control.
49. **Records and Inspection:** The Contractor shall maintain full and accurate records with respect to all matters covered under this contract, including, without limitation, accounting records, written policies, procedures, time records, telephone records, and any other supporting evidence used to memorialize, reflect, and substantiate charges or fees related to this contract. The Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the City and its employees, agents or authorized representatives after giving at least three (3) days notice to the Contractor by the City. The City shall have access to such records from the effective date of this contract, for the duration of the contract, and for five (5) years after the date of final payment by the City to the Contractor pursuant to this contract or any renewal or extension of this contract. The City's employees, agents or authorized representatives shall have access to the Contractor's facilities, shall have access to all necessary records and shall be provided adequate and appropriate work space, in order to conduct audits.
50. **Rights and Remedies Not Waived:** In no event shall the making by the City of any payment to the Contractor, or the waiver by the City of any provision under this contract including any obligation of the Contractor, constitute or be construed as a waiver by the City of any other provision, obligation, breach of covenant, or any default which may

exist under this contract on the part of the Contractor, and the making of any such payment by the City while any such breach or default exists shall not impair or prejudice any right or remedies available to the City.

51. **Entire Agreement:** This contract and any additional or supplementary documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto. This contract shall not be modified, altered, changed or amended unless in writing and signed by the parties hereto.
52. **Conflicts of Interests:** 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.
53. **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.
54. **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.

55. **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 upon request.
56. **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.
57. **Safety:** All Contractors and subcontractors 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.

58. **License Requirement:** All firms doing business in the City of Suffolk are required to be licensed in accordance with the City of Suffolk business license ordinance. Wholesale and retail merchants without a business location in the City of Suffolk are exempt from this requirement. Any questions concerning business licenses should be directed to the Commissioner of the Revenue's Office, telephone (757) 514-4260.
59. **Contractor's Form:** In cases where the City may accept the Contractor's form agreement, whereas certain standard clauses that may appear in the Contractor's form agreement cannot be accepted by the City, and in consideration of the convenience of using that form, and this form, without the necessity of negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor's form contract, the City's contract addendum shall prevail over the terms of the Contractor's agreement in the event of a conflict.
60. **Bidder Qualifications:** Only bids from established contractors for work similar in scope to work herein shall be considered; the City reserves the right to request specific reference information prior to award. Bidder shall demonstrate that he has adequate and appropriate manpower, tools and equipment to respond and perform in accordance with the provisions herein. The City may, at its option, disqualify a bidder and reject his bid for cause. Reasons deemed to be sufficient for this action shall include, but not be limited to, the following:
- Evidence of collusion among bidders.
 - Receipt of more than one bid on any project from an individual, or from a corporation. This restriction does not apply to subcontractors
 - Default on any previous contract.
 - For unreasonable failure to complete a previous contract within the specified time or for being in arrears on an existing contract without reasonable cause for being in arrears.
 - Inability to perform as revealed by an investigation of the Bidder's financial statement, experience and/or plant and equipment.
 - Contractor does not meet project-specific requirements, as identified in the Contract Documents
61. **Pricing to be F.O.B. Destination – Freight Allowed:** Pricing shall be F.O.B. destination-freight included for all competitive bids. F.O.B. Destination-Freight Included shall include all shipping costs to the City location(s) at the unit cost. No additional shipping charges shall be allowed.
62. **Contract Quantities:** The quantities specified in the Invitation for Bid are estimates only unless otherwise clearly noted, and are given for the information of bidders and for the purpose of bid evaluation. They do not indicate the actual quantity that will be required, since such volume will depend upon requirements that may develop during the contract period. Quantities shown shall not be construed to represent any amount which the City shall be obligated to purchase under the contract, or relieve the contractor of his obligation to fill all orders placed by the City, except as clearly noted.

63. **Competition Intended:** It is the City's intent that the Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the Buyer in writing if any language requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by the Contract Officer prior to the date set for bids to close.
64. **Default on Taxes:** No bid or proposal will be accepted from, or any Contract awarded to, any person, firm, or corporation that is in arrears, or 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.