



**INVITATION FOR BIDS (IFB)  
INDEFINITE DELIVERY/INDEFINITE QUANTITY (ID/IQ)**

ISSUE DATE: JANUARY 14, 2010

IFB No. 10089

COMMODITY CODE: 405-03

TITLE: PROPANE GAS

CONTRACT NUMBER \_\_\_\_\_

EFFECTIVE DATE \_\_\_\_\_

ISSUED BY:  
City of Chesapeake  
Purchasing Division  
306 Cedar Road, 5th Floor  
Chesapeake, Virginia 23322

USING DEPARTMENT:  
City Of Chesapeake  
Public Utilities – Water Treatment Plants  
3550 South Battlefield Boulevard  
Chesapeake, Virginia 23322

Period of Contract: THREE (3) YEAR FROM DATE OF AWARD

SEALED BIDS WILL BE RECEIVED UNTIL **11:00 A.M., JANUARY 28, 2010**. For Furnishing The Goods or Services Described Herein And Then Opened In Public. Bidders shall return **ONE (1) ORIGINAL AND ONE (1) COPY OF THE ENTIRE SIGNED COMPLETED BID.**

ALL INQUIRIES FOR INFORMATION SHOULD BE DIRECTED TO PAT BARBER CPPB, PROCUREMENT SPECIALIST II, PHONE: (757) 382-6359, FAX: (757) 382-6900; Email: [pbarber@CityOfChesapeake.net](mailto:pbarber@CityOfChesapeake.net).

All questions must be submitted in writing to the Purchasing Division before **5:00 p.m., January 21, 2010**. If necessary, an addendum will be done and posted on the City website at: [www.CityOfChesapeake.net](http://www.CityOfChesapeake.net). **It shall be the responsibility of the prospective bidder to monitor the City's website for published addenda and to have all addenda signed by an authorized representative of the company. All fully executed addenda must be returned to the City along with the signed bid.**

**IF BIDS ARE MAILED, SEND DIRECTLY TO THE PURCHASING DIVISION AT THE ADDRESS SHOWN ABOVE. IF HAND DELIVERED, DELIVER TO: City Hall, Purchasing Division, 306 Cedar Road, 5<sup>th</sup> Floor, Chesapeake, VA.**

**IMPORTANT: BIDDERS MUST RETURN THE ENTIRE IFB WHEN SUBMITTING THEIR BID. BIDDERS ARE ALSO CAUTIONED NOT TO MAKE CHANGES TO THE SPECIFICATIONS OF THIS SOLICITATION. THIS MAY RENDER THE BID NON-RESPONSIVE.**

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*THIS SECTION IS TO BE COMPLETED BY THE CITY OF CHESAPEAKE UPON AWARD.*

ACCOUNTING AND APPROPRIATION DATA:

ITEM NO: \_\_\_\_\_ AMOUNT: \_\_\_\_\_

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*THIS SECTION IS TO BE COMPLETED BY BIDDER.*

NAME AND ADDRESS OF FIRM:

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

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

**(Signature In Ink)**

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

**(Please Print)**

\_\_\_\_\_ Zip Code: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Website: \_\_\_\_\_

FEI/FINT NO: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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ACCEPTANCE BY THE CITY OF CHESAPEAKE:

NAME:     MICHAEL L. THOMAS     SIGNATURE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED REPRESENTATIVE

TITLE:     INTERIM PURCHASING AGENT     DATE: \_\_\_\_\_

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**IMMIGRATION AND CONTROL ACT COMPLIANCE**

Effective November 9, 2007, all contracts shall contain a certification of compliance with immigration laws. The successful contractor or vendor shall complete the certification before contract award. Failure to provide a notarized certification will render the contract null and void.

“The Immigration Compliance Form included as Attachment A is provided for informational purposes only during the solicitation phase of the procurement. Upon award determination and notification, the winning contractor must complete the form and submit it to the Purchasing and Contracts Manager before an award can be made.”

**ATTACHMENT A**

Certification of Compliance with Immigration Laws and Regulations

**APPENDIX A**

Section I - Required General Terms and Conditions  
Section II - Special Terms and Conditions

- I. **PURPOSE:** The City of Chesapeake is soliciting bids from qualified bidders to establish an Indefinite Delivery/Indefinite Quantity Contract to provide Propane Gas for the Water Production Division of the Public Utilities Department.

Propane tanks are located at the following locations:

1. Six (6) – 1,000 gallon steel propane tanks:

Lake Gaston Water Treatment Plant  
5416 West Military Highway

2. One (1) – 35 gallon tank:

Northwest River Water Treatment Plant  
3550 South Battlefield Boulevard

All propane tanks are owned by the City of Chesapeake.

- II. **SCOPE OF WORK:** The Contractor shall:

- A. Fill 1,000 gallon tanks every other month year round at the Lake Gaston location. This refill frequency is subject to change as needed by the City.
- B. Fill 35 gallon tank twice a year at the Northwest River Water Treatment Plant. This refill frequency is subject to change as needed by the City.

- III. **PERIOD OF PERFORMANCE:** This contract shall be in effect from date of award for three (3) years.

- IV. **PRICING SCHEDULE:**

ITEM #	SIZE OF TANK	QUANTITY OF TANKS (X)	CITY PRICE PER GALLON (X)	ESTIMATED FILLS (3 YEARS) (X)	EXTENDED CITY PRICE TOTAL (=)
1	1,000 gallons	6		18	
2	35 gallons	1		6	

## ATTACHMENT A

### CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS AND REGULATIONS

Section 54-72.2 of the Chesapeake City Code requires that any person or entity doing business with the City of Chesapeake, including its boards and commissions, shall include a sworn certification by the contractor or vendor of compliance with all federal immigration laws and regulations. These laws include the Federal Immigration Reform and Control Act, which makes it unlawful for a person or other entity to hire, recruit or refer for a fee for employment in the United States, an alien knowing the alien is unauthorized, and Section 40.1-11.1 of the Code of Virginia, which makes it unlawful for any employer to knowingly employ an alien who cannot provide documents indicating that he or she is legally eligible for employment in the United States. The state law, in particular, places an affirmative duty on employers to ensure that aliens have proof of eligibility for employment.

Accordingly this certification shall be completed and attached to all contracts and agreements for goods and services made by the City of Chesapeake or any of its boards and commissions. Failure to attach a completed certification shall render the contract or agreement void.

*Type or print legibly when completing this form.*

Legal Name of Contractor or Vendor:

(Note: This is your name as reported to the IRS. This should match your Social Security card or Federal ID Number.)

Type of Business Entity:

Sole proprietorship (Provide full name and address of owner):

Limited Partnership (Provide full name and address of all partners):

General Partnership (Provide full name and address of all partners):

Limited Liability Company (Provide full name and address of all managing members):

Corporation (Provide full name and address of all officers):

Doing Business As:

If Applicable (Note: This is the name that appears on your invoices but is not used as your reporting name.)

Name and Position of Person Completing this Certificate:Physical Business Address:Primary Correspondence Address (If different from physical address):Number of Employees:Are all Employees Who Work in the United States Eligible for Employment in the United States?

Under penalties of perjury, I declare on behalf of the contractor/vendor listed above that to the best of my knowledge and based upon reasonable inquiry, each and every one of the contractor's/vendor's employees who work in the United States are eligible for employment in the United States as required by the Federal Immigration Reform and Control Act of 1986 and Section 40.1-11.1 of the Code of Virginia. I further declare on behalf of the contractor/vendor that it shall use due care and diligence to ensure that all employees hired in the future who will work in the United States will be eligible for employment in the United States. I affirm that the information provided herein is true, correct, and complete.

Sworn this \_\_\_\_ day of \_\_\_\_\_, 200\_ on behalf of \_\_\_\_\_ as evidenced by the following signature and seal:

Name of Contractor/Vendor: \_\_\_\_\_

Printed Name of Signatory: \_\_\_\_\_

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

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

COMMONWEALTH OF VIRGINIA:  
CITY OF CHESAPEAKE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Registration No.: \_\_\_\_\_

My commission expires: \_\_\_\_\_

## APPENDIX A

### SECTION I

#### REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

- A. *VENDORS MANUAL*
  - B. APPLICABLE LAWS AND COURTS
  - C. ANTI-DISCRIMINATION
  - D. ETHICS IN PUBLIC CONTRACTING
  - E. IMMIGRATION REFORM AND CONTROL ACT OF 1986
  - F. DEBARMENT STATUS
  - G. ANTITRUST
  - H. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS
  - I. CLARIFICATION OF TERMS
  - J. PAYMENT
  - K. PRECEDENCE OF TERMS
  - L. QUALIFICATIONS OF BIDDERS OR OFFERORS
  - M. TESTING AND INSPECTION
  - N. ASSIGNMENT OF CONTRACT
  - O. CHANGES TO THE CONTRACT
  - P. DEFAULT
  - Q. TAXES
  - R. USE OF BRAND NAMES
  - S. TRANSPORTATION AND PACKAGING
  - T. INSURANCE
  - U. ANNOUNCEMENT OF AWARD
  - V. DRUG-FREE WORKPLACE
  - W. NONDISCRIMINATION OF CONTRACTORS
  - X. TERMINATION OF CONTRACT
  - Y. COOPERATIVE PROCUREMENT
- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at <http://eva.state.va.us> under "Manuals."
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The contractor shall comply with all applicable federal, state and local laws, rules and regulations. This solicitation is also governed by provisions of the City of Chesapeake Ordinance on Procurement and any revisions thereto, which is hereby incorporated into this contract by reference. Contact the Purchasing Division at (757) 382-6359, for more information or to review the Chesapeake Procurement Ordinance.
- C. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
    - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
    - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
  2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING**: By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986**: By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS**: By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. **ANTITRUST**: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Chesapeake all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Chesapeake under said contract.
- H. **MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs** :
1. (For Invitation For Bids): Failure to submit a bid on the official City form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the City reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the City may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
  2. (For Request For Proposals): Failure to submit a proposal on the official City form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the City reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

- I. **CLARIFICATION OF TERMS:** If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the Purchasing and Contracts Manager no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Division.
- J. **PAYMENT:**
1. **To Prime Contractor:**
    - a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the City contract number and/or purchase order number; social security number (for individual contractors) 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 contractor at the contract price, regardless of which City department is being billed.
    - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
    - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve a department of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).
  2. **To Subcontractors:**
    - a. A contractor awarded a contract under this solicitation is hereby obligated:
      - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
      - (2) To notify the department and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
    - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City.

- K. **PRECEDENCE OF TERMS:** Paragraphs A-J of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The City may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the City all such information and data for this purpose as may be requested. The City reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The City further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The City reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
  2. The Purchasing Division may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Division a credit for any savings. Said compensation shall be determined by one of the following methods:
    - a. By mutual agreement between the parties in writing; or
    - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Division's right to audit the contractor's records and/or to determine the correct number of units independently; or
    - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Division with all vouchers and records of expenses incurred and savings realized. The Purchasing Division shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Division within thirty (30) days from the date of receipt of the written order from the Purchasing Division. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Division or with the performance of the contract generally.

- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City may have.
- Q. **TAXES:** Sales to the City are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The City's excise tax exemption registration number is 54-072-1442.
- R. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offers) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the City, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offeror) clearly indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.
- S. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offers) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverages at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

**INSURANCE COVERAGES AND LIMITS REQUIRED:**

1. Workers' Compensation - Statutory requirements and benefits.
  2. Employer's Liability - \$1,000,000.
  3. Commercial General Liability - \$1,000,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The City of Chesapeake must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.
  4. Automobile Liability - \$1,000,000 - Combined single limit. (Only used if motor vehicle is to be used in the contract.)
- U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Purchasing Division will publicly post such notice on the City's website ([www.CityOfChesapeake.net](http://www.CityOfChesapeake.net)) for a minimum of 10 days.

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

- W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, or disability, or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the City shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- X. **TERMINATION OF CONTRACT:** The City may terminate the contract for cause or for convenience after giving thirty (30) days notice in writing to the Contractor. The written notice shall include a statement of reasons for the termination.

**Termination for Cause:** If the Contractor should breach the contract or fail to perform the services required by the contract, the City may terminate the contract for cause by giving written notice or may give the Contractor a stated period of time within which to remedy its breach of contract. If the Contractor shall fail to remedy the breach within the time allotted by the City, the contract may be terminated by the City at any time thereafter upon written notice to the Contractor or, in the alternative, the City may give such extension of time to remedy the breach as the City determines to be in its best interest. The City's forbearance by not terminating the contract for a breach of contract shall not constitute a waiver of the City's right to terminate nor acquiescence in future act or omissions by the Contractor of a like nature. If the contract is terminated for cause, breach of contract or failure to perform, the Contractor may be subject to a claim by the City for the costs and expenses incurred in securing a replacement Contractor to fulfill the obligations of the contract.

**Termination for Convenience:** The contract may be terminated by the City in whole or in part for the convenience of the City without a breach of contract by delivering to the Contractor a written notice of termination specifying the extent to which performance under the contract is terminated and the effective date of the termination. Upon receipt of such a notice of termination, the Contractor must stop work, including but not limited to work performed by subcontractors and consultants, at such time and to the extent specified in the notice of termination.

If the contract is terminated in whole or in part for the convenience of the City, the Contractor shall be entitled to those fees earned for work done prior to the notice of termination and thereafter shall be entitled to any fees earned for work not terminated, but shall not be entitled to lost profits for the portions of the contract which were terminated. The Contractor will be compensated for reasonable costs or expenses arising out of the termination for the convenience of the City for delivery to the City of all products of the services for which the Contractor has or will receive compensation.

**Delivery of Materials:** Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver to the City all products of the services for which the Contractor has been or will be compensated. Unless otherwise agreed to in writing, the Contractor shall deliver the materials to the city within 30 days of the Notice of Termination of the Contract. Failure to do so may result in action for "breach of contract" or "failure to perform".

**Compensation Due the Contractor:** Upon such termination, the Contractor shall be entitled to the compensation accrued to the date of termination. Payment of the balance of the accrued compensation shall be dependent on the Contractor providing the required project material to the City. Said fees which have been earned shall be billed to the City in accordance with the normal billing process, but in no case later than 60 days after the last work is performed. Any termination by the City for default, found by a court of competent jurisdiction not to have been justified as a termination for default, shall be deemed a termination for the convenience of the City.

The Contractor shall submit invoices for all such amounts in accordance with the normal billing process, but in no event later than 60 days after all services are performed. All amounts invoiced are subject to deductions for amounts previously paid. All payments due the Contractor under this contract are subject to appropriation by the Virginia General Assembly and Chesapeake City Council.

- Y. **COOPERATIVE PROCUREMENT:** Any resultant contract of this solicitation may be extended to any public agency or body in the Commonwealth of Virginia to permit those public agencies or bodies to purchase at contract prices, in accordance with the terms, conditions and specifications of this bid. The successful vendor/contractor shall deal directly with each public agency or body in regard to order placement, delivery, invoicing and payment.

## APPENDIX A

### SECTION II

#### SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

1. ADVERTISING
  2. AUDIT
  3. AVAILABILITY OF FUNDS
  4. AWARD OF CONTRACT
  5. AWARD TO MULTIPLE BIDDERS
  6. BID ACCEPTANCE PERIOD
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1. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this bid/proposal, no indication of such sales or services to the City of Chesapeake will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the City of Chesapeake or any department or agency of the City has purchased or uses its products or services.
  2. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City, whichever is sooner. The City auditors shall have full access to the right to examine any of said materials during said period.
  3. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the City shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
  4. **AWARD OF CONTRACT:** The right is reserved to make a separate award of each item, a group of items or all items, and to make an award either in whole or in part, whichever is deemed in the best interest of the City. The award or awards will be made to the lowest responsive, responsible bidder or bidders as applicable.
  5. **AWARD TO MULTIPLE BIDDERS:** The City of Chesapeake reserves the right to make multiple awards as a result of this solicitation. The award(s) will be made to the lowest responsive and responsible bidder(s) meeting the requirements of the solicitation. The City reserves the right to conduct any tests it may deem advisable and to make all evaluations. The City also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.
  6. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for 90 days. At the end of the 90 days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
  7. **BID PRICES:** Bid shall be in the form of a firm unit price.

- 8. **DELIVERY:** As required.
- 9. **FINAL INSPECTION:** At the conclusion of the work, the contractor shall demonstrate to the authorized City representative that the work is in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the contractor at the contractor's sole expense prior to final acceptance of the work.
- 10. **IDENTIFICATION OF BID/PROPOSAL ENVELOPE:** If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: \_\_\_\_\_

Name of Bidder/Offeror	Due Date	Time
Street or Box Number	IFB No./RFP No.	
City, State, Zip Code	IFB/RFP Title	

Name of Contract/Purchase Officer or Buyer \_\_\_\_\_

The envelope should be addressed as directed on Page 1 of the solicitation.

If a bid/proposal not contained in the special envelope is mailed, the bidder or offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the bid or proposal to be disqualified. Bids/proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other bids/proposals should be placed in the envelope.

- 11. **INDEFINITE DELIVERY/INDEFINITE QUANTITY:** This is an indefinite delivery/indefinite quantity delivery contract for the supplies or services specified and effective for the period stated. The City shall order the quantity of supplies or services specified in the price schedule and the Contractor shall furnish them when ordered.  
  
The projected annual contract amount is \$100,000.00. The annual contract amount may not exceed \$100,000.00 without the specific written approval by the Interim Purchasing Agent. Contractor shall be responsible to provide notification of annual amounts. This estimate is based on requirements for the past one (1) year. The Contractor shall complete any order issued during the effective period of this contract and not completed within the contract period within the time specified in the order. The contract shall govern the Contractor's and City's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; that the Contractor shall not be required to make any delivery under this contract after 30 days of the expiration of the contract.
- 12. **LABELING OF HAZARDOUS SUBSTANCES:** If the items or products requested by this solicitation are "Hazardous Substances" as defined by §1261 of Title 15 of United States Code (U.S.C.) or "Pesticides" as defined in §136 of Title 7 of the United States Code, then the bidder/offeror, by submitting his bid/proposal, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the bidder/offer does not violate any of the prohibitions of Title 15 U.S.C. § 1263 or Title 7 U.S.C. § 136.
- 13. **MATERIAL SAFETY DATA SHEETS:** Material Safety Data Sheets and descriptive literature shall be provided with the bid for each chemical and/or compound offered. Failure on the part of the bidder to submit such data sheets may be cause for declaring the bid as non-responsive.

14. **METHOD OF ORDERING:** The City of Chesapeake is issuing this solicitation in cooperation with all departments and agencies. Requirements of all departments or agencies have been combined, and the total estimated usage is shown within this solicitation. The Interim Purchasing Agent is responsible for administering the program; therefore, correspondence should be directed to the Purchasing Division. The contractor shall provide a volume purchase report prior to contract expiration or renewal.

- 1. Any supplies and services over \$5,000.00 to be furnished under this contract shall be ordered by the issuance of delivery orders by Authorized Users designated at the time of award.
- 2. All delivery orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order and this contract, the contract shall control.
- 3. If mailed, a delivery order is considered issued when the City deposits the order in the mail. The Authorized Users may issue orders orally, by facsimile, or by electronic commerce methods.

For orders under \$5,000.00, a delivery order is not required; however, contractors shall accommodate the use of authorized Visa cards issued by the City's Interim Purchasing Agent.

For orders over \$5,000.00, a delivery order is required to be issued by the Purchasing Division citing this contract. The Purchasing Division, within 10 days following award of the contract, shall furnish the names of the Authorized Users. Contractor shall cite the Contract Number on all invoices.

Authorized User: \_\_\_\_\_  
(Name) (Phone)

Authorized User: \_\_\_\_\_  
(Name) (Phone)

15. **MINORITY/WOMEN OWNED BUSINESSES SUBCONTRACTING AND REPORTING:** Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Purchasing Division. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

16. **NEGOTIATION WITH THE LOWEST BIDDER:** Unless all bids are cancelled or rejected, the City reserves the right granted by § 2.2-4318 of the *Code of Virginia* to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available to the City whenever such low bid exceeds the City's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the City for this contract prior to the issuance of the written Invitation for Bids. If all bids exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than five (5) percent, the purchasing and contracts manager or designee is authorized in situations where time or economic considerations preclude re-solicitation of work or a reduced scope, to negotiate an adjustment of the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

17. **PRICE ESCALATION/DE-ESCALATION:** Price adjustments may be permitted for changes in the contractor's cost of materials/labor not to exceed the increase in the following index: CPI. No price increases will be authorized for 365 calendar days after the effective date of the contract. Price escalation may be permitted only at the end of this period and each 365 days thereafter and only where verified to the satisfaction of the purchasing office

Contractor shall give not less than 90 days advance notice of any price increase to the purchasing office. Any approved price changes will be effective only at the beginning of the calendar month following the end of the full 90-day notification period. Documentation shall be supplied in general with the contractor's request for

increase which will verify that the requested price increase is general in scope and not applicable just to the City of Chesapeake.

The purchasing office will notify the using department and contractor in writing of the effective date of any increase which it approves. However, the contractor shall fill all orders received prior to the effective date of the price adjustment at the old contract prices.

- 18. **PROJECTED REQUIREMENTS/ESTIMATED QUANTITIES:** As requirements arise for specific quantities of items covered herein, the authorized individuals shall place orders. Please refer to the paragraph entitled Method of Ordering.

The quantities specified in this solicitation are estimated only, and are given for the information of bidders and for the purpose of bid evaluation. They do not indicate the actual quantity that will be ordered since the actual volume will depend upon requirements that develop during the contract period.

- 19. **REFERENCES:** Bidders shall provide a list of at least three (3) references where similar goods and/or services have been provided. Each reference shall include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

	<u>ORGANIZATION</u>	<u>ADDRESS</u>	<u>CONTACT PERSON</u>	<u>TELEPHONE</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

- 20. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the City's satisfaction at the contractor's expense.