



# **CITY OF SUFFOLK**

## **PURCHASING DIVISION**

P.O. BOX 1858, SUFFOLK, VA, 23439-1858, T: (757) 514-7520; FAX (757) 514-7524

# **REQUEST FOR PROPOSAL**

**TITLE:** Fireworks Display

**ACCEPTANCE DATE:** Prior to 5:00 p.m. – February 6, 2013 “Eastern Standard Time”

**RFP NUMBER:** 2013-00069-CN

**ACCEPTANCE PLACE:** Department of Finance  
Purchasing Division, Room 105  
441 Market Street  
Suffolk, Virginia 23434

**BID OPENING  
LOCATION:** Purchasing Division Conference Room  
441 Market Street, Room 105

Requests for information related to this Invitation should be directed to:

Cindy L. Norfleet, CPPB  
Senior Buyer  
(757) 514-7522  
Email address: [cnorfleet@suffolkva.us](mailto:cnorfleet@suffolkva.us)

This document can be downloaded from our web site: [www.suffolkva.us/bids/index.jsp](http://www.suffolkva.us/bids/index.jsp)

Issue Date: January 16, 2013

IF YOU NEED ANY REASONABLE ACCOMMODATION FOR ANY TYPE OF DISABILITY IN ORDER TO PARTICIPATE IN THIS PROCUREMENT, PLEASE CONTACT THIS DIVISION AS SOON AS POSSIBLE. If you have obtained this bid document from the City's website or a source other than the City of Suffolk, contact the Purchasing Division prior to submitting your proposal to ensure that a complete up-to-date package has been received. The Purchasing Division is not responsible for providing addenda if the vendor is not listed as a prospective bidder.

# REQUEST FOR PROPOSAL

## Fireworks Display

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Prepared by Cindy Norfleet, CPPB, Buyer II

Date: January 16, 2013

## 1.0 PURPOSE

The intent and purpose of this Request for Proposal is to obtain firm fixed pricing from qualified, licensed contractors having at least five (5) years experience in providing fireworks to create/produce the annual Fourth of July displays for the City's Department of Parks and Recreation.

The first display is scheduled for July 4, 2013 at the Constant's Wharf Park and Marina site, 100 E. Constance Road, Suffolk, Virginia or other site(s) as approved by the City and the Contractor. ***The City anticipates awarding a contract for the July 2013 display with two (2) additional renewal options for the July 2014 and July 2015 events.***

As an option, other City departments may utilize the contract for similar displays during the contract period at a time and location acceptable to both parties. Pricing for each display, other than Fourth of July events, will be negotiated.

## 2.0 BACKGROUND

The City's Parks and Recreation Department has been hosting fireworks displays for approximately twenty (23) years at various locations. The first fireworks display was held at the Constant's Wharf site, and later re-located to Sleepy Hole Park and the Peanut Fest Site at the Airport, returning in 2007 to the Constant's Wharf Park and Marina. Each year, roughly four to five thousand (4000 – 5000) people attend this event.

## 3.0 COMPETITION INTENDED

It is the City's intent that this Request for Proposal (RFP) permits competition. It shall be the offeror'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 RFP to a single source. Such notification must be received by the Purchasing Agent not later than five (5) days prior to the date set for bids to close.

## 4.0 SCOPE OF SERVICES

All proposals must be made based on the criteria established herein; displays must meet or exceed these requirements. All offerors must be able to provide the following:

### A. General

The fireworks display shall be held each Fourth of July at a site approved by both the City and the Contractor commencing at 9 p.m., or at another agreed upon time, with a continuous display lasting fifteen (15) minutes as a minimum. The Contractor shall be required to provide a quality, nonchoreographed display design using a wide variety of top quality shells and special effects.

Display/program shall include, as a minimum requirement, the following fireworks:

OPENING:	40 Each	3-Inch Shells
	2 Each	4-Inch Shells
	2 Each	5-Inch Shells
	1 Each	6-Inch Shell

BODY:	70 Each	3-Inch Shells
	80 Each	4-Inch Shells
	46 Each	5-Inch Shells
	24 Each	6-Inch Shells
	4 Each	8-Inch Shells

GRAND FINALE:

	300 Each	3-Inch Shells
	2 Each	5-Inch Shells
	1 Each	6-Inch Shells

Above description conveys the size, quantity, and quality of materials desired for this display. The Contractor is encouraged to provide his/her own unique Fourth of July program as long as quality and quantity of materials are equal to that listed above. Submit a copy of your proposed program with the proposal to include a list of materials, sequence of events, and approximate time requirements.

The Contractor shall package all special effects shells, lingering effects shells, and multi-break shells together. Each shell shall be specifically labeled for easy review and identification by the City representatives. The Contractor may not substitute shells for those listed in their proposal without prior written approval of the City.

The display will be fired at least 1,000 feet from any spectator area. The firing time shall be approximately 9 p.m., dependent upon darkness and weather conditions.

Fireworks shall be fired from a nearby barge for the 2013 Fourth of July Celebration.

B. Equipment

The Contractor shall provide necessary safety equipment, and all tools and materials, including, but not limited to, mortar racks, containers, sand, lumber, stakes, etc., which may be required for the firing of the display.

Fire extinguishers of appropriate classification and approved as operational shall be accessible and in plain view from the time the fireworks arrive on site until all fireworks are completely removed from the site.

Products and services not specifically mentioned in this Request for Proposal, but which are necessary to provide the functional capabilities described by the offeror, shall be included in this requirement.

C. Condition of Firing Site

The Contractor shall be responsible for removing all firing materials, debris, packing materials, etc, and for filling all holes utilized for firing of the displays. All holes left unattended as a result of a postponement of the display shall be marked with safety ribbon or cones.

Removal of all materials shall be completed within three (3) hours after the firing of the display. The Contractor shall walk the fallout zone of the fireworks site at the end of the show and shall be responsible for the removal of any unexploded shells and to assist in the cleanup of debris.

The Contractor shall provide ground protection to minimize damage to the area caused by the firing shells.

D. Set Up and Discharge

The Contractor shall be responsible for completely supervising and directing the setup and discharge of the fireworks displays using his best skills and attention.

The Contractor shall ensure the security of the fireworks and firing materials at all times.

All unfired fireworks shall be covered or protected during firing. Any shell not properly fired shall be disposed of in a safe manner approved by the City's fire official.

E. Inclement Weather/Postponement of Display

In the event of inclement weather on July 4<sup>th</sup>, the show may be postponed until the following day, July 5<sup>th</sup>, or on another date selected and approved by both the City and the Contractor.

The decision to postpone the fireworks display due to inclement weather shall be made by the Director of the Department of Parks and Recreation or her designated personnel.

F. Permits and Licensing

The Contractor shall be responsible for obtaining all licenses and permits as required by the City, State, and Federal government.

The Contractor shall be responsible for applying and obtaining an application for the display from the City's Manager's Office not less than thirty (30) days prior to the event. Such application shall include the following information:

- 1) Name and address of applicant
- 2) Date, time, and location of display
- 3) The name of the person who will operate the actual display
- 4) A statement that the applicant will assume full liability for any injuries to any person or damages to any property that may be caused by the negligence of any person involved in the display, and that the applicant will hold the City harmless from all claims for injuries or damages. An insurance policy or surety bond may be required whenever the applicant fails to satisfy the City Manager of its financial ability to satisfy possible claims.

G. Personnel

The Chief Pyrotechnician in charge of firing the display shall be at least twenty-six (26) years of age with a minimum of five (5) years experience performing similar displays and shall have fired a minimum of six (6) displays in the past eighteen (18) months. This position is considered key personnel.

The Contractor may not change the pyrotechnician after award of the show(s). If personnel changes need to be made, the Contractor shall submit the resume of the proposed personnel for City approval.

All other assistants shall be at least eighteen (18) years of age.

A minimum staff of two (2) people shall be provided for each display.

H. Miscellaneous

Prior to providing any fireworks display, the Contractor shall be required to make an on-site inspection of the location where the work will be performed to become completely familiar with the existing conditions.

The fireworks displays shall be conducted in accordance with the National Fire Protection Association Standard 1123-1990, Public Display of Fireworks; the City of Suffolk's City Code Section 38, Article 5; the Virginia Statewide Fire Prevention Code; and the International Fire Code, 2000 edition.

I. Responsibility of the City of Suffolk

The City shall accept neither responsibility nor liability in connection with the storage of fireworks and/or firing materials.

The City will provide personnel at the fireworks site for crowd control and site security.

The City will provide adequate security personnel/protection to preclude all individuals other than those authorized by the Contractor from entering the security area. Prior to, during, and immediately following the display, the City will furnish and set up restraining lines for keeping all persons out of the danger area and behind the safety zone lines pursuant to the instructions supplied by the Contractor and in compliance with all rules, orders, and regulations of the National Fire Protection Association.

Spectator viewing, parking, dwellings, and fallout area shall be in compliance with the National Fire Protection Agency (NFPA) 1123 code for the Outdoor Display of Fireworks, as amended.

A representative from the Suffolk Fire Department will conduct inspection and inventory of the fireworks shells prior to the display. A representative from the Department of Neighborhood Development Services will check that the proper licensing and certifications have been obtained.

## **5.0 INSTRUCTIONS FOR SUBMITTING PROPOSALS**

### **5.1 Submission of Proposals**

Read the entire solicitation before submitting a proposal. Failure to read any part of this RFP shall not relieve any offeror from his or her contractual obligations. Be sure proposal container is completely and properly identified. The face of the container shall indicate the RFP number, time and date of acceptance, and the title of the RFP. It is the bidder's responsibility to ensure the proposal is received prior to the acceptance time. The "official" time of acceptance shall be "date stamped" upon receipt of the bid package in the Purchasing Division office. Proposals may either be mailed to: P.O. Box 1858, Suffolk, Virginia 23439 or hand delivered to 441 Market Street, Room 105, Suffolk, Virginia 23434.

### **5.2 Questions and Inquiries**

Questions and inquiries, both verbal and written, will be accepted from any and all firms. Inquires pertaining to Request for Proposals must give RFP number, title and acceptance date. Material questions will be answered in writing and will be distributed to all firms who receive the RFP provided, that all questions are received five (5) days prior to opening date.

The Senior Buyer, Cindy Norfleet, is the designated authorized spokesperson for the City of Suffolk with respect to this RFP. Accordingly all questions and/or comments should be directed to the Buyer's attention. The respondents to this RFP shall not contact, either directly or indirectly, any other employee or agent of the City regarding this RFP. This prohibition shall also extend to the Suffolk City Council and other elected City officials. Any such unauthorized contact may disqualify the offeror from the procurement.

### 5.3 Addendum and Supplement to Request

If it becomes necessary to revise any part of this request or if additional data are necessary to enable an exact interpretation of provisions of this request, an addendum will be issued. It is the responsibility of the offeror to ensure that he has received all addendums prior to submitting a proposal. All addenda can be downloaded from [www.suffolk.va.us](http://www.suffolk.va.us).

### 5.4 Firm Pricing for City Acceptance

Proposal pricing must be firm for City acceptance for 120 days from proposal receipt date.

### 5.5 Proprietary Information

Trade secrets or proprietary information submitted by an offeror in connection with this solicitation shall not be subject to disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of this section prior to or upon submission of the data or other materials, and must clearly identify the data or other materials to be protected and state the reasons why protection is necessary. Offerors shall not mark sections of their proposal as proprietary if they are to be part of the award of the contract and are of a "Material" nature. Any propriety information must be listed on the attached "Proprietary/confidential Information Identification" form and submitted with the proposal.

### 5.6 Authority to Bind Firm in Contract

Proposals MUST give full firm name and address of offeror. Failure to manually sign proposal may disqualify it. Person signing proposal should show TITLE or AUTHORITY TO BIND HIS FIRM IN A CONTRACT. Firm name and authorized signature must appear on proposal in the space provided on the pricing page.

### 5.7 Preparation and Submission of Proposals

- a. All proposals shall be signed in ink by the individual or authorized principals of the firm.
- b. All attachments to the Request for Proposal requiring executing by the firm are to be returned with the proposals.
- c. Proposals are to be returned in a sealed container. The face of the container shall indicate the RFP number, time and date of public acceptance, and the title of the proposal.
- d. It is the Offeror's responsibility that the proposals are received by the Purchasing Division BEFORE the hour specified on the opening date. Requests for extensions of this time and date will not be granted.



Firms mailing their proposals shall allow for normal mail time to ensure receipt of their proposals by the Purchasing Division prior to the time and date fixed for acceptance of the proposals. Proposals or unsolicited amendments to proposals received by the City after the acceptance date will not be considered. Proposals will be publicly accepted and logged in at the time and date specified above.

- e. Each firm shall submit **one (1) original and three (3) copies** of their proposal to the City's Purchasing Division as indicated on the cover sheet of this Request for Proposal. The original proposal shall be clearly marked.

One electronic original copy shall be included in the proposal package.

A redacted original and electronic copy shall also be included in the proposal package. All information marked proprietary shall be removed from the original and electronic redacted copies.

#### 5.8 Withdrawal of Proposals

- a. All proposals submitted shall be valid for a minimum period of one hundred twenty (120) calendar days following the date established for acceptance.
- b. Proposals may be withdrawn on written request from the offeror at the address shown in the solicitation prior to the time of acceptance.
- c. Negligence on the part of the offeror in preparing the proposal confers no right of withdrawal after the time fixed for the acceptance of the proposals.

#### 5.9 Registering of Corporation

Any corporation transacting business in Virginia shall secure a certificate of authority, as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission (SCC), PO Box 1197, Richmond, VA. The SCC may be reached at (804) 371-9733.

#### 510 Late Proposals

LATE proposals will be returned to offeror UNOPENED, if RFP number, acceptance date and offeror's return address is shown on the container. It is the offeror's responsibility to insure arrival prior to the acceptance time for the RFP.

#### 5.11 Rights of the City

The City reserves the right to accept or reject all or any part of any proposal, waive informalities and award the contract to best serve the interest of the City.

#### 5.12 Deviations from Scope of Services

If there is any deviation from that prescribed in the scope of services, the appropriate line in the scope of services shall be ruled out and the substitution clearly indicated. The City reserves the right to determine the responsiveness of any deviation.

#### 5.13 Miscellaneous Requirements

- a. The City will not be responsible for any expenses incurred by a firm in preparing and submitting a proposal. All proposals shall provide a straightforward, concise delineation of the firm's capabilities to satisfy the requirements of this request. Emphasis should be on completeness and clarity of content.
- b. Offerors who submit a proposal in response to this RFP may be required to make an oral presentation of their proposal. The Purchasing Division will schedule the time and location for this presentation.
- c. The contents of the proposal submitted by the successful offeror and this RFP will become part of any contract awarded as a result of the Scope of Services contained herein. The successful firm will be expected to sign a contract with the City.

The City reserves the right to reject any and all proposals received by reason of this request, or to negotiate separately in any manner necessary to serve the best interests of the City.

#### 5.14 Announcement of Award

A Notice of Award will be posted on the City's web site [www.suffolkva.us](http://www.suffolkva.us) and on the bulletin board located in the Purchasing Division, Room 105, 441 Market Street, Suffolk, Virginia.

#### 5.15 Protest

Offerors may refer to Sections 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process.

#### 5.16 Inclement Weather/Closure Of City Hall

If City Hall is closed for business at the time scheduled for bid opening, for whatever reason, sealed bids will be accepted and opened on the next scheduled business day, at the originally scheduled time.

#### 5.17 Use of Contract by Other Public Bodies

Bidders are advised that the resultant contract may be extended, with the authorization of the Bidder, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same

prices and/or discounts and terms and conditions of the resulting contract. If any other public body decides to use the final contract, the Contractor shall deal directly with the public body concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing and payment. The City of Suffolk acts only as the "Contracting Agent" for these public bodies. Failure to extend a contract to a public body will have no effect on consideration of your bid.

It is the Contractor's responsibility to notify the public body(s) of the availability of the contract(s).

Other public bodies desiring to use the contract shall make their own legal determination as to whether the use of this contract is consistent with their laws, regulations and other policies.

Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contract terms and conditions. If, when preparing such a contract, the general

terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of the award to that public body.

The City of Suffolk shall not be held liable for any costs or damages incurred by another public body as a result of any award extended to that public body by the Contractor.

#### 5.18 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.

### **6.0 SPECIFIC PROPOSAL REQUIREMENTS**

Proposals should be as thorough and detailed as necessary to allow the City of Suffolk to properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following items in the format provided as a complete proposal:

Bid documentation shall facilitate compliance with competitive sealed proposals in accordance with the Virginia Public Procurement Act.

#### 6.1 Signature Sheet and Cover Letter

The Offeror shall complete and submit the Signature Sheet (included in the proposal) and submit it with a brief cover letter. The cover letter should summarize key elements of the proposal. An individual authorized to bind the Contractor must sign the letter and Signature Sheet, as well. The letter must

stipulate that the proposal price(s) will be valid for a period of at least 120 days. Indicate the address and telephone number of the Contractor's office.

#### 6.2 Credentials and Experience

- a. Provide a brief summary of the history of your company, including number of years of experience.
- b. List three (3) current references for whom comparable work has been performed. This list shall include company name, person to contact, address, and telephone number.
- c. Provide the resume of the Chief Pyrotechnician to be assigned to the display(s). Provide information pertaining to the staffing for each display/event, to include number of employees present, work experience, and the role of each in the presentation.
- d. Provide a sample video tape of comparable fireworks displays your organization has provided in the last two (2) years.

#### 6.3 Presentation/Display Plan

- a. Submit a narrative description for the proposed fireworks display, which includes the order in which shells are to be fired, as well as the size and types to be used.

Narrative shall include three (3) different show levels, starting with a basic presentation, followed by an upgraded presentation, and culminating with a more advanced display, increasing the number and/or type of shells fired for each level. Each level of display described shall be for a fifteen (15) minute presentation.

Include a separate price for each level of display. Price provided shall include a lump sum price or percentage of increase for each July 4<sup>th</sup> production through 2015.

- b. Supply a breakdown of all shells to be used by size and description, as well as a price per shell.
- c. Provide a plan/explanation showing how display/materials, etc. will be protected from inclement weather prior to and during the performance.

#### 6.4 Cost of Services

- a. Provide an overall price/lump sum total per show for each of the three (3) levels described in your proposal. Include any escalation in price for the 2014 and 2015 productions/displays.
- b. Provide a breakdown of price per shell

- c. Does the offeror have any rescheduling or cancellation fees? Please provide copies of your organization's policies on these items.

## **7.0 EVALUATION AND AWARD CRITERIA**

The City's Evaluation Committee shall review each proposal and verify the claims and credentials of each Offeror. Two (2) or more Offerors deemed to be fully qualified and best suited among those submitting proposals will be selected for interview based on the criteria listed below:

- Credentials and related experience of organization and personnel assigned to the project (weigh 3.0)
- Appropriateness and suitability of presentation/display plan(s) for the intended purpose (weight 4.0)
- Cost of Services (weight 2.0)
- Completeness of proposal (weight 1.0 points)

Negotiations shall then be conducted with each of the Offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror, the City shall select the Offeror which, in its opinion, has made the best proposal, and will award the contract to that Offeror. Should the City determine, in its sole discretion, that one Offeror is qualified, or that one Offeror is clearly more highly qualified than the other under consideration, a contract may be negotiated and awarded to that Offeror. The City of Suffolk is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous.

The successful firm will be expected to sign a contract with the City of Suffolk in substantial accordance with the attached Proposed Agreement. The successful firm shall execute and return the contract documents to the City within ten (10) days of receipt. The City reserves the right to include additional terms and provisions, as negotiated.

## **8.0 CONTRACT TERMS AND CONDITIONS**

### **8.1 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.

### **8.2 Insurance**

The successful bidder shall procure, maintain, and provide proof of, insurance coverage's for injuries to persons and/or property damage as may arise from or in conjunction with, the work performed on behalf of the City by the bidder, his agents, representatives, employees or subcontractors. Proof of coverage as contained herein shall consist of all policies, endorsements, declaration pages

and certificates of insurance and shall be submitted fifteen (15) days prior to the commencement of work, and such coverage shall be maintained by the offeror for the duration of the contract period; for occurrence policies. Claims made policies must be in force or that coverage purchased for three (3) years after delivery date.

a. General Liability

Coverage shall be as broad as: Comprehensive General Liability endorsed to include Broad Form, Commercial General Liability form including Products/Completed Operations.

1. Minimum Limits

General Liability:

\$2,000,000 General Aggregate Limit  
\$1,000,000 Products & Completed Operations  
\$1,000,000 Personal and Advertising Injury  
\$1,000,000 Each Occurrence Limit  
\$1,000,000 Fire Damage Limit  
\$ 500,000 Medical Expense Limit

b. Workers' Compensation

Limits as required by the Workers' Compensation Act of Virginia. Employers Liability, \$1,000,000.

c. Umbrella/Excess Liability

\$2,000,000 umbrella/excess liability coverage

d. Coverage Provisions

1. All deductibles or self-insured retention shall appear on the declaration pages, endorsements, and/or policies provided.
2. The City of Suffolk, its' officers/officials, employees, agents and volunteers shall be added as "additional insured" as their interests may appear. A copy of all endorsements, declaration pages, and policies that address additional insured shall be provided. This provision does not apply to Professional Liability or Workers' Compensation/Employers' Liability.
3. The offeror's insurance shall be primary over any applicable insurance or self-insurance maintained by the City.
4. Shall provide thirty (30) days written notice to the City before any cancellation, suspension, or void of coverage in whole or part, where such provision is reasonable.
5. All coverages for subcontractors of the offeror shall be subject to all of the requirements stated herein.

6. All deductibles or self-insured retention shall appear on the declaration page(s), endorsement(s), and/or policies and shall be subject to approval by the City. At the option of the City, either; the insurer shall reduce or eliminate such deductible or self-insured retention; or the offeror shall be required to procure a bond guaranteeing payment of losses and related claims expenses.
7. Failure to comply with any reporting provisions of the policy(s) shall not affect coverage provided the City, its' officers/officials, agents, employees and volunteers.
8. The insurer shall agree to waive all rights of subrogation against the City, its' officers/officials, agents, employees or volunteers for any act, omission or condition of premises which the parties may be held liable by reason of negligence.
9. The offeror shall furnish the City with all certificates of insurance, endorsements, declaration pages, and policies affecting coverage. All documents are to be signed by a person authorized by the insurance company(s) to bind coverage on its' behalf, if executed by a broker, notarized copy of authorization to bind, or certify coverage must be attached.
10. All insurance shall be placed with insurers maintaining an A.M. Best rating of no less than an A:VII. If A.M. Best rating is less than A:VII, approval must be received from City's Risk Officer.
11. All coverage's designated herein shall be as broad as the Insurance Services Office (ISO) forms filed for use with the Commonwealth of Virginia.

All coverages designated herein shall be as broad as the Insurance Services Office (ISO) forms filed for use with the Commonwealth of Virginia.

### 8.3 Hold Harmless Clause

The Contractor shall, during the term of the contract, indemnify, defend 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.

### 8.4 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 No. 1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

#### 8.5 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)



8.6 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.

8.7 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.

8.8 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 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.

8.9 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.

8.10 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.

8.11 Faith Based Organization

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

8.12 Substitutions

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

8.13 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. Unless otherwise provided, interest on the payment shall not exceed the rate of one percent (1%) per month.

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

8.14 Payments to Subcontractors

Within seven (7) days after receipt of monies paid by the City for work performed by a subcontractor under this contract, the contractor shall either:

- a. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under this contract; or
- b. Notify the City and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item b above.

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

8.15 Assignment of Contract

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

8.16 Termination without Cause

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.

8.17 Termination with Cause/Default/Cancellation

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.

8.18 Non Appropriation – Availability of Funds

It is understood and agreed between the parties hereto that the City shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this Contract. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this Contract, the City shall immediately notify Contractor of such occurrence and this

Contract shall terminate on the last day of the fiscal year for which (an) appropriation(s) (was) were received without penalty or expense to the City of any kind whatsoever.

8.19 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.

8.20 Controlling Law; Venue, Pending/During Litigation

This contract 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 contract, the parties agree to the exclusive jurisdiction and venue of the appropriate state court for 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 pending litigation or during litigation proceedings, except with the express, written consent of the City or by written instruction/order from the Court.

8.21 Compliance with State Law; Foreign and Domestic Business authorized to Transact Business in the Commonwealth (VPPA §2.2 – 4311.2)

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.

8.22 Waiver

The failure by one party to require performance of any provision of this contract shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of the contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

# **SIGNATURE SHEET**

***(Submit with Proposal)***

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth.

My signature also certifies that the accompanying proposal is not the result of, or affected by, any unlawful act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under Title 18.2, Chapter 12, Article 1.1 of the Code of Virginia, 1950, as amended. Furthermore, I understand that fraud and unlawful collusion are crimes under the Virginia Governmental Frauds Act, the Virginia Government Bid Rigging Act, and Virginia Antitrust Act, and Federal Law, and can result in fines, prison sentences, and civil damage awards.

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 Suffolk 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 Suffolk, 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 Suffolk.

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

**Complete Legal Name of Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Federal ID No.:** \_\_\_\_\_ **Telephone No.** \_\_\_\_\_ **Fax No.** \_\_\_\_\_

**Name (type/print):** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_









**PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA**

THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL/BID, FAILURE TO INCLUDE THIS FORM MAY RESULT IN REJECTION OF YOUR PROPOSAL/BID

Pursuant to Virginia Code §2.2-4311.2 an Offeror/Bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its proposal/bid the identification number issued to it by the State Corporation Commission (“SCC”). Any Offeror/Bidder 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 of the Code of Virginia or as otherwise required by law shall include in its proposal/bid a statement describing why the Offeror/Bidder is not required to be so authorized. Any Offeror/Bidder described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures establish to implement this section is granted by the City Manager, as applicable.

If this quote for goods or services is accepted by the City of Suffolk, Virginia the undersigned agrees that the requirements of the Code of Virginia Section §2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information.

A. \_\_\_\_\_ Offeror/Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such vendor’s Identification Number issued to it by the SCC is \_\_\_\_\_.

B. \_\_\_\_\_ Offeror/Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such vendor’s identification Number issued to it by the SCC is \_\_\_\_\_.

C. \_\_\_\_\_ Offeror/Bidder does not have an Identification Number issued to it by the SCC such vendor is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

**Please attach additional sheets if you need to explain why such Offeror/Bidder is not required to be authorized to transact business in Virginia.**

\_\_\_\_\_  
Legal Name of Company (as listed on W-9)

\_\_\_\_\_  
Legal Name of Offeror/Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print or Type Name and Title