

REQUEST FOR PROPOSAL



ROOF REPLACEMENT

GEN-RFP-2013-01

July 02, 2012

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Section I: GENERAL INFORMATION

Purpose of Proposal:

The purpose of this RFP is for the installation of a new “cool” roof over the existing roof of the HRPDC Regional Office Building located at 723 Woodlake Drive, Chesapeake, VA 23320

Number of pages allowed:

25 pages, 8.5” x 11”, 12 point type, exclusive of resumes of key personnel, but inclusive of tabs, tables, graphics, or other items.

Electronic copy limited to 5MB, in .pdf format.

Date Proposal submission is due:

Proposal must be submitted by 3:00 PM EST, Friday, August 3, 2012.

Name and Address to send submission:

Printed copies to:

Nancy K. Collins
CFO/Procurement Officer
HRPDC
Regional Building
723 Woodlake Drive
Chesapeake, VA 23320

Electronic copy to:

ncollins@hrpdcva.gov

Listing of dates, times, and places for:

Pre-proposal Conference

Monday, 07/09/12 at 9:00 AM EST
In the Regional Building, HRPDC, 723 Woodlake Drive, Chesapeake, VA 23320

Last day questions will be accepted for response:

Wednesday, 07/11/12 by 4:30 PM EST

Answers to be posted:

Friday, 07/13/12 by 11:00 AM EST

Proposals will be accepted until:

Friday, 08/03/12 by 3:00 PM EST

Potential vendors will be notified of upcoming interview by:

Friday, 08/17/12

Potential Interviews will be held at the Regional Building on:

Monday, 08/27/12 between 1:00PM and 3:00PM EST

Potential Date of Award:

Monday, 09/10/12

Proprietary Information

Proposers are advised that Title 2.2 Subtitle II Part B Chapter 43 (specifically Section 2.2-4342) of the Code of Virginia, 1950, as amended, shall govern public inspection of all records submitted by Proposer. Furthermore, **proprietary information shall be submitted with the RFP printed packages under separate cover, or in a separate email attachment on the electronic submission, and both marked 'proprietary'**. Information not submitted under separate cover and not labeled proprietary shall be Public Information in accordance with State Statutes.

Authorized Contract Users

State Agencies, Institutions of Higher Education, Public Bodies, Community Service Boards, Towns, Cities, Counties, and other entities are authorized to use this contract in accordance with the Code of Virginia.

Disadvantaged Business Enterprises and Disadvantaged Minority Business Enterprises

The HRPDC operates in accordance with *Title VI of the Civil Rights Act of 1964, 78 stat. 252 US C 2000d-2004d-4* and *Title 49 CFR, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation.* Minority business enterprises will be afforded full opportunity to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

It is the policy of the HRPDC that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms, is maintained on their web site (<http://www.dmb.e.state.va.us/>) under the DBE Directory of Certified Vendors. Proposers are encouraged to take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the proposer intends to subcontract a portion of the services on the project, the proposer is encouraged to seek out and consider DBEs as potential sub-proposers. The proposer is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a proposer and a DBE whereby the DBE promises not to provide services to other proposers is prohibited. HRPDC believes that these services support 10% DBE participation. If a DBE is not certified, the DBE must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If a DBE is the prime proposer, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE sub-proposers. DBE prime proposers are encouraged to make the same outreach efforts as other proposers. DBE credit will be awarded only for work actually being performed by the DBE themselves. When a DBE prime proposer, or sub-proposer, subcontracts work to another firm, the work counts toward DBE goals only if the other firm is itself a DBE. A DBE must perform or exercise responsibility for at least 30% of the total cost of the contract with its own force.

Certification of Eligibility: A signed statement on your letterhead stating that: "The firm is not ineligible to receive award of a contract due to the firm's inclusion on any Federal

ore Virginia State lists of debarred contractors, or otherwise ineligible to be awarded a contract using Federal or State funds.”

Section II: INSTRUCTIONS TO PROPOSERS

Receipt of Proposals:

Proposals will be accepted by the receptionist at the Hampton Roads Planning District Commission's Regional Office Building, 723 Woodlake Drive, Chesapeake, Virginia 23320 until 3:00 PM Eastern Standard Time (EST) on *Friday, 08/03/12*, in accordance with the specifications attached and the other terms and conditions set forth herein. Proposals may also be e-mailed to: ncollins@hrpdcva.gov by the same date and time established above.

Intent of Contract:

The primary objective is to install a new "cool" roof over the existing roof at the HRPDC building located at 723 Woodlake Drive, Chesapeake, VA 23320.

Proposer's Responsibility:

Proposers shall examine this RFP, shall exercise their own judgment as to the nature of the whole of the work to be done, and must assume all risk for any computations or statements made in completing the proposal.

Contract Amount: (optional)

Contract Length:

The project timeline shall be *09/10/12 – 11/30/12*.

Subcontracts:

The proposer is specifically advised that any person, firm or other party to whom it proposes to award a subcontract must be approved by the HRPDC.

Interpretations and Requests for Substitution:

Any proposer in doubt as to the true meaning of any part of this request for proposal may submit a written request to the Project Manager Richard Case, rpcase@hrpdcva.gov for an interpretation. The proposer submitting a request will be responsible for its prompt and actual delivery. Any interpretation or approval will be made by addendum duly issued. A copy of such addendum will be posted on the HRPDC's website: www.hrpdcva.gov. HRPDC will not be responsible for any other explanations or interpretations of such documents which anyone presumes to make. Only questions answered by formal written addenda will be binding; oral and other interpretations or clarifications will be without legal effect.

Proposers must submit every request for interpretation or clarification regarding the services to be provided in writing; by email to Richard Case, rpcase@hrpdcva.gov or by facsimile transmission to (757) 523-4881, to the attention of Richard Case. To be given consideration at the pre-proposal conference, such requests must be received AT LEAST 24 HOURS PRIOR to the date and time fixed for the pre-proposal conference. Any and all such interpretations, clarifications, and any supplemental instructions will be issued in the form of written addenda prior to the date fixed for receiving proposals. Failure to receive such addenda shall not relieve proposers from any obligation under this proposal as submitted.

When inquiring, replying or forwarding, please list the RFP (i.e., GEN-RFP-2013-01) number in the subject line. This is used to direct the email or fax to the appropriate person so the HRPDC may provide prompt service to your request when staff are away from their desk.

Irregular Proposals

Proposals shall be considered irregular and may be rejected for any of the following reasons unless otherwise provided by law:

If there are unauthorized additions or conditional proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.

If the proposer adds any provisions reserving the right to accept or reject any award, or to enter into a contract pursuant to an award.

If the proposer fails to meet the proposal specifications or is unresponsive to proposal specifications, questions, and/or terms.

If the proposal fails to include an authorized proposer representative's signature on company letterhead.

Withdrawal or Revision of Proposals

A proposer may, without prejudice, withdraw a proposal submitted prior to the date and time specified for receipt of proposals by requesting such withdrawal in writing before the time set for receiving proposals. Telephonic communications for withdrawal shall not be accepted.

Any proposer may modify his/her proposal by facsimile communication at any time, provided such communication is received by HRPDC prior to the due date of proposals. The communication should not reveal the proposal price, but should provide the addition or subtraction or other modification. If written confirmation is not received within two days after the fax, no consideration will be given to the facsimile modification.

HRPDC reserves the right to discontinue this RFP before selection process is complete for any reason, including, but not limited to, lack of funding.

Insurance

Prior to starting work, proposers will furnish the HRPDC a certificate of insurance as evidence of the existence of the following insurance coverage in amounts not less than the amounts specified below:

Comprehensive General Liability: \$1,000,000 per occurrence.

Workmen's Compensation: As required by Federal and State Worker's Compensation and occupational statutes.

Professional Liability: \$1,000,000 per claim.

The Certificate of Insurance will provide for thirty days (30) written notice to the HRPDC by the Insurance Company prior to cancellation or material change in policy coverage.

Proposal Evaluation

The proposal will be evaluated using the following criteria:

- Responsiveness to Scope of Work and Proposal Requirements.
- Professional competence of the firm, including qualifications and competence of key personnel related to the specific areas for which the firm is proposing.
- Experience with similar projects and submission of previous work samples.
- Record of the firm in accomplishing work on other projects with respect to such factors as the quality and adequacy of the work, resource allocation, ability to meet schedules, innovative approaches and cost control.
- Accessibility of the firm and the ability of key personnel to visit the project area.
- Ownership of firm by minority or participation of minority personnel, or subcontractors on the project.
- How well established the firm is in this area of expertise.

After the Evaluation Panel's (EP) initial evaluation of the proposals, the EP (or its designees) may, if necessary, hold interviews with the top ranked proposers. Proposers selected for an interview will be contacted by 08/17/12. Each interview will be no more than 60-minutes, with the proposer's presentation limited to not more than 20-minutes. Any area of specific concern will be identified before the interview. The HRPDC reserves the right to select a proposer based solely on written proposals and not convene oral interviews. If interviews are required, they will be held on 08/27/12.

HRPDC reserves the right to reject any and all proposals and waive any and all informalities and the right to disregard all nonconforming or conditional proposals or counter proposals. HRPDC reserves the right to reject any proposal if investigation of such proposer fails to satisfy HRPDC that such proposer is properly qualified to carry out the obligations and to complete the work contemplated by the contract documents.

Any and all proposals will be rejected if there is reason to believe that collusion exists among the proposers. The signature on the face of the proposal certifies that the proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person also submitting a proposal for the same services, and is in all respects fair and without collusion or fraud. Collusive bidding is a violation of the Virginia Governmental Frauds Act and federal law and can result in fines, prison sentences, and civil damage awards. Proposer's signatory agrees to abide by all conditions of this proposal and certifies that he/she is authorized to sign the proposal for the proposer.

Section III: SCOPE OF WORK

- 1) *The primary objective is to install a new, "cool" roof over the existing roof at the HRPDC Regional Building located at 723 Woodlake Drive, Chesapeake, VA 23320.*
- 2) *The bid shall be for the entire roof of the HRPDC Regional Building. In addition, the bid shall be broken down, by cost, for each of the four sections (North Wing, Lobby & Cubicle section, West Wing, and Board Room) in such a manner as to allow the HRPDC to contract roof replacement of one or more sections at any given time – See Attachment A*

Primary scope of work includes:

- 1) *Removing all loose gravel from existing roof surface,*
- 2) *Reposition the height, seal and retrofit all roof drains and vents,*
- 3) *Furnish and install all pipe boots and seal roof curbs,*
- 4) *Re use of existing skylights on all roofs,*
- 5) *Furnish and install wind vented retrofit roof system consisting of 60 mil white PVC reinforced "cool" roof membrane. Please note: due to existing HVAC & A/C equipment on roof, there will be higher levels of foot traffic and the possibility of oil or chemical spillage. This will need to be taken into account in selection of specific material for roofing and protective walkways and walk pads.*
- 6) *All seams and transitions shall be heat welded and placed over ½" high density decking board,*
- 7) *Furnish and install new flashing.*
- 8) *Furnish and install .32" white aluminum coping to match existing building coping.*
- 9) *Furnish and install 4' (four feet) wide, protective walkways and walk pads from the roof hatches to and around existing rooftop HVAC, mini-split A/C systems, skylights and fan-driven roof vents.*
- 10) *Product shall include a manufacturer's 20 year labor and material warranty.*
- 11) *Proposer shall be responsible for roof installation to be done in such a manner to prevent areas of ponding if ponding is an exception to the warranty, OR:*
- 12) *New roof warranty shall not exclude ponding under warranty.*
- 13) *All permit fees shall be included in bid.*
- 14) *Clean up and removal of all debris resulting from work performed shall be included in bid.*

Section IV: REQUIRED SUBMITTALS

Proposal Format

Transmittal Letter

Title Page

Overview and Summary

Detailed Work Plan

Qualification, Experience and References

Qualifications of key individuals that will be working directly on this project.

Office Location.

Sample Documentation.

References from similar projects.

Prior experience, of a similar nature and scope, of firms and individuals proposed to work on this project.

License Requirements.

Narrative of proposer's proposed approach to the project, including potential to meet schedule as outlined herein.

Financial Stability.

Any Additional Requirements.

Affirmative Action and DBE Participation

This section is Company specific, not specific to individual employees within the company.

Proposer shall present documentation to describe its compliance with the Federal and State nondiscrimination laws and regulations and its Disadvantaged Business Enterprise (DBE) activities and proposed DBE commitment for this project.

A description of 1) proposer's activities undertaken to comply with the provisions of the RFP concerning DBE participation, and 2) proposer's proposed DBE Commitments.

Basis for Selection

Statement of Compliance

Please note any deviation in compliance with the RFP, as requested by HRPDC.

General

Response shall be limited to no more than 25 pages. Proposal shall be on standard margin 8.5" x 11" pages with font no smaller than 12 point. Five (5) copies of the printed proposal shall be submitted and an electronic copy emailed, to Nancy Collins, Chief Financial Officer, Hampton Roads Planning District Commission, 723 Woodlake Drive, Chesapeake, VA 23320; (ncollins@hrpdcva.gov). Emailed version is limited to no more than 5 MB. The

electronic version may include additional supplemental information in files separate from the file of the printed version of the proposal. All proprietary information must be under separate cover, and so labeled. Information not submitted under separate cover and not labeled proprietary shall be Public Information in accordance with State Statutes.

REQUIRED FORMS

COMMONWEALTH OF VIRGINIA

SALES AND USE TAX CERTIFICATE OF EXEMPTION

(For use by the Commonwealth of Virginia, a political subdivision of the Commonwealth of Virginia, or the United States)

To:

Date

(Name of Dealer)

(Number and street or rural route)

(City, town, or post office)

(State and ZIP Code)

The Virginia Retail Sales and Use Tax Act provides that the Virginia sales and use tax shall not apply to tangible personal property for use or consumption by this State, any political subdivision of this State, or the United States. (This exemption does not apply to sales or leases to privately owned financial and other privately owned corporations chartered by the United States.)

The undersigned, for and on behalf of the governmental agency named below, hereby certifies that all tangible personal property purchased or leased from the above dealer on and after this date will be for use or consumption by a governmental agency, that each such purchase or lease will be supported by the required official purchase order, and that such tangible personal property will be paid for out of public funds: (Check proper box below.)

1. Tangible personal property for use or consumption by the Commonwealth of Virginia.
2. Tangible personal property for use or consumption by a political subdivision of the Commonwealth of Virginia.
3. Tangible personal property for use or consumption by the United States.

Hampton Roads Planning
District Commission

(Name of governmental agency)

723 Woodlake Drive

(Number and street or rural route)

Chesapeake

(City, town, or post office)

VA

(State)

23320

(ZIP Code)

I certify that I am authorized to sign this Certificate of Exemption and that, to the best of my knowledge and belief, it is true and correct, made in good faith, pursuant to the Virginia Retail Sales and Use Tax Act.

BY Nancy K. Collins

(Signature)

CFO

(Title)

Information for dealer. -A dealer is required to have on file only one Certificate of Exemption properly executed

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

See Specific Instructions on page 2.

Name (as shown on your income tax return)					
Business name, if different from above					
Check appropriate box:	Individual/ Sole proprietor	Corporation	Partnership	Other ♦	Exempt from backup withholding
Address (number, street, and apt. or suite no.)				Requester's name and address (optional)	
City, state, and ZIP code					
List account number(s) here (optional)					

Part I Taxpayer Identification Number (TIN)

Print or type

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident lien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is

Employer identification number

Part II Certification

our employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

or

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

Under penalties of perjury, I certify that:

- . The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- . I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- . I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. or mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign here

Signature of
 U.S. person ♦

Date ♦

Purpose of Form

person who is required to file an information return with the RS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, r
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you re:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

Cat. No. 10231X

Form **W-9** (Rev. 1-2005)

**VENDOR CERTIFICATION
VERIFICATION FORM**

Vendor Name: _____
Vendor Address: _____

Contact Person: _____ Title: _____
E-mail Address: _____ Phone: _____
Vendor Fax: _____

CERTIFICATIONS

DBE CERTIFICATION CERTIFICATION #: _____
CERTIFYING AGENCY: _____
NAICS CODE: _____ DESCRIPTION: _____

SWaM CERTIFICATION CERTIFICATION #: _____ SWaM TYPE _____

SERVICE DISABLED VET CERTIFICATION#: _____ DATE _____
EXP DATE: _____ CERTIFYING AGENCY: _____

MINORITY INDICATOR

- | | | |
|---|--|--|
| <input type="checkbox"/> African American | <input type="checkbox"/> Asian Indian | <input type="checkbox"/> Asian Pacific |
| <input type="checkbox"/> Hispanic American | <input type="checkbox"/> Native American | |
| <input type="checkbox"/> Non-Minority Woman | | |

Submit to: Nancy Collins, CFO * Fax: (757) 523-4881 * E-mail: ncollins@hrpdcva.gov

DBE PARTICIPATION STATEMENT

Note: The Proposer is required to complete the following information and submit this form with the technical proposal.

RFP #: _____ Project Description: _____

Proposer Name: _____

This proposer (is ___) (is not ___) a certified Disadvantaged Business Enterprise (DBE).

Expected percentage of contract fees to be subcontracted to DBE(s): _____%.

If the intention is to subcontract a portion of the contract fees to DBE(s), the proposed DBE sub-proposers are as follows:

DBE Sub-Proposer	Type of Work/Commodity
_____	_____
_____	_____
_____	_____
_____	_____

By: _____

Title: _____

Date: _____

Section V: TERMS AND CONDITIONS

Commonwealth of Virginia Public Procurement Act

This request for proposal (RFP) is subject to the provisions of the Commonwealth of Virginia Public Procurement Act, and any revisions thereto in effect at the time of this RFP.

Employment Discrimination by Contractor Prohibited

In the solicitation or awarding of contracts, HRPDC shall not discriminate on the basis of race, religion, age, disability, color, sex (gender), or ethnicity of the bidder. Every contract in excess of ten thousand dollars (\$10,000), shall include the following provision:

“All proposers shall abide by applicable state and federal laws including, but not limited to, all provisions of the Americans with Disabilities Act. Each proposer agrees to hold HRPDC harmless regarding all claims in connections with the proposer’s failure to comply with applicable laws and regulations.”

Purchase Order/Contract

The proposal and any resulting purchase order/contract shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Virginia.

Kickback

By signing proposal, the proposer’s representative certifies that he/she has not offered or received any kickback from any other proposer, supplier, manufacturer, or subcontractor in connection with the proposal. A kickback is defined as an inducement for the award of the contract, subcontract, or order through any payment, loan, subscription, advance, deposit of money, services, or anything of value in return for an agreement not to compete on a public contract.

Proposal Terms

Proposals submitted must be firm for a period of ninety days from proposal submission date, unless otherwise specified, and not proposal may be withdrawn during that period.

Additional Users

This procurement is being conducted on behalf of state agencies, institutions and other public bodies who may be added or deleted at any time during the period of the contract. The addition or deletion of authorized users not specifically names in the solicitation shall be made only by written contract modification issued by this agency or institution and upon mutual agreement of the Contractor. Such modification shall name the specific agency added or deleted and the effective date. The Contractor shall not honor an order citing the resulting contract unless the ordering entity has been added by written contract modification.

CONTRACT

HAMPTON ROADS PLANNING DISTRICT COMMISSION

CONTRACT WITH

(NAME OF VENDOR)

CONTRACT #: _____

This Contract is made this _____ day of _____ 201X, by and between the Hampton Roads Planning District Commission (hereinafter referred to as the "HRPDC") and _____ (hereinafter referred to as the "Proposer"). The parties to this Contract, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

1. **PROJECT.** The Proposer shall carry out the project as set forth in Attachment A - RFP No. GEN-RFP-2012-04 and the _____ Proposal dated _____, known as the "Scope of Services" for the *Hampton Roads Planning District Commission (HRPDC)*, subject to and in accordance with the terms and conditions listed within this contract.
2. **TIME OF PERFORMANCE.** The project shall commence on _____, 201X and shall terminate no later than _____. All work will be accomplished in accordance with the schedule outlined in *Attachment B, Section XX, XX*.

The *HRPDC* may extend the period of performance to provide for the performance by the Proposer of the optional services, described in Attachment A - Scope of Services and/or any other changes to the Scope of Services, as mutually agreed upon by the *HRPDC* and the Proposer.

3. **RENEWAL OF CONTRACT.** This contract may be renewed by the *HRPDC* upon written agreement of both parties for one year and up to four {4} successive one year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.
4. **SUBCONTRACTS.** No portion of the work shall be subcontracted without prior written consent of the *HRPDC*. In the event that the Proposer desires to subcontract some part of the work specified herein, the Proposer shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors.
5. **PAYMENT.** The *HRPDC* shall pay the Proposer as services are rendered satisfactorily complete. Maximum payment by the *HRPDC* to the Proposer will not be greater than \$_____ without prior authorization by the *HRPDC*. Requests for payment must be accompanied by appropriate financial and work progress documentation to support the request for payment. Such reports and invoices shall be detailed in accordance with Attachment A to show what tasks have been completed and to compare the time of completion with the proposed time of completion. Subject to receipt of funds by the *HRPDC* as provided in Paragraph 6, payment by the *HRPDC*

shall be made to the Proposer within thirty (30) days of receipt of an invoice in satisfactory form in accordance with the requirements of this contract and in accordance with *HRPDC* procedures. Payments due the Proposer shall be subject to a service charge of one and one-half (1.5) percent per month for invoices not paid when due.

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Proposer directly to the *Hampton Roads Planning District Commission (HRPDC)* 723 Woodlake Dr. Chesapeake, VA 23320. All invoices shall show the *HRPDC* contract number; social security number (for individual proposers), or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services, provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Proposer at the contract price.
6. SOURCE OF FUNDS. Funds to support the work effort provided for in this Contract are being provided to the *HRPDC* by the _____ (granting agency-if any). Payment of invoices under this Contract by the *HRPDC* is subject to receipt of funds drawn down from _____.
 7. FUNDING CREDIT. Any reports and documents produced under the terms of this Contract will include the following credits: (if applicable)
 8. COMMONWEALTH OF VIRGINIA PUBLIC PROCUREMENT ACT. This contract is subject to the provisions of the Commonwealth of Virginia Public Procurement Act, and any revisions thereto in effect at the time of this contract.
 9. PURCHASE ORDER/CONTRACT. This resulting purchase order/contract shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Virginia.
 10. KICKBACK. By signing this contract, the Proposer certifies that he/she has not offered or received any kickback from any other proposer, supplier, manufacturer, or subcontractor in connection with this proposal. A kickback is defined as an inducement for the award of the contract, subcontract, or order through any payment, loan, subscription, advance, deposit of money, services, or anything of value in return for an agreement not to compete on a public contract.

11. LIABILITY. The Proposer will maintain appropriate liability insurance coverage throughout the term of this Agreement, as follows:

- a. Name the *HRPDC* as an additional insured and provide certificates or other evidence that the required insurance is in force.
- b. Worker's compensation and employer's liability insurance as required by the Commonwealth of Virginia.
- c. Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, and owned, non-owned or hired vehicles with \$1,000,000 combined single limits.
- d. Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of the Proposer or of any of its employees, agents, or subcontractors, with \$1,000,000 per occurrence and in the aggregate.

It is the intent of the parties to this Contract that the *HRPDC* shall not be held liable for damages to the extent they are caused by the fault or negligence of the Proposer.

Proposer's liability for the *HRPDC's* damages, not otherwise covered by required insurances, will, in the aggregate, not exceed \$_____. This provision takes precedence over any conflicting Article of this Contract or any document incorporated into it referenced by it. This limitation of liability will apply whether Proposer's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, and shall include Proposer's officers, affiliated corporations, employees, and subcontractors.

12. NONDISCRIMINATION.

Disadvantaged Minority Business Enterprises: It is the policy of the *HRPDC* that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded proposer contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmbc.state.va.us/>) under the DBE Directory of Certified Vendors. Proposers are encouraged to take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the proposer intends to subcontract a portion of the services on the project, the proposer is encouraged to seek out and consider DBEs as potential sub-proposers. The Proposer is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a proposer and a DBE whereby the DBE promises not to provide services to other proposers is prohibited. *HRPDC* believes that these services support 10% DBE participation. If a DBE is not certified, the DBE must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If a DBE is the prime proposer, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE

sub-proposers. DBE prime proposers are encouraged to make the same outreach efforts as other proposers. DBE credit will be awarded only for work actually being performed by the DBE themselves. When a DBE prime proposer, or sub-proposer, subcontracts work to another firm, the work counts toward DBE goals only if the other firm is itself a DBE. A DBE must perform or exercise responsibility for at least 30% of the total cost of the contract with its own force.

Certification of Eligibility: A signed statement on your letterhead stating that: "The firm is not ineligible to receive award of a contract due to the firm's inclusion on any Federal or Virginia State lists of debarred contractors, or otherwise ineligible to be awarded a contract using Federal or State funds."

In its performance of work activities under this Contract, the Proposer warrants that it will not discriminate against any employee, or other person, on account of race, color, sex, religious creed, ancestry, age, national origin or handicapped status. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

The Proposer shall, in all solicitations or advertisements for employees placed by or on behalf of the *HRPDC*, state that the Proposer is an equal opportunity employer; provided, however, that notices, advertisements and solicitations placed in accordance with federal law, rules, or regulations shall be deemed sufficient for the purpose of meeting the requirements of the Contract.

The Proposer shall include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that such provision shall be binding upon each subcontractor or vendor.

All proposers shall abide by applicable state and federal laws including, but not limited to, all provisions of the Americans with Disabilities Act. Each proposer agrees to hold the *HRPDC* harmless regarding all claims in connection with the proposer's failure to comply with applicable laws and regulations.

13. CHANGES. The *HRPDC* may direct changes within the general Scope of Work in this Contract. Any Change will require prior notice to the Proposer and agreement on the price of the change. The Proposer must obtain prior written approval from the Commission for any changes to the project, including, but not limited to, changes of substance in program activities, designs, or plans set forth in Attachment A, which are proposed by the Proposer. If such changes affect the Proposer's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to the Contract.
14. TERMINATION FOR CAUSE. The *HRPDC* reserves the right to terminate the Contract, in whole or in part, at any time before the date of completion, upon written notice to the Proposer that it has failed to comply with the conditions of the Contract. The Proposer shall not incur new obligations for the terminated portion of the project after the date of the termination notice, and shall cancel as many outstanding obligations as possible. In the case of a termination for cause, the *HRPDC* shall pay for contracted services successfully completed by the Proposer through the effective date of the termination. The *HRPDC* will not be liable for damages or costs of any kind following termination and final payment to the Proposer, specifically including claims

for anticipated profit. Any damages of the *HRPDC* associated with a termination for cause shall be compensated for or recovered by the *HRPDC* through separate agreement.

15. TERMINATION FOR CONVENIENCE. The *HRPDC* may terminate the Contract, in whole or in part, if the *HRPDC* determines that the continuation of the Contract supported activities will not produce beneficial results commensurate with further expenditure of funds. The Proposer shall not incur new obligations for the terminated portion after termination notice and shall cancel as many outstanding obligations as possible. In the case of a termination for convenience, the *HRPDC* shall pay for contracted services, rendered by the Proposer through the effective date of the termination. The *HRPDC* will not be liable for damages or costs of any kind following termination and final payment to the Proposer, specifically including claims for anticipated profit.
16. MAINTENANCE OF RECORDS. The Proposer shall maintain all required records and provide the *HRPDC* an audit in accordance with applicable state and federal laws and Generally Accepted Accounting Procedures. That audit will be reviewed by the *HRPDC* for compliance with state and federal laws and regulations. The Proposer will ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with state and federal laws and regulations.

The Proposer agrees to retain all books, records and other documents relative to this Contract for three (3) years after final payment, or until the Project is audited by the Commission, whichever is later. The *HRPDC*, its authorized agents and/or auditors shall have full access to and right to examine any of said materials during said period.

17. COLLATERAL CONTRACTS. Where there exists any inconsistency between this Contract and other provisions of collateral contractual agreements which are made a part of this Contract by reference or otherwise, the provisions of this Contract shall control.
18. PRIME PROPOSER RESPONSIBILITIES. The Proposer shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime proposer. The Proposer agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
19. INTEGRATION AND MODIFICATION. This Contract constitutes the entire Contract between the Commission and the Proposer. No alteration, amendment, or modification in the provisions of the Contract shall be effective unless it is reduced to writing, signed by the parties and attached hereto.
20. SEVERABILITY. Each paragraph and provision of this Contract is severable from the entire Contract; and, if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect, at the option of the *HRPDC*.
21. INDEMNIFICATION. Proposer agrees to indemnify, defend and hold harmless the *HRPDC* and the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use

of any materials, goods, or equipment of any kind or nature furnished by the Proposer, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the Proposer on the materials, goods or equipment delivered.

22. INVENTIONS AND COPYRIGHTS. As, and only as, requested by the *HRPDC*, the Proposer shall apply, or promptly and willingly assist (including without limitation by executing and delivering documents) the *HRPDC* in applying, for patent, copyright, and/or other intellectual-property protection of any inventions, discoveries, documents, designs, drawings, papers, notes, forms, interim reports, final reports, graphics, images, computer programs and data, other works of authorship, and other information and/or materials, whether in electronic, magnetic/optical-media, or printed form, (collectively, "Materials") prepared by the Proposer in the performance of its obligations under this Contract. The provisions of this paragraph are further subject to the provisions of Paragraphs 23 and 24 of this Contract.
23. OWNERSHIP OF MATERIALS. The Proposer acknowledges and agrees that the *HRPDC* has and shall have ownership of any and all Materials prepared by the Proposer in the performance of its obligations under this Contract. The Proposer shall promptly disclose to the *HRPDC* any and all Materials and, at the *HRPDC's* request, shall provide the *HRPDC* with one or, if so requested by the *HRPDC*, more electronic, magnetic/optical-media, and/or printed copies of each of the Materials. The Proposer may retain electronic, magnetic/optical-media, and/or printed copies of the Materials and with the *HRPDC's* prior written consent on a case-by-case basis, use such copies, but only in the course of the Proposer's business and provided that the Proposer includes on any and all such Materials, regardless of form, any and all appropriate notices of the *HRPDC's* rights, including without limitation its intellectual property rights, in and to the Materials. The provisions of this paragraph are further subject to the provisions of Paragraph 22 of this Contract.
24. CREATION OF INTELLECTUAL PROPERTY. The Proposer acknowledges and agrees that the *HRPDC* owns and shall own any and all patent rights, copyrights, other intellectual property rights, and any and all other proprietary rights in and to the Materials prepared by the Proposer in the performance of its obligations under this Contract. The Proposer agrees to assign, and hereby does assign, to the *HRPDC* any and all rights, including without limitation copyrights and any other rights arising under Title 17 of the United States Code, that the Proposer would, except for such assignment, have in and to the Materials. With the *HRPDC's* prior written consent, the Proposer may create and use, but only in the course of the Proposer's business, derivative works based on the Materials. The preceding does not apply to any background materials which Proposer supplies to complete [the task] which is subject to preexisting copyright protections.
25. CONFIDENTIALITY. The Proposer expressly acknowledges and agrees that all reports, documents and communications of every kind, whether written or oral, concerning specific contractual matters, planning or assumptions received in the performance of the work from the *HRPDC*, its staff, Board, legal counsel, or other agents or advisors (collectively "Confidential Information") shall be held in strictest confidence and maintained as strictly confidential. Confidential Information shall include information that, when taking into consideration the

circumstances surrounding disclosure of the same, a reasonable person would consider being confidential or proprietary. This provision shall not apply to information which (1) has been published and is in the public domain, (2) has been provided to Proposer by third parties who have the legal right to possess and disclose the information, (3) was in the possession of Proposer prior to the disclosure of such information to Proposer by the *HRPDC*, (4) is required by law or any governmental agency to be disclosed, or (5) would require disclosure to comply with the ethical obligations of Proposer to protect the public.

No Confidential Information shall be disclosed to other clients of the Proposer, other proposers, private companies, public entities, the media, the general public, or any other third party unless directed to do so by *HRPDC's* Executive Director. However, such Confidential Information may be documented in briefing materials provided to the *HRPDC* and its staff; provided such briefing materials are clearly annotated as Confidential Working Papers.

The Proposer shall take all appropriate and necessary steps to protect Confidential Information and to limit access to Confidential Information in its possession to those of its employees, agents and subcontractors required to have access to the Confidential Information in the performance of this work and who are bound in writing to keep the information confidential pursuant to confidentiality agreements with terms no less restrictive than those contained in this Agreement. The Proposer shall include these confidentiality provisions in any agreement between the Proposer and a subcontractor or agent related to the performance of the work so that these provisions will be binding upon them with equal and like effect. The Proposer shall be responsible for communicating to each party identified in this paragraph C who receives or is given access to Confidential Information the terms of these provisions and the obligations of that party to abide by the requirements hereof.

Upon completion of performance of the work, the Proposer, its agents and any subcontractors, agree to deliver to the *HRPDC* all Confidential Information obtained during performance of the work, in any medium, and, if requested by the *HRPDC*, to provide written confirmation that all such Confidential Information has been delivered to the *HRPDC*; provided, however, Proposer may retain a record copy of its work product.

The Proposer shall immediately notify the *HRPDC* if the Proposer learns of any unauthorized use or disclosure of Confidential Information and will cooperate in good faith to remedy such occurrence immediately to the extent reasonably possible.

In the event that Proposer becomes legally compelled to disclose any such Confidential Information, Proposer will provide the Commission with prompt notice so that the *HRPDC* may seek a protective order or other appropriate remedy; in the event that such protective order or other remedy is not obtained, Proposer will furnish only that portion of the Confidential Information which Proposer is advised by opinion of counsel is legally required and will cooperate with the *HRPDC* in seeking reliable assurance that confidential treatment will be accorded the Confidential Information.

The Proposer acknowledges and agrees that a violation of the provisions of this confidentiality requirement may cause irreparable damage to the *HRPDC*, and these confidentiality provisions are made for the express benefit of and shall be enforceable by any of the Affected Parties. Proposer agrees that these provisions may be specifically enforced in any court of law having

jurisdiction. In addition to and not in limitation of any other rights or remedies the Affected Party may have for a breach of the provisions of this confidentiality requirement, the Affected Party may recover money damages, subject to the limitations in Section 14; and in addition to money damages, the Affected Party shall be entitled to obtain equitable relief for any such breach (without requirement of bond or corporate surety) so that Proposer shall be required to cease and desist immediately from breaching such provision (it being agreed that damages alone would be inadequate to compensate the Affected Parties and would be an inadequate remedy for such breach).

These provisions shall expressly apply to and bind the Proposer, its agents, officers, employees, subcontractors and any permitted assigns.

26. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION. The Proposer assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Proposers who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Proposers shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Proposers and their employees working on this project may be required to sign a confidentiality statement.
27. CONTINGENT FEE WARRANTY. The Proposer warrants that it has not employed or retained any person or persons for the purpose of soliciting or securing this Contract. The Proposer further warrants that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon the award or making of this Contract. For breach of one or both of the foregoing warranties, the Commission shall have the right to terminate this Contract without liability, or in its discretion, to deduct from the agreed fee, amount of said prohibited fee, commission, percentage, brokerage fee, gift, or contingent fee.
28. CONFLICT OF INTEREST. The Proposer warrants that it has fully complied with the State and Local Government Conflict of Interests Act.
29. DISCLAIMER. Nothing in this Contract shall be construed as authority for either party to make commitments, which will bind the other party beyond the project contained herein.
30. USE OF FUNDS. Funds, paid by the *HRPDC*, shall only be used for the purposes and activities covered in Attachment A.
31. FISCAL CONTROL. The Proposer shall establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, project funds, including any required matching funds.
32. STANDARD OF CARE. The standard of care applicable to the Proposer's services will be the degree of skill and diligence normally employed by professional proposers performing the same

or similar services at the time said services are performed. The Proposer will re-perform, without additional compensation, any services not meeting this standard.

- 33. FORCE MAJEURE. If performance of the Services is affected by causes beyond the Proposer's reasonable control, project schedule and compensation shall be equitably adjusted.
- 34. DISPUTE RESOLUTION. The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.
- 35. NOTICE TO PROCEED. Execution of the contract by both parties will constitute a Notice to Proceed. A separate Notice to Proceed will be required prior to beginning any additional services as may be directed by the *HRPDC*.

HAMPTON ROADS
PLANNING
DISTRICT COMMISSION

(Vendor Name)

Dwight L Farmer
Executive Director/Secretary

(Printed Name)
(Title)

Date

Date

Contract authorized by the *HRPDC* on:

Date

ATTACHMENT "A"

RICHARD CASE
FACILITIES SUPERINTENDENT



Hampton Roads
Planning District Commission

The Regional Building
723 Woodlake Drive
Chesapeake, Virginia 23320
www.hrpdcva.gov

Phone: (757) 420-8300
Fax: (757) 523-4881
rpcase@hrpdcva.gov

- S = SKY LIGHT
- A/C = HVAC UNIT
- M = MINI SPLIT
- V = VENT
- D = ROOF DRAIN
- P = PITCH POCKET

