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## CONDITIONS AND INSTRUCTIONS

Rev: 10/08/2010

1. All bids shall be submitted on and in accordance with this form. If more space is required to furnish a description of the goods and/or services and/or services bid, or delivery terms, the bidder may attach a letter hereto that will be made a part of the bid. In case of conflict, the bid may be deemed non-responsive. The City's published specifications shall supersede any additional writings submitted with the bid. Such writings should be clearly marked and noted on the exception page.
2. All bids shall be submitted sealed, plainly marked showing the bid number, date and time. The entire solicitation document is to be returned when submitting a bid, unless otherwise directed by the bid document. Failure to return all pages may result in a determination that the submittal is non-responsive.
3. Bids and amendments thereto, if received by the Purchasing Department after the date and time specified for bid opening, will not be considered. It will be the responsibility of the bidder to see that their bid is received by the Purchasing Department as specified. There will be no exceptions. Date of postmark will not be considered. Telephone, facsimile, electronic and verbal bids will not be accepted. Prices or changes shown on the outside of an envelope will not be considered in determination of low bid.
4. If City Hall is closed for business at the time scheduled for bid opening, for whatever reasons, sealed bids will be accepted and opened on the next business day of the City, at the originally scheduled hour.
5. Each bid is received with the understanding that the acceptance in writing by the City of the bidder to furnish any or all of the goods and/or services described therein, shall constitute a contract between the bidder and the City, which shall bind the bidder on his part to furnish and deliver the goods and/or services quoted at the prices stated and in accordance with the conditions of the accepted bid; and the City on its part to order from such bidder, except for causes beyond reasonable control; and pay for, at the agreed prices, all goods and/or services specified and delivered.
6. Bidders have the right to request withdrawal of their bids from consideration due to error by giving notice not later than two business days after bids are publicly opened. Work papers showing evidence of error(s) may be required. Upon request, administrative withdrawal procedures will be provided that shall be used for that purpose.
7. If issued, addenda to this solicitation will be posted on the Purchasing Department's website ([www.nngov.com/purchasing](http://www.nngov.com/purchasing)). It is the bidder's responsibility to check the website or contact the Purchasing Department prior to the submittal deadline to ensure that the bidder has a complete, up-to-date package.
8. The solicitation document maintained by the Purchasing Department, in the bid file folder, shall be considered the official copy. In the case of any inconsistency between bid documents submitted to the City, but not clearly listed on the exception page of the

document as an exception by the bidder, the language of the official copy shall prevail. Furthermore, any exception or changes to the specifications made by the bidder may be cause to disqualify your bid.

9. Award will be made to the lowest responsive and responsible bidder. The quality of the goods and/or services to be supplied, their conformity with the specifications, their suitability to the requirements, the delivery terms, qualifications and references will be taken into consideration in making an award. Length of time for delivery as well as price may be considered in awarding the bid.

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted; except that if the bid from the lowest responsible bidder exceeds available funds, the purchasing director may negotiate with the apparent low bidder to obtain a contract price within available funds.

Upon making an award, or giving notice of intent to award, the City will place appropriate notice on the public bulletin board located outside of the Purchasing Department at City Hall. Notice of award may also appear on the Purchasing Website: [www.nngov.com/purchasing](http://www.nngov.com/purchasing) or [www.demandstar.com](http://www.demandstar.com).

10. The City reserves the right to reject any and all bids, and to waive any informality if it is determined to be in the best interest of the City.
11. Prices shall be stated in units of quantity specified. No additional charges shall be passed on to the City, including any applicable taxes, delivery, or surcharges. Prices quoted shall be the final cost to the City.
12. All prices and notations should be in ink or typewritten. Mistakes may be crossed out and corrections made in ink and must be initialed and dated in ink by the person signing the bid.
13. In case of error in the extension of prices, the unit price shall govern.
14. The time of proposed delivery must be stated in definite terms. If time of delivery for different goods and/or services varies, the bidder shall so state.
15. Samples, when requested, must be furnished free of expense, and upon request, if not destroyed, will be returned at the bidder's risk and expense.
16. Unless qualified by the provision "NO SUBSTITUTE", the use of the name of the manufacturer, brand make or catalog designation in specifying an item does not restrict bidders to the manufacturer, brand, make or catalog designation identification. This is used simply to indicate the character, quality and/or performance equivalence of the goods and/or services desired. The goods and/or services on which bids are submitted must be of such character, quality and/or performance equivalence that it will serve as that specified. In submitting bids on goods and/or services other than as specified, bidder

shall furnish complete data and identification with respect to the alternate goods and/or services they propose to furnish.

Consideration will be given to bids submitted on alternate goods and/or services to the extent that such action is deemed to serve the best interests of the City. If the bidder does not indicate that the goods and/or services he proposes to furnish is other than specified, it will be construed to mean that the bidder proposes to furnish the exact goods and/or services described.

17. The apparent silence of these specifications and any supplemental specifications as to any detail or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and correct type, size and design are to be used. All interpretations of these specifications shall be made on the basis of this statement.
18. All bids must be signed by a responsible officer or employee having the authority to sign for the firm. The bidder agrees that its contract performance shall be in strict conformance with the contract documents.
19. By signing this bid, the bidder assigns to the City any and all rights that it may have under the antitrust laws of the United States and the Commonwealth of Virginia in any way arising from or pertaining to this bid. This provision is remedial in nature and is to be liberally construed by any court in favor of the City.
20. The bidder certifies by signing this Invitation for Bid that this bid is made without prior understanding, agreement, or accord with any other person or firm submitting a bid for the same goods and/or services and that this bid is in all respects bona fide, fair, and not the result of any act of fraud or collusion with another person or firm engaged in the same line of business or commerce. Any false statement hereunder may constitute a felony and can result in a fine and imprisonment, as well as civil damages.
21. **Hold Harmless and Indemnification:** The contractor shall defend, indemnify and hold the City, and City's employees, agents, and volunteers, harmless, from and against any and all damage claim, liability, cost, or expense (including, without limitation, attorney's fees and court costs) of every kind and nature (including, without limitation, those arising from any injury or damage to any person, property or business) incurred by or claimed against the contractor, its employees, agents, and volunteers, or incurred by or claimed against the City, City's employees, agents, and volunteers, arising out of, or in connection with, the performance of all services hereunder by the contractor. This indemnification and hold harmless includes, but is not limited to, any financial or other loss including, but not limited to, any adverse regulatory, agency or administrative sanctions or civil penalties, incurred by the City due to the negligent, fraudulent or criminal acts of the contractor or any of the contractor's officers, shareholders, employees, agents, contractors, subcontractors, or any other person or entity acting on behalf of the contractor. Unless otherwise provided by law, the contractor indemnification obligations hereunder shall not be limited in any way by the amount or type of damages,

compensation, or benefits payable by or for the contractor under worker's compensation acts, disability benefit acts, other employee benefit acts, or benefits payable under any insurance policy. This paragraph shall survive the termination of the contract including any renewal or extension thereof.

22. The contractor agrees to defend and save the City, its agents, officials, volunteers and employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process, patented or unpatented invention, goods and/or services or appliances furnished or used in the performance of the contract, or which the contractor is not the patentee, assignee, or licensee, to the same extent as provided in the above paragraph.
23. The contractor shall keep fully informed of all federal, state and local laws, ordinances and regulations that in any manner affect the conduct of the work. The contractor shall at all times observe and comply with all such laws, ordinances and regulations.
24. **The contractor certifies that he does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ unauthorized aliens as defined in the federal Immigration Reform and Control Act of 1986, as amended.**
25. All bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50, as amended, shall include the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50, as amended, or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Number or Statement: \_\_\_\_\_

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

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

Seventy thousand dollars (\$70,000) or more, or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month

period is five hundred thousand dollars (\$500,000) or more shall show evidence of being licensed as a **Class A Contractor**.

Seventy-five hundred dollars (\$7,500.00) or more, but less than seventy thousand dollars (\$70,000) or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) or more, but less than five hundred thousand dollars (\$500,000) shall show evidence of being licensed as a **Class B Contractor**.

Over one thousand dollars (\$1,000) but no more than seventy-five hundred dollars (\$7,500) or the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is no more than one hundred and fifty thousand dollars shall show evidence of being licensed as a **Class C Contractor**.

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

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

"Licensed Class A Virginia Contractor No. \_\_\_\_\_."

"Licensed Class B Virginia Contractor No. \_\_\_\_\_."

"Licensed Class C Virginia Contractor No. \_\_\_\_\_."

27. Availability of Funds: A contract shall be deemed in force only to the extent of appropriations available to each department for the purchase of such goods and/or services or services. The City's extended obligations on those contracts that envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following years.

28. **Payment Terms:**

- a) Payment terms shall be "2%-20, Net 30 days" unless otherwise stated by the bidder on this submittal form. Alternate terms may be offered by bidder for prompt payment of bills.
- b) Payment terms shall be considered in determining the low bidder.
- c) Discount period shall be computed from the date of proper receipt of the contractor's correct invoice, or from the date of acceptable receipt of the goods and/or services, whichever is latest.

- d) The payment terms stated herein must appear on the contractor's invoice. Failure to comply with this requirement shall result in the invoice being returned to the contractor for correction.
  - e) Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act. (1% per month)
29. In event of default by the contractor, the City reserves the right to procure the goods and/or services and/or services from other sources, and hold the contractor liable for any excess cost occasioned thereby.
30. Appeals Procedure: Upon your request, administrative appeals information will be provided that shall be used for hearing protests of a decision to award or an award, appeals from refusal to allow withdrawal of bids, appeals from disqualification, appeals for debarment or suspension, or determinations of non-responsibility and appeals from decision or disputes arising during the performance of a contract. To be timely, all appeals shall be made within the time period set forth in Chapter 2, divisions 4 and 5 of the City Code.
31. **It is the policy of the City of Newport News to facilitate the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in the City's procurement activities. Toward that end, the City of Newport News encourages these firms to compete and encourages non-minority firms to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Bidder is requested to complete the SMB, MBE and WBE Business Objectives form within this document.**
32. The City has a directory of Newport News Small, Women-owned and Minority (SWAM) businesses. The directory is available at [www.nngov.com/purchasing](http://www.nngov.com/purchasing).
33. This public body does not discriminate against faith based organizations.
34. Non-Discrimination: During the performance of this contract, the contractor agrees as follows:
- (a) It will not discriminate against any employees or applicants for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by federal or state law relating to discrimination in employment, except where one or more of these are a bona fide occupational qualification reasonably necessary to the normal operations 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 non-discrimination clause.

- (b) The contractor will be and state that he is an equal opportunity employer in all solicitations or advertisements for employees.
- (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The contractor will include the provisions of the foregoing paragraphs (a), (b) and (c) in every subcontract or purchase order of over ten thousand dollars so that the provisions will be binding upon each subcontractor or vendor.

- 35. During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, 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 prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) 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 subsection, "A drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this subsection, 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.

- 36. Assignment of Contract: A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.
- 37. **Governing Law and Venue:** This solicitation and any resulting contract is subject to the laws of the Commonwealth of Virginia and the Newport News City Code. Any litigation with respect thereto shall be brought in the courts of the City of Newport News, Virginia, or the United States District Court for the Eastern District of Virginia, Newport News Division.
- 38. Severability: If any provision of this contract or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this contract, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected hereby, and each provision of this contract shall be valid and enforced to the full extent permitted by law.
- 39. Scheduling and Delays – The parties to any contract resultant of this solicitation acknowledge that all or part of the work to be performed hereunder may be delayed and extended at the option of the City. Such delays may be caused by delays, denials, and

modifications of the various state or federal permits, or for other reasons. The City shall not be required to pay any of the Contractor's direct or indirect costs, or claims for compensation, extended overhead, or other damage or consequential damages arising out of or related to any delays or interruptions required or ordered by the City. If the City delays the project for any reason for a continuous period of 6 months or more, the City and Contractor will negotiate a mutually agreeable adjustment to the Contractor's award amount.

40. **Termination by the City or the Contractor, or both, for convenience (Not applicable to contracts subject to the Department of Engineering Standard Specifications dated August 1, 1983, as amended, or the Department of Public Utilities "General Conditions"):**

The parties may terminate the contract at any time by mutual written agreement.

In addition, if the contract is an extended term contract, after completion of the first contract period, either party may terminate the contract without penalty or financial obligation, except that the parties remain liable for performance of all terms, conditions, and obligations through the date of termination. Written notice of termination shall be given to the other party a minimum of sixty (60) days prior to its effective date.

41. **Termination for Cause (Not applicable to contracts subject to the Department of Engineering Standard Specifications dated August 1, 1983, as amended, or the Department of Public Utilities "General Conditions"):**

In the event that the contractor shall for any reason or through any cause be in default of the terms, conditions, or obligations of the contract documents, the City may give the contractor written notice of such default and terminate the contract. All terms, conditions, and obligations of the contract documents are considered material.

The City may, in its discretion, provide the contractor an opportunity to cure the default, if curable, prior to termination. Unless a different duration is provided in the notice of default, or agreed upon by the parties in writing, the contractor shall have fourteen (14) calendar days to cure the default from the date such notice is mailed to the contractor unless notification is by facsimile or personal delivery, in which case the opportunity to cure shall commence upon delivery of the notice. Upon failure of the contractor to cure the default, the City may immediately terminate the contract effective as of the mailing or delivery of the default notice. If the City terminates the contract, the contractor shall remain liable for performance of all terms, conditions, and obligations through the date of termination. Termination by the City shall not constitute a waiver by the City of any other rights or remedies available to the City by law or contract.

42. **Bid Bond:** A bidder's bond or certified check in the amount of five percent (5%) of the amount bid shall accompany any bid in excess of \$100,000.00 for the bid to be acceptable.

43. **Performance and Labor and Material Payment Bond:** The Contractor shall have ten (10) days from the date of the City's request to provide a performance bond and a labor and material payment bond, (Use only the forms provided by the City, unless otherwise approved by the City Attorney) in the amount of the contract price, as security for faithful performance of the work in strict conformity with the Contract Documents and for payment of all persons who perform labor and furnish materials in prosecution of the work. The surety on such bonds shall be duly authorized to do business in the Commonwealth of Virginia and be satisfactory to the City.
44. **Direct contact with City departments other than Purchasing, on the subject of this bid is expressly forbidden except with the foreknowledge and permission of the contracting officer. Violation may result in a determination that your firm is ineligible for award.**
45. Questions or comments related to this solicitation should be directed to the contract officer, whose name and contact information appears on the front of this document. All questions must be submitted in writing (facsimile or email); telephonic inquiries will not be considered.
46. Successful bidder shall furnish all required bonds, certificates of insurance and required endorsements on City approved forms included in this bid package. Any other forms are not acceptable and shall not be approved by the City Attorney's office. Time is critical on this work and non-compliance will delay the work and may be cause to make award to the next qualified bidder.
47. **Engineering Standard Specifications: This contract consists of plans, technical specifications and the Department of Engineering Standard Specifications. The Standard Specification are available for \$15.75, including tax, per copy non-refundable, from the Department of Engineering, City Hall Building, 8<sup>th</sup> floor, Newport News, Virginia 23607, telephone (757) 926-8611. In the Standard Specification any/all references to the Director of Engineering, which involves the initial Invitation for Bid and prior to an actual contract being awarded shall be defined and interpreted as the City's Purchasing Director or their designee.**
48. **Liquidated Damages: TIME IS OF THE ESSENCE ON THIS CONTRACT.** Failure of the Contractor to complete the work within the time allowed will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified for completion of the work, the Contractor shall pay to the City, or have withheld from monies due it, the sum of **\$500.00 per day.**

Execution of the contract under these specifications shall constitute agreement by the City and Contractor that this amount per day is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

Permitting the Contractor to continue and finish the work or any part thereof after the contract time or adjusted contract time, as pertinent, has expired shall in no way operate as a waiver on the part of the City or any of its rights under the contract.

Payment of liquidated damages shall not release the Contractor from obligations in respect to the fulfillment of the entire contract, nor shall the payment of such liquidated damages constitute a waiver of the City's right to collect any additional damages which may be sustained by failure of the Contractor to carry out the terms of the contract, it being the intent of the parties that said liquidated damages be full and complete payment only for failure of the Contractor to complete the work on time.

49. **Permits,** Contractor shall be responsible for furnishing all necessary permits as required by the City Newport News prior to start of construction. The Contractor is required to obtain and pay for all necessary permits along with required bonds and insurance. A minimum \$5,000.00 bond for Right-of-Way permits and a minimum \$2,000.00 for land disturbing permits (based on area disturbed). These bonds are in addition to any bid bond, performance or payment bond required as part of the bid. Contractor shall also be responsible to obtain and pay for any required permits from State or Federal agencies. The project signs, right-of-way permit, land disturbing permit, etc. and associated bonds shall also be included in this bid price. Proof of approved final inspections relating to these permits shall be required before final payment is made.
50. **Insurance:** The contractor shall maintain adequate liability insurance, which shall protect and save harmless the City of Newport News, Virginia, and its officials from all suits and actions of every kind and description arising from injury or damage to persons and property in the prosecution of said work or in failure to properly safeguard same, and from all claims arising under the workmen's compensation laws. The contractor shall furnish proof of said insurance prior to commencement of services. Separate forms, which name the City as additional insured and as alternate employer, must be included with the Certificate of Insurance. **Please make sure prior to submitting a bid that all insurance endorsements forms have been reviewed by your insurance carrier.**

The Commonwealth of Virginia requires construction contractors and subcontractors to obtain and maintain worker's compensation insurance while performing work on behalf for the City. Evidence of coverage needs to be provided prior to commencement of work.

Sample forms CG 20-10 (naming the City as additional insured for liability claims) and WC 00-03-01 (naming the City as an alternate employer for Worker's Compensation claims); and the Commonwealth's form for Worker's Compensation Certificate of Coverage are attached (**See Section B**).

Contractor shall have ten (10) days from the date of the city's request, to provide insurance documentation. Failure to provide the Certificate and forms within this period

may be cause for the City to award a contract to the next responsive bidder, and hold the original contractor liable for excess costs.

51. The Conditions and Instructions in this solicitation are intended to apply to the resulting contract and shall supersede any conflicting terms offered. Any additional conditions a bidder intends to be considered must be submitted with the bid as an exception. Such exceptions may result in a finding that the submittal is 'non-responsive' to the bid, negating possibility of an award to that bidder. Contractual documents submitted by the successful firm after an award will not be accepted.
52. Failure of the contractor to perform the contract by reason of this non-acceptance of additional conditions shall result in termination of the contract by the City, and may result in debarment of the contractor for a period of up to three years. Termination and/or debarment of the contractor shall not constitute a waiver by the City of any other rights or remedies available to the City by law or contract.
53. **Records and Inspection:** The contractor shall maintain full and accurate records with respect to all matters covered under this contract, including, without limitation, accounting records, written policies and procedures, time records, telephone records, and any other supporting evidence used to memorialize, reflect, and substantiate charges or fees related to this contract. The contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the City and its employees, agents or authorized representatives after giving at least three (3) days notice to contractor by the City. The City shall have access to such records from the effective date of this contract, for the duration of the contract, and for five (5) years after the date of final payment by the City to the contractor pursuant to this contract or any renewal or extension of this contract. The City's employees, agents or authorized representatives shall have access to the contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits.
54. **Rights and Remedies Not Waived:** In no event shall the making by the City of any payment to the contractor, or the waiver by the City of any provision under this contract including any obligation of the contractor, constitute or be construed as a waiver by the City of any other provision, obligation, breach of covenant, or any default which may exist under this contract on the part of the contractor, and the making of any such payment by the City while any such breach or default exists shall not impair or prejudice any rights or remedies available to the City.
55. **Entire Agreement:** This contract and any additional or supplementary documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto. This contract shall not be modified, altered, changed or amended unless in writing and signed by the parties hereto.

56. **Independent Contractor:** The contractor and any employees, agents, or other persons or entities acting on behalf of the contractor shall act in an independent capacity and not as officers, employees, or agents of the City.
57. **Conflict:** In the event of a conflict between the contract documents, including these Conditions and Instructions, and the terms of a purchase order or related document issued by the Department of Purchasing, the contract documents shall control.

In the event of a conflict between the Department of Engineering Standard Specifications dated August 1, 1983, as amended, and the contract documents (including the General and Special Conditions), the contract documents shall control unless otherwise provided. In addition, Special Conditions take precedence over General Conditions.

In the event of a conflict between the Department of Public Utilities “General Conditions” and the contract documents (including the General and Special Conditions), the contract documents shall control unless otherwise provided. In addition, Special Conditions take precedence over General Conditions.

58. **Scheduling and Delays:** The parties to any contract resultant of this solicitation acknowledge that all or part of the work to be performed hereunder may be delayed and extended at the option of the City. Such delays may be caused by delays, denials and modifications of the various state or federal permits, or for other reasons. The City shall not be required to pay any of the Contractor’s direct or indirect costs, or claims for compensation, extended overhead, or other damage or consequential damages arising out of or related to any delays or interruptions required or ordered by the City. If the City delays the project for any reason for a continuous period of six (6) months or more, the City and Contractor will negotiate a mutually agreeable adjustment to the Contractor’s award amount. **Notwithstanding the above, in construction contracts, to the extent that an unreasonable delay is caused by the acts or omissions of the City due to causes within the City’s control, the above waiver or release shall not apply.**

**SPECIAL NOTE:**

When the contractor chooses to work on Sunday or any City Holiday, the contractor shall be required to pay the City for project inspection services for those days. The payment rate is established at \$75.00 per inspector, per hour, for each hour the inspector(s) provides the inspection service, which shall include travel time to and from the site. The contractor shall submit with each monthly invoice for the specific billing period a check payable to the City of Newport News in an amount equivalent to the hours of inspection service times the above rate. There shall be a minimum service time requirement of two (2) hours per inspector.

The Contractor shall request approval from the City of any scheduled work on Sundays or Holidays a minimum of 72 hours prior to the scheduled work date. Approval by the Director of the Department of Engineering or his representative is required. There is no obligation or requirement that the City provide this service, and the City cannot guarantee the availability of an inspector.

Note: This requirement may not apply to contracts where work hour restrictions established by the City will require Sunday or Holiday work)

Since it is the intent of the City to promote small businesses (SBE), minority businesses (MBE) and women-owned businesses (WBE), you are requested to report the total dollars which will be sub-contracted to each of the business classifications pertaining to this contract. If you should sub-contract with SBE's, MBE's and WBE's, list the dollar figures separately for each general classification.

This will enable the City to track the amount of business the City does with small, minority and women-owned businesses. Without your cooperation it would be very difficult to fully understand the City's performance in this important segment of the market. Indicate your figures below and return this form to the Purchasing Department with your initial bid package.

If you are not sub-contracting, even if you are a S/M/WBE, put zeros in the spaces below.

Emergency **IFB #2011-3782-2012**

Total SBE Dollars to be Sub-contracted \$ \_\_\_\_\_

Total MBE Dollars to be Sub-contracted \$ \_\_\_\_\_

Total WBE Dollars to be Sub-contracted \$ \_\_\_\_\_

## EXCEPTION PAGE

### EXCEPTIONS:

Bidder must sign the appropriate statement below, as applicable:

( ) Bidder understands and agrees to all terms, conditions, requirements, and specifications stated herein.

Firm: \_\_\_\_\_

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

( ) Bidder takes exception to terms, conditions, requirements, or specifications stated herein (Bidder must itemize all exceptions below, and return with this IFB):

Firm: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bidders should note that any exceptions taken from the stated terms and/or specifications may be cause for their submittal to be deemed "non-responsive", risking the rejection of their submittal.

Payment terms shall be considered in determining the low bidder.

### **BID RESULTS**

Bid results will be made available after the bid opening, by visiting our web site:

<http://www.nngov.com/purchasing> or [www.demandstar.com](http://www.demandstar.com)

**ANTI-COLLUSION CERTIFICATION**

The bidder certifies that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same product and that this bid is in all respects bona fide, fair and not the result of any act of fraud or collusion with another person or firm engaged in the same line of business or commerce. The bidder understands collusive bidding is a violation of Federal law and that any false statement hereunder constitutes a felony and can result in fines, imprisonment, as well as civil damages. The bidder also understands that failure to sign this statement will make the bid non-responsive and unqualified for award.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Company: \_\_\_\_\_

**Engineering Department Standard Specifications**

The bidder certifies that this bid is submitted in compliance with the contract and has obtained a copy of the City of Newport News, Engineering Department Standard Specifications prior to submission and shall kept a copy on the job site at all times.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Company: \_\_\_\_\_

## **INSTRUCTIONS OF BIDDERS**

### BIDDER RESPONSIBILITIES:

- A. Affirmative Steps:** Bidders shall take affirmative steps in compliance with the regulations, prior to submission of bids or closing data for receipt of initial bids, to encourage participation in projects by MBEs and WBEs. Such efforts include:
1. Establish and maintain a current solicitation list of minority and female recruitment sources, and assure MBEs and WBEs are solicited once they are identified.
  2. When feasible, segmenting total work requirements to permit maximum MBE/WBE participation, and establish delivery schedules to encourage MBE/WBE participation.
  3. Assuring that MBEs, and WBEs are solicited whenever they are potential sources of Goods or services. This step may include:
    - a. Sending letters or making other personal contact with MBEs, WBEs, private Agencies and state associations (e.g., those who appear on lists prepared by EPA or the recipient and other MBE/WBE known to the Bidder). MBEs/WBEs should be contacted when other potential subcontractors are contacted, within reasonable time prior to bid submission or closing date for receipt of initial bids. Those letters or other contacts should communicate the following:
      - (i) Specific description of the work to be contracted;
      - (ii) How and where to obtain a copy of plans and specifications or other detailed information needed to prepare a detailed price quotation;
      - (iii) Date the quotation is due to the bidder;
      - (iv) Name, address, and phone number of the person in the Bidders firm whom the prospective MBE/WBE subcontractor should contact for additional information.
    - b. Using the services and assistance of the Small Business Administration and the Department of Minority Business Enterprises of the Commonwealth of Virginia.

Affirm.A: Rev. 2/7/97

**B.** Bidders are requested to demonstrate compliance with MBE/WBE requirements. Demonstration of compliance may include the following information; however, the recipient may specify other methods of demonstrating compliance:

1. Names, addresses, phone number, scope of work, aggregate dollar amount of work for MBE/WBE firms expected to perform on this contract. If none, respond accordingly \_\_\_\_\_  
\_\_\_\_\_

2. Description of contacts to MBE/WBE firms, including number of contacts, work offered, dates of contact and result of contact. If none, so state. \_\_\_\_\_  
\_\_\_\_\_

3. Description of contacts of organizations, agencies and associations, which assist MBE/WBE firms, showing the names, person contacted, and date of contact. If none, so State. \_\_\_\_\_  
\_\_\_\_\_

4. Copies of advertisements for employment showing your firm as advertised to be an Equal Opportunity Employer. (This is a requirement for firms who have received prior governmental contracts valued at \$10,000 or more and have advertised subsequently to that date) \_\_\_\_\_  
\_\_\_\_\_

**C.** Successful Bidder should take reasonable affirmative steps to subcontract with MBEs and WBEs whenever additional subcontracting opportunities arise during the performance of the contract.

## **NOTICE TO CONTRACTORS**

Sealed bids will be received by the Department of Purchasing of the City of Newport News, Virginia on the 4<sup>th</sup> Floor, City Hall Building, 2400 Washington Avenue, no later than **January 7, 2011 at 3:00 p.m. for Newport News**

Please be advised that all questions in reference to this project should be directed to the Department of Purchasing, Shari D. Colvin, CPPB, VCO, Deputy Director of Purchasing, [scolvin@nngov.com](mailto:scolvin@nngov.com) and copy Brenda Vines, Assistant Buyer, [bvines@nngov.com](mailto:bvines@nngov.com).

**SCOPE OF WORK:** Furnish all labor, materials, equipment and supervision necessary for the performance of the landscape enhancement/drainage project at Newport News Park Shelters #19 & #20. Contractor shall complete the work with the following procedures: (1) "NO SUBSTITUTIONS" for the Eagle Bay concrete paver products as well as the concrete finishes for the shelter slabs and aprons. (2) Provide positive drainage of all hardscapes. (3) EagleBay line of products as specified shall be installed by a qualified, certified EB installer so as to maintain warranty on the products. and (4) Contractor shall have a minimum of ten years experience in stamped/textured concrete with proven expertise in grading /drainage design and installation.

Each proposal greater than \$100,000 shall be accompanied by a bidder's bond or a certified check of five percent (5%) of the amount of the bid. Performance and Labor & Material Payment Bond amounting to one hundred percent (100%) of the contract price will be required of the successful bidder.

The attention of the bidder is invited to the provisions of Chapter 11 of Title 54.1 of the Code of Virginia regulating the practice of general contracting under which it will be necessary for the bidder to show evidence of certificate of registration as provided by said code.

The City of Newport News reserves the right to reject any or all bids.

Everett P. Skipper, P.E., B.C.E.E.  
Director of Engineering  
2400 Washington Avenue  
Newport News, VA 23607

**Scope of Work:**

**Project Summary:**

The specific intent and purpose of this project is to correct the grades, drainage and erosion issues encountered during periods of moderate to heavy rainfall and to enhance the aesthetic appearance of the shelters, increasing the functionality, appeal and satisfaction for the citizens and visitors.

Project details include re-pouring the picnic shelter concrete slabs with textured, stained concrete, modification of the grades to achieve positive drainage, the installation of drainage outlets and drain pipe where appropriate and the installation of a paver plaza and vertical seating wall.

**Project Specifics:**

I. Drainage

- A. Contractor shall re-grade the area in front of the shelters, to include all perimeters, to achieve positive drainage. Expected configuration and sizes of drain pipe are roughly mapped out on attached aerial map.
- B. Contractor shall address drainage from the road in front of the shelters to the stage area behind the shelters to include the sides of the shelters, the area in between the shelters and the areas to the sides and rear of each shelter.
- C. Preliminary design indicates all water shall be redirected into an eighteen (18") underground drainage pipe installed between the two existing shelters. A drainage basin, lined with landscape fabric and Class A rip rap, shall be installed adjacent to the ravine at the conclusion of the drain pipe for water collection before dispersement into the existing Biofalls system.
- D. Storm system shall consist of a 24' x 20' containment basin, approximately 200 linear feet of 18' ADS. Four inch and six inch drain pipes from the shelter drain and back seat of wall shall be tied into 18" ADS system. Bedding shall consist of # 57 stone. Drainage pipe design and sizes are delineated in red on the attached drawing.
- E. All areas affected by re-grading and drain tile installation shall be fine graded with two (2) inches of sifted topsoil/compost mix (50/50 mix) and hydro-seeded with a slurry mix that shall supply the following rates per acre:
  - Kentucky 31 Tall fescue (100%) or 32 pounds
  - Perennial rye (33%) or 10.5 pounds

- Tifway Bermuda Grass (100%) or 32 pounds.
- 10-5-10 Commercial Starter Fertilizer per label directions and rate.
- Agricultural Lime @ the rate of two (2) tons per acre.
- Cellulose or wood fiber and tackifier required. Use Virginia Erosion and Sediment Control Handbook as reference for specifications.

## II. Picnic Shelter Slabs

- A. Picnic Shelter concrete slabs shall be re-poured with textured (rolled) 4" stained concrete, #3 rebar on eighteen (18") inch centers, 4" Crusher Run base. One expansion joint shall run vertically down the center of each slab, one expansion joint shall be installed horizontally across the shelter, with diagonally cut control joints going from post to post. Drawing accompanies specifications. Establish grades to insure positive drainage and appropriate run-off.
- B. Slabs shall be textured (rolled) and stained to match Bomanite "Caramel" Color Hardener/Release Agent as the base color and Bomanite "Sonora Tan" as the release. The effect shall be a two-toned tan/brown texturized concrete finish.

## III. Plaza and Seating Walls

- A. Map indicates two different paved surfaces, pavers for the plaza area in front of the picnic shelters, and exposed aggregate for the aprons, driveway approach, trash cans and grill pads. New grills will be provided to be reinstalled, location specified on plan.
- B. Exposed aggregate concrete specifications include:
  - Four (4") inch packed Crusher Run base minimum.
  - Six (6") inch minimum 4000 psi exposed aggregate concrete with #3 rebar on eighteen (18") inch centers.
- C. Proposed plan (see preliminary drawing) includes the installation of a stacked vertical paver seating wall to border the southeast side of the plaza. Proposed paver seating wall is approximately eighteen (18) inches in height, twelve (12) inches wide and one hundred and forty feet (140') long, requires a three inch coping stone cap glued in place along the top of the wall for a finished height of twenty one inches plus five stone columns. Specifications for vertical seating paver wall installation included below.
- D. Plan includes the installation of a second paved vertical seating wall, approx. 30 linear feet, adjacent to the White Oak tree. See specifications below.

- E. Plan includes the installation of a third planter style vertical paver wall on the northeast side of the shelter # 20 approx. 35 linear feet, three feet wide and 28 inches high. Paver pattern and color shall match adjacent seating wall. Specifications for vertical paver seating walls included below.
- F. Area of pavers and vertical paver seating walls with approximate footage is delineated on the plan and is specified below. Specifications for paver materials and installation are also included on separate attachments.
- Proposed paved plaza area of approximately 6,895 square feet shall be Eagle Bay Grand Cay Textured pavers in the Pamlico Range color.
  - Four borders/edges adjacent to the paved area, approximately 150 linear feet, shall be Textured Eagle Bay Cottage Stone in the James River Range color.
  - All vertical paved walls shall be Eagle Bay Highland Free Standing walls in the James River Range color, 18” high x 12” wide, with seven (7) Eagle Bay Highland Stone columns in the James River Range color. Exact locations of pillars can be seen on the diagram. Gray Cast Stone Pillar Caps shall be installed on each column used in the project.
  - One seating wall is approximately 140 linear feet, includes five (5) of the columns and shall be capped with Eagle Bay Pamlico 9” x 12” coping stone. A smaller seating wall, approximately 30 linear feet, which wraps around part of the existing White Oak tree in the center of the plaza shall also be capped with Eagle Bay Pamlico 9” x 12” coping stone and includes a large gray boulder at each end of the seating wall.
  - A third vertical wall, approximately thirty five feet (35) in length, runs along the end of Shelter #20 and is also bordered by two Highland Stone Columns with Cast Stone Pillar Caps, with coping stone on this wall.

IV. Other:

- A. Contractor shall install secure silt fence in between the picnic shelters and the stream prior to beginning work.
- B. Tree Protection, to extend to the drip line of each tree, shall be required for the White Oak in front of the picnic shelters, the American Holly immediately adjacent to Shelter #19, and the American Holly between Shelter #19 and the paved road.
- C. New grills, provided by City, shall be re-set in new concrete pads per drawing.
- D. Contractor shall be responsible for off-site disposal of all trash, debris, and clean-up of entire site.

- E. Contractor shall be responsible for the accurate identification of all existing utilities.
- F. Installation of one (1) inch PVC pipe with hose connect valve into paver vertical wall planter adjacent to picnic shelter for future irrigation.

## Bid

### N. N. Park Shelters #19 & 20 Landscape Enhancement/Drainage Project

Furnish all labor, materials, equipment and supervision necessary for the performance of the landscape enhancement/drainage project at Newport News Park Shelters #19 & #20. Contractor shall complete the work with the following procedures:

- “NO SUBSTITUTIONS” for the Eagle Bay concrete paver products as well as the concrete finishes for the shelter slabs and aprons.
- Provide positive drainage of all hardscapes.
- EagleBay line of products as specified shall be installed by a qualified, certified EB installer so as to maintain warranty on the products.
- Contractor shall have a minimum of ten years experience in stamped/textured concrete with proven expertise in grading /drainage design and installation

TOTAL LUMP SUM BID \$ \_\_\_\_\_

#### NOTES:

1. An on-site pre-proposal meeting has been set on January 5, 2011 at 9:00 AM.
2. Contractor shall complete the entire work by March 1, 2011. Failure of the contractor to complete the work within the time allowed will result in contractor paying to the City or having withheld from monies due to it, the sum of \$500.00 per day for each consecutive calendar day on excess of the time specified.
3. Right of Way permit and Performance Bond are required.
4. Proposal shall be submitted by January 7, 2011.

**LIMITS OF PAYMENT**

If the bid cost for the project does not exceed available funding for the project, the city will award the contract to the bidder who submits the lowest responsive, responsible Bid. In case the cost for the bid exceeds the available funding for the project, the City may select not to award the contract.

**TIME OF COMPLETION:**

All Work included in the Bid Price (if accepted) shall be Substantially completed within Thirty (30) days after a Notice to Proceed has been issued by the City to the successful bidder, and Finally completed by the March 1, 2011.

The City and Contractor recognize that time is of the essence and that the City will suffer financial loss if the Work is not completed by the substantial Completion date required herein. Both parties recognize the delays, expense and damages involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Accordingly, the City and the Contractor agree, stipulate and fix as liquidated damages if delayed, but not as a penalty, the sum of five hundred dollars (\$500.00) that the contractor shall pay the city for each calendar day or part thereof that expires after the date specified for the Substantial Completion of the Work.

**The original Section “A” and one duplicate copy is requested. If Contractor desires to make any alternative bid on different type of construction than one called for, it shall be made, fully described and enclosed with his bid on a separate sheet.**

**Liquidated Damages:** TIME IS OF THE ESSENCE ON THIS CONTRACT. Failure of the contractor to complete the work within the time allowed will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified for substantial completion of the work at the site, the Contractor shall pay to the City, or have withheld from monies due it, the sum of **\$500.00**.

Execution of the contract under these specifications shall constitute agreement by the City and Contractor that this amount per day is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the contractor if such delay occurs.

Permitting the Contractor to continue and finish the work or any part thereof after the contract time or adjusted contract time, as pertinent, has expired shall in no way operate as a waiver on the part of the City or any of its rights under the contract.

Payment of liquidated damages shall not release the Contractor from obligations in respect to the fulfillment of the entire contract, nor shall the payment of such liquidated damages constitute a waiver of the City’s right to collect any additional damages which may be sustained by failure of the Contractor to carry out the terms of the contract, it being the intent of the parties that said liquidated damages be full and complete payment only for failure of the contractor to complete the work on time.

On acceptance of this bid for said work, the undersigned does, or do hereby bind himself, or themselves, to enter into a written contract within ten (15) days of award, with the said Authority, and to perform said work for the consideration above named.

The bidder agrees to substantially complete the entire work within **Thirty (30) calendar days** from date of Notice to Proceed and finally complete the entire work by the March 1, 2011.

State Contractor Registration Number: \_\_\_\_\_

Business Name: \_\_\_\_\_

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

(Street; P.O. Box not acceptable)

\_\_\_\_\_  
(City, State and Zip Code)

By: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

ADDENDA  
No.

ACKNOWLEDGED  
Initial

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IF CONTRACTOR DESIRES TO MAKE ANY ALTERNATIVE BID ON DIFFERENT TYPE OF CONSTRUCTION THAN ONE CALLED FOR, IT SHALL BE ENCLOSED ON A SEPARATE SHEET.

Bid Bond # \_\_\_\_\_

**BID BOND**

KNOW ALL MEN BY THOSE PRESENT: That we, the undersigned:

\_\_\_\_\_  
\_\_\_\_\_ as Principal, and \_\_\_\_\_  
\_\_\_\_\_

as Surety, acknowledge ourselves held and firmly bound unto the City of Newport News, Virginia, in the just and full sum of five percent (5%) of the maximum amount of accompanying bid for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

WHEREAS, the Principal has submitted a bid, dated \_\_\_\_\_, 20\_\_\_\_, **Newport News Park Shelters #19 and #20, Emergency IFB #2011-3782-2010.**

NOW, THEREFORE, if the Oblige shall accept the bid of the Principal and the Principal shall enter into a contract with the Oblige in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Oblige the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Oblige may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused their corporation names and seals, respectively, to be hereunto subscribed and affixed by their officers in that behalf duly authorized this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_  
SEAL

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
SEAL

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_  
Resident Virginia Agent of Surety

Submit with Power of Attorney

**Section B**

## **INSURANCE REQUIREMENTS**

**Insurance:** The bidder/offeror shall maintain adequate liability insurance, which shall protect and save harmless the City of Newport News, Virginia, its officials and employees, from all suits and actions of every kind and description arising from injury or damage to persons and property in the prosecution of said work or in failure to properly safeguard same, and from all claims arising under the workers' compensation laws.

The Commonwealth of Virginia requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the City. Evidence of coverage needs to be provided prior to commencement of work.

Prior to commencement of services, the bidder/offeror shall furnish the City with the following separate endorsements, and a certificate of insurance showing all required insurance coverage with companies licensed to do business in Virginia. A separate endorsement to the general liability policy shall be provided in which the City is designated as an "Additional Insured." In addition, a separate endorsement to the workers' compensation policy shall be provided in which the City is designated as an "Alternate Employer."

Sample forms CG 20 10 (designating the City as Additional Insured for liability claims) and WC 00 03 01(2012 ed.) (designating the City as an Alternate Employer for workers' compensation claims, pursuant to Section 65.2-302(A) of the Code of Virginia, 1950, as amended); and the Commonwealth's form for Worker's Compensation Certificate of Coverage are attached.

Certain providers of professional services (including but not limited to architects and engineers) shall also furnish a certificate of insurance showing professional liability insurance with companies licensed to do business in Virginia, prior to the commencement of services.

The bidder/offeror shall have ten (10) days from notice of intent to award to provide insurance documentation. Failure to provide the Certificate and forms within this period may be cause for the City to award a contract to the next responsive bidder/offeror, and hold the original contractor liable for excess costs. All insurers providing the above coverage shall give the City thirty (30) days advance written notice in the event of any non-renewal or cancellation of such insurance (10 days notice for non-payment of premium). As confirmation thereof, the City must be furnished either a policy endorsement specifically providing for such notice (copies of three sample endorsements attached), or a copy of the policy language that gives the City such assurance, or a statement on the insurance agent's, broker's, or insurer's letterhead that the City shall be given such notice.

### **TYPE INSURANCE COVERAGE**

### **LIMITS**

1. Workers' Compensation Employer's Liability Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease	Statutory  \$100,000.00 each accident \$100,000.00 each employee \$500,000.00 policy limit
2. Comprehensive General Liability	\$1,000,000.00 combined single limit each occurrence \$2,000,000.00 aggregate
3. Automobile Liability (Owned, hired, leased, and borrowed Vehicles)	\$100,000.00 combined single limit each occurrence
4. Professional Liability (if applicable)	\$200,000.00 combined single limit each occurrence \$200,000.00 aggregate

**This insurance coverage supersedes any conflicting insurance coverage and limits in the Department of Engineering 1983 Standard Specifications.**

POLICY NUMBER: \_\_\_\_\_ COMMERCIAL GENERAL LIABILITY  
CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
**SCHEDULE**

Name of Person or Organizations:

**City of Newport News  
Purchasing Department  
2400 Washington Ave  
Newport News, VA 23607**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement).

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for this insured.

CG 20 10 10 93

**Endorsement**

**Alternate Employer**

**WC 00 03 01**

**Policy Amendment**

**If the following information is not complete, refer to the appropriate information page attached to the policy.**

<b>INSURED</b>	<b>POLICY NO.</b>	<b>SEQ. NO.</b>
----------------	-------------------	-----------------

<b>PRODUCER</b>	<b>EFFECTIVE DATE</b>
-----------------	-----------------------

**SCHEDULE**

Alternate Employer	Address	State of Special or Temporary Employment
--------------------	---------	---

**City of Newport News  
c/o Purchasing Department  
2400 Washington Avenue  
Newport News, Virginia**

Virginia

This endorsement applies only with respect to bodily injury to your employees while in the course of special or temporary employment by the alternate employer in the state named in the Schedule. Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply as though the alternate employer is insured.

Under Part One (Workers Compensation Insurance), we will reimburse the alternate employer for the benefits required by the workers compensation law if we are not permitted to pay the benefits directly to the person entitled to them.

The insurance afforded by this endorsement is not intended to satisfy the alternate employers duty to secure its obligations under the workers compensation law. We will not file evidence of this insurance on behalf of the alternate employer with any government agency.

We will not ask any other insurer of the alternate employer to share with us a loss covered by this endorsement.

Premiums will be charged for your employees while in the course of special or temporary employment by the alternate employer.

Part Four (Your Duties If Injury Occurs) applies to you and the alternate employer. The alternate employer will recognize our right to defend under Parts One and Two and our right to inspect under Part Six.

## **WORKER'S COMPENSATION**

### **CERTIFICATE OF COVERAGE**

Section 11-46.3, Code of Virginia, requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia departments, institutions or agencies. This same requirement applies for work being performed on behalf of local governments.

Evidence of coverage needs to be provided prior to commencement of work.

This form is to be returned to the organization contracting the work.

The undersigned organization stipulates that it either:

A. Has worker's compensation insurance \_\_\_\_\_ Yes

Insurance Company: \_\_\_\_\_

Policy Expiration Date: \_\_\_\_\_

B. Is self-insured for workers' compensation \_\_\_\_\_ Yes

Title of Construction Contract: **Newport News Park Shelter #19 and #20, Emergency IFB #2011-3782-2012**

Contract Number: \_\_\_\_\_

Signed By: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

NOTICE ENDORSEMENT

Policy Number:

IL 60 05 VA 01 10

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**MATERIAL COVERAGE CHANGE OR CANCELLATION  
NOTIFICATION – CERTIFIED MAIL**

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- COMMERCIAL INLAND MARINE COVERAGE PART
- COMMERCIAL PROPERTY COVERAGE PART
- CRIME AND FIDELITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTOR PROTECTIVE LIABILITY PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART

SCHEDULE

Name of additional Insured Person(s) Or Organization(s) and mailing address:	Location And Description Of Project
City of Newport News c/o Purchasing Department 2400 Washington Avenue Newport News, VA 23607	

We will not cancel or reduce coverage under this policy without providing at least 30 days notice of our intent to do so. Notice of such cancellation or reduction of coverage will be provided by certified mail, return receipt requested, to the Additional insured in the schedule above.

NOTICE ENDORSEMENT

Policy Number:

WC 99 00 10 01 10A

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**MATERIAL COVERAGE CHANGE OR CANCELLATION  
NOTIFICATION – CERTIFIED MAIL**

This endorsement modifies insurance provided under the following:  
WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

SCHEDULE

Name of additional Insured Person(s) Or Organization(s) and mailing address:	Location And Description Of Project
City of Newport News c/o Purchasing Department 2400 Washington Avenue Newport News, VA 23607	

We will not cancel or reduce coverage under this policy without providing at least 30 days notice of our intent to do so. Notice of such cancellation or reduction of coverage will be provided by certified mail, return receipt requested, to the Additional insured in the schedule above.

**NOTICE ENDORSEMENT**

Policy Number:

COMMERCIAL AUTO

CA 02 03 12 05

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**VIRGINIA CANCELLATION AND NONRENEWAL  
NOTICE TO DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

TRUCKERS COVERAGE FORM

SCHEDULE

1. Name: City of Newport News c/o Purchasing Department
2. Address: 2400 Washington Avenue Newport News, VA 23607
3. Number of days advance notice: 30
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



*City of Newport News*

2400 Washington Avenue • Newport News, Virginia 23607

*Office of the City Attorney*

Phone (757) 926-8416 • Fax (757) 926-8549

*City Attorney*  
*STUART E. KATZ*

*Chief Deputy City Attorney*  
*COLLINS L. OWENS, JR.*

*Deputy City Attorneys*  
*DARLENE P. BRADBERRY*  
*RICHARD D. CAPLAN*  
*JOSEPH M. DuRANT*  
*LYNN A. SUGG*

*Senior Assistant City Attorney*  
*NICOLE M. MONTALTO*

*Assistant City Attorneys*  
*PAMELA P. BATES*  
*SHANNON M. MANNING*  
*ROBERT E. PEALO*

To Whom It May Concern:

Re: Notice of cancellation requirements for insurance coverage

Dear Sir or Madam:

In the wake of recent revisions to the Acord form, I have been receiving documentation from insurers that indicates that, since a statement regarding notice of cancellation is no longer included on the form, that the company cannot give any such assurance in the future. Many of the companies have indicated that they intend to strictly rely on the disclaimers in the form.

It is the City's position that a private company providing data reporting services for insurers has no standing or authority to alter legal provisions and contractual terms. Please note that the City does not agree with this industry position, and will not approve any proof of insurance that does not include the specific endorsements required under the contract. A simple notation of these endorsements on the Acord form will not be accepted.

Further the City will not accept proof of insurance that fails to provide for thirty (30) days notice of policy cancellation [ten (10) days for non -payment] when the City requires being named as an additional insured. This assurance may be provided by one of the following three methods:

1. A note on company letterhead that the City will receive such notice. This may be on the letterhead of either the agent, the broker, or the insurance company.
2. A separate endorsement specifying the notice as required, or
3. A copy of a policy provision regarding such notice.

In addition, this same assurance must be given when the City requires an Alternate Employer endorsement. No edition of an alternate employer endorsement that includes a provision that the statutory employer will receive no notice of cancellation will be accepted. A form including this provision appears to be contrary to Virginia Code § 65.2-804(B), which requires thirty (30) days notice of cancellation [ten (10) days for non -payment]. Virginia Code § 65.2-800 requires that an employer be insured, and paragraph C of that section equates an employer and a statutory employer for the purposes of that duty.

**Page Two**

**Insurance forms required**

In summary, the City will accept no proof of insurance that does not include in one of the forms indicated above an assurance that the City will receive thirty (30) days notice of cancellation [ten (10) days for non-payment]. Failure to provide the information could result in rejection of your insured's bid or offer to provide services to the City, or a rejection of the insured's request for City permits that require the City to be named as an additional insured.

Very Truly Yours,

/s/ Joseph M. DuRant

Joseph M. DuRant  
Deputy City Attorney

SAMPLE

## CONTRACT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Newport News, Virginia, hereinafter referred to and designated as "City" and/or \_\_\_\_\_, his, its or their successors, executors, administrators and assigns, hereinafter referred to and designated as "Contractor."

WHEREAS, the City of Newport News, Virginia, has accepted the sealed bid of the said contractor to furnish all the labor and equipment and to do and perform all the work necessary to complete the **Newport News Park Shelter #19 and #20, Emergency IFB #2011-3782-2012**, in the City of Newport News, Virginia, as shown on the plans and specifications hereto attached for the unit prices set forth in the said bid.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That in consideration of the payments to be made by the City of Newport News, Virginia, as hereinafter set out, the Contractor covenants and agrees with said City of Newport News, Virginia to furnish all labor, tools and equipment and to do and perform in a good and workmanlike manner all and singular all the work in and about the **Newport News Park Shelter #19 and #20, Emergency IFB #2011-3782-2012**, in the City of Newport News, Virginia, in strict accordance with all documents identified below which are incorporated and made a part hereof as fully and completely as if the same were herein, in words and figures, at length set forth:

## CONTRACT

### Bid

#### N. N. Park Shelters #19 & 20 Landscape Enhancement/Drainage Project

Furnish all labor, materials, equipment and supervision necessary for the performance of the landscape enhancement/drainage project at Newport News Park Shelters #19 & #20. Contractor shall complete the work with the following procedures:

- “NO SUBSTITUTIONS” for the Eagle Bay concrete paver products as well as the concrete finishes for the shelter slabs and aprons.
- Provide positive drainage of all hardscapes.
- EagleBay line of products as specified shall be installed by a qualified, certified EB installer so as to maintain warranty on the products.
- Contractor shall have a minimum of ten years experience in stamped/textured concrete with proven expertise in grading /drainage design and installation

TOTAL LUMP SUM BID \$ \_\_\_\_\_

#### NOTES:

1. An on-site pre-proposal meeting has been set on January 5, 2011 at 9:00 AM.
2. Contractor shall complete the entire work by March 1, 2011. Failure of the contractor to complete the work within the time allowed will result in contractor paying to the City or having withheld from monies due to it, the sum of \$500.00 per day for each consecutive calendar day on excess of the time specified.
3. Right of Way permit and Performance Bond are required.
4. Proposal shall be submitted by January 7, 2011.

\_\_\_\_\_

**BY** \_\_\_\_\_

TITLE \_\_\_\_\_

Seal Here:

ATTEST: \_\_\_\_\_

TITLE: \_\_\_\_\_

(Officer or Corporation)

CITY OF NEWPORT NEWS, VIRGINIA

**BY** \_\_\_\_\_

Seal Here:

ATTEST: \_\_\_\_\_

Performance Bond # \_\_\_\_\_

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned \_\_\_\_\_  
\_\_\_\_\_, as Principal, and  
\_\_\_\_\_, as Surety,  
acknowledge ourselves held and firmly bound unto the City of Newport News, Virginia as Obligee, in the  
amount of \_\_\_\_\_  
\_\_\_\_\_dollars, (\_\_\_\_\_) for the payment of which, well and  
truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators,  
successors and assigns.

WHEREAS, the said \_\_\_\_\_  
did, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a contract with the City  
of Newport News, Virginia for the **Newport News Park Shelter #19 and #20, Emergency IFB  
#2011-3782-2012**, which said contract is by reference made a part hereof, is hereinafter referred to  
as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all  
respects promptly and faithfully comply with and fulfill all the terms and conditions of said  
contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any change, alteration or addition to the terms of the  
Contract or extension of time made by the Owner.

Whenever principal shall be, and declared by Obligee to be in default under the Contract, the Surety  
may promptly remedy the default, or shall promptly

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and  
conditions, and upon determination by Surety of the lowest responsible bidder, or,  
if the Obligee elects, upon determination by the Obligee and Surety jointly of the  
lowest responsible bidder, arrange for a contract between such bidder and Obligee,  
and make available as work progresses (even though there should be a default or a  
succession of defaults under the contract or contracts of completion arranged under  
this paragraph) sufficient funds to pay the cost of completion less the balance of the

contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by the Oblige to principal under the Contract and any amendments thereto, less the amount properly paid by Oblige to principal.

It is hereby expressly further understood and agreed that this Bond is also given and made against defective material and workmanship in the said work covered by the said Contract, provided, however, that no suit, action or proceeding, by reason of any defect whatever, shall be brought upon this Bond after one (1) year following (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, if the action be for such.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of Obligee.

SIGNED AND SEALED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
PRINCIPAL

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_

ATTORNEY-IN-FACT

COUNTERSIGNED:

\_\_\_\_\_  
Resident Virginia Agent of  
(if original Agent is non-resident)

Surety

Submit with Power of Attorney

APPROVED AS  
TO FORM

\_\_\_\_\_  
City Attorney

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, \_\_\_\_\_  
\_\_\_\_\_, as Principal, and  
\_\_\_\_\_, as Surety,  
acknowledge ourselves held and firmly bound unto the City of Newport News, Virginia as Oblige in the  
amount of \_\_\_\_\_ Dollars (\_\_\_\_\_) for the payment of which,  
well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors,  
administrators, successors and assigns.

WHEREAS, the said \_\_\_\_\_ did, on the \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, enter into a contract with the City of Newport News, Virginia, for the **Newport  
News Park Shelter #19 and #20, Emergency IFB #2011-3782-2012**, which said contract is by reference  
made a part hereof, as fully and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall  
promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably  
required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in  
full force and effect, subject, however to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of  
the Principal for labor, material, or both, used or reasonably required for use in the performance  
of the Contract, labor and material being construed to also include that part of water, gas, power,  
light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the  
Contract.
2. The above-named Principal and Surety hereby jointly and severally agree with the City that  
every claimant as herein defined, who has not been paid in full before the expiration of a

period ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for such sum or sums as may be justly due claimant, and have execution thereon. The City shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

A. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice of the following: The Principal, the City, and the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or labor was done or performed.

Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the Principal, City and Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

B. After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

C. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated,

or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

Contractor

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Surety

BY \_\_\_\_\_

ATTORNEY-IN-FACT

\_\_\_\_\_

Resident Virginia Agent of Surety  
(if original agent is non-resident)

Submit with Power of Attorney

APPROVED AS  
TO FORM

\_\_\_\_\_  
City Attorney