



REQUEST FOR PROPOSALS TITLE PAGE

Include This Page as the First Page in Your Proposal Response

City of Lynchburg, Virginia Procurement Division

Proposal Title: **Design Build Contract for Synthetic Turf Replacement at E.C. Glass High School**

This is the Lynchburg City School's **Request for Proposals No. 15-956** issued 01/07/2015. Direct inquiries for information to: Lisa Moss; Phone: 434-455-4228; Fax: 434-845-0711. All responses to this solicitation shall be in strict accordance with the requirements set forth in this bid document and the ensuing contract documents.

All requests for clarification of or questions regarding this request for proposal must be made in writing, by facsimile (434) 845-0711 or email to lisa.moss@lynchburgva.gov and received by 9:00 a.m. January 27, 2015. Any alteration or changes to this Request for Proposals will be made only by written addendum issued by the City of Lynchburg, Procurement Division.

An Optional Pre Proposal Conference will be held on January 15, 2015 at 1:00 P.M. at E. C. Glass High School 2111 Memorial Avenue Lynchburg, VA.

Sealed proposals will be publicly accepted prior to 4:00 p.m., February 5, 2015, however only the names of companies responding will be available for announcement. Proposals received after the stated due date and time shall not be considered. Submit proposals in a sealed, opaque envelope, and put the RFP number, title, due date and time on the lower left front. Offerors are responsible for having their proposal stamped by Procurement Division staff before the deadline indicated above and acknowledge all addenda so issued in the space provided below. All Offerors are responsible for obtaining issued addenda from the City's Purchasing Division website: <http://www.lynchburgva.gov/current-solicitations>

Acknowledge receipt of addenda here: No. _____ Date: _____
No. _____ Date: _____

Submit Proposals: BY MAIL, GROUND DELIVERY, OR HAND DELIVER TO:

Procurement Division
Third Floor City Hall
900 Church Street
Lynchburg, Virginia 24504

Information the Offeror deems Proprietary is included in the proposal response in section(s): _____

See Paragraph B. on page 2 for guidelines on submitting proprietary information.

In compliance with this Request for Proposals and all the conditions imposed therein, the undersigned offers and agrees to furnish the services in accordance with the attached proposal or as mutually agreed by subsequent negotiations. By my signature below, I certify that I am authorized to bind the Offeror in any and all negotiations and/or contractual matters relating to this Request for Proposals. Sign in ink and type or print requested information.

Full Legal Name of Offeror: _____

Fed ID OR SOC. SEC. NO.: _____ Date: _____

Address: _____ Phone: () _____

_____ Fax: () _____

Signature: _____

Typed or Printed Name, Title

Buyer's Signature

I. SUBMISSION OF PROPOSALS

- A. An original (1), so marked, and (4) copies, so marked, for a total of (5) of your proposal document are required. In addition, one (1) copy of proposal in an electronic format, CD in Microsoft Word format or PDF file format must also accompany your proposal. Lynchburg City School's (known hereafter as LCS) will not assume responsibility for reproduction where an insufficient number of copies have been supplied. In any such case, LCS will notify the Offeror of the deficiency and request that the appropriate number of copies be delivered within 24 hours. Failure to comply with this or other requirements of this Request for Proposal shall be grounds for the LCS to reject such proposals. Telegraphic or facsimile submission of proposals is not acceptable and any such proposals will not be considered. Nothing herein is intended to exclude any responsible Offeror or in any way restrain or restrict competition. All responsible Offerors are encouraged to submit proposals.
- B. Submission of Proprietary Information: Trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however the Offeror must invoke the protection of this section prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary (Section 2.2-4342F of the Code of Virginia). Offerors shall submit, in a separate section of the proposal, any information considered proprietary and any copyrighted material and clearly identify the information as proprietary and/or copyrighted information. Offerors may not declare their entire proposal proprietary nor may they declare proposed pricing to be proprietary.
- References may be made within the body of the proposal to proprietary information; however all information contained within the body of the proposal not in the separate section labeled proprietary shall be considered Public Information.
- C. Proposals having any erasures or corrections must be initialed by the Offeror in ink.
- D. LCS reserves the right to accept or reject any or all proposals, to waive informalities, and to reissue any request for proposals and to award contracts to multiple Offerors. Any contract resulting from this Request for Proposal shall not be exclusive to the Successful company. LCS reserves the right to contract with companys not party to the resultant contract for similar work if it determines this to be in their best interest.
- E. By submitting a proposal response, the Offeror agrees that the proposal response will not be withdrawn for a period of 90 days following the due date for proposal responses.
- F. By submitting a proposal response, the Offeror certifies that it has not combined, conspired or agreed to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated its proposal response for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services, or excluding other persons from dealing with LCS.
- G. By submitting a proposal response, the Offeror certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontracting company in connection with its proposal; and that it has 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.
- H. LCS will not be responsible for any expense incurred by any Offeror in preparing and submitting a proposal response. All proposals submitted will become the property of LCS.

II. INTRODUCTION:

Lynchburg City Schools hereby requests submittals of Technical and Cost Proposals (collectively, "Proposals") for Design-Build Services for the complete removal and replacement of the entire existing synthetic turf system at E.C. Glass High School located at 2111 Memorial Avenue, in Lynchburg. The intent of this Request for Proposal (RFP) is to determine which Offeror is most qualified to perform the entire scope of services and offers the best-value solution for the project.

III. SCOPE OF WORK:

The scope of work generally includes a complete turnkey project to include design, removal of existing, and installation of a new synthetic turf system. .

Scope of work to include the following:

- Removal and legal off-site disposal of the existing synthetic turf and infill. The existing leveling bed, aggregate and drainage system may be reused if determined to be acceptable to the manufacturer.
- Offerors shall submit proposals based on the following approved synthetic turf systems:
 - Astroturf - 2.25" Q44 Turf
 - Shaw Sports Turf - 2.25"
 - Legion 46 or Hellas – 2.25" Fusion.
 Color to be selected from the manufacturer’s full range of standard colors. No alternates will be accepted.
- Brock – SP 14 shock pad and infill as recommended by the turf manufacturer.
- The sub-base may require minor re-grade to ensure the proper contour and drainage. Any aggregate added shall conform to the permeability requirements of the synthetic turf system as per manufacturer’s recommendations.
- The field will be marked for football, soccer, and lacrosse (boys & girls); and will have a school logo at mid field. (example provided)
- Include, at the contractors expense, G- Max testing on the installed surface prior to acceptance. Testing shall be performed in accordance with ASTM F-355 Method A by an independent materials testing laboratory. The initial installation must have a G Max below 100 upon completion and must maintain a G Max below 120 for the life of the warranty. These tests must be repeated at the contractor’s expense annually for the life of the warranty.
- Provide an 8 year standard, non-prorated warranty for all infilled synthetic turf components and installation. Provide a Third Party Insured Warranty for the Synthetic Turf System.
- Provide a videotaped on site field maintenance training session, manuals, schedules and equipment.

Project schedule: Start date of **June 8, 2015** and a completion date on **July 24, 2015**.

Awarded Proposer will be required to provide the following bonds along with contract documents:

- Performance bond
- Labor and material payment bond

Bonds will be required in the amount of 100 percent of the proposal cost. Bonds shall be with a surety company acceptable to the Owner that is legally authorized to do business in Virginia and in a form acceptable to Owner.

III. SOLICITATION SCHEDULE

This request for proposal will be governed by the following schedule:

Posting of RFP	January 7, 2015
Deadline for Written Questions	January 27, 2015, 9:00 a.m.
Proposals are Due	February 5, 2015, 4:00 p.m.

IV. PROPOSAL PREPARATION

The proposal response must address the items included in the Scope of Services and the Criteria for Proposal Evaluation. Proposals should be prepared simply, providing straightforward and concise responses to requests for information and descriptions of qualifications and capabilities. Responses shall be limited to no more than twenty pages excluding the cover by including all other materials. Each copy of the proposal must be bound with all documentation in a single volume where practical. Failure to do so will result in a lowered evaluation. Incomplete proposals may be determined nonresponsive. LCS reserves the right to request additional information or clarification if necessary throughout the evaluation process.

Offerors should organize the Proposals using the format described below and in the following order:

Title page

Table of Contents

Experience/Qualifications:

Brief history of the Offeror:

- Years in business as an established company;
- Company principals;
- Size of company (denote partnerships or subcontractors necessary to facilitate full service scope);
- The name, position and telephone number of contact person authorized to conduct negotiations and authorize final contracts or otherwise bind the company to a contractual relationship; and
- A specific listing of services the company is uniquely qualified to provide.

List all current and/or past work assignments for synthetic turf replacements that the Offeror has directly contracted to provide and complete within the last five years. Provide a reference for 5 replacement projects completed in the past 2 years to include: a brief description of services provided, Owner's name, contact person, title, email address and telephone number.

Specific staff experience for those to be assigned to this project, to include professional qualifications and certifications, as it relates to providing the scope of services. Include a listing of at least 3 completed projects of similar scope for each key team member. A qualifying statement as to the Offeror's registry status with the Virginia State Corporation Commission and Class A Contractor's license number

Technical Approach:

Provide detailed explanation of project approach describing the design, proposed materials and installation methods to be utilized on this project. Provide detailed specifications for the proposed new synthetic turf system.

Warranty: Provide details regarding all warranties for this project.

Schedule: Provide a detailed schedule for this project with a start date of June 8, 2015 and a completion date of July 24, 2015.

Cost Proposal:

Cost Proposals shall be submitted in a separate sealed envelope, and shall include the total, complete

pricing to provide a turnkey project.

V. **EVALUATION CRITERIA FOR PROPOSAL EVALUATION:**

Experience and Qualifications
Technical Approach
Cost

VII. **METHOD OF AWARD**

Following evaluation of the written proposals as submitted, selection shall be made of three or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, and respondents ranked 1, 2, 3 or more. Negotiations shall then be conducted with the company ranked number 1 in an attempt to reach an agreement to provide the services. After negotiations have been conducted with the top ranked company, if an agreement cannot be reached, negotiations will be terminated with that company, and negotiations began with the company ranked number 2. This procedure will continue until an agreement is reached or negotiations are terminated and the services re-solicited. Should LCS determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

VIII. **GENERAL TERMS AND CONDITIONS**

The following terms and conditions shall be incorporated into the negotiated contract. If any Offeror wants to amend or discuss during negotiations any term, the Offeror should set forth any objection, change, or addition in their proposal submission. Otherwise, submission of a proposal by an Offeror will obligate such Offeror to enter into a contract incorporating the terms and conditions of this section.

A. **Subcontracting and Assignment of Work**

The successful Proposor shall not subcontract or assign portions of the work, other than those specifically defined in the CONTRACT, without the express written consent of the City. A description of any work the Offeror proposes to subcontract shall be submitted to the City for review and approval along with the name and address of the individual, Proposor, or corporation that is the proposed subcontracting Proposor. This submittal shall also include a list of the key personnel that the subcontractor Proposor will assign to the project. All work performed by any subcontractor Proposor shall be coordinated by the successful Proposor and the successful Proposor will be responsible to the City for all work performed by any subcontracting Proposor or special consultant.

B. **Payment for Services**

Payments to the successful Proposor shall be made within 30 days after receipt of an approved invoice for services provided in the previous month. Backup documentation for each invoice shall be provided in detail satisfactory to the City. The successful Proposor's records and documentation supporting such invoices shall be made available to the City upon reasonable request. The successful Proposor agrees to retain all records, documents and support materials relevant to the CONTRACT for a period of five years following final payment.

C. **Independent Successful Proposor**

The successful Proposor is an independent successful Proposor and nothing contained in a subsequent CONTRACT shall constitute or designate such Proposor or any of its agents or employees as employees of the City.

D. Termination and Ownership of Documents

The City reserves the right to terminate the contract upon written notice to the Successful Proposor. In the event of termination pursuant to this paragraph which is not the fault of the Successful Proposor, the Successful Proposor shall be paid for all services provided through the date of termination. The contract will terminate immediately upon failure of the City of Lynchburg, City Council to appropriate funds for its continuance.

The Successful Proposor agrees that all information and materials gathered and/or prepared by or for it under the terms of the CONTRACT shall be delivered to, become and remain the property of the City upon completion of the work or termination of the CONTRACT. The City shall have the right to use and reproduce the data and reports submitted hereunder, without additional compensation to the Successful Proposor.

E. Insurance

During the term of this Contract, the Contractor shall procure and maintain insurance coverages with insurance companies rated by A. M. Best Company as A – VIII or better. The company(ies) shall be authorized to do business under the laws of the Commonwealth of Virginia and be acceptable to the City of Lynchburg and shall provide the following minimum types of insurance:

a. **Commercial General Liability Insurance** – This will cover claims for Bodily Injury, Property Damage, Personal and Advertising Injury, Products and Completed Operations, which may arise from operations under the Contract, whether such operations be performed by the Contractor or by any Subcontractor or Independent Contractor, or by anyone directly or indirectly employed by any of them. Such insurance shall include coverages "X", "C" and "U" for explosion, collapse of other structures and underground utilities, as well as Contractual Liability Insurance covering the requirements outlined in the General Conditions. This insurance shall name the City, the City Council and its employees as additional insureds **by endorsement** to the Commercial General Liability policy. Such policy shall not have a restriction on the limits of coverage provided to the City of Lynchburg as an additional insured. The City of Lynchburg shall be entitled to protection up to the full limits of the Contractor's policy regardless of the minimum requirements specified in this Contract. If endorsements to the Commercial General Liability insurance policies cannot be made, then separate policies providing such protection shall be purchased by the Contractor.

1. The Policy shall have the following *minimum* limits:

\$1,000,000 Each Occurrence Limit
\$1,000,000 General Aggregate Limit
\$1,000,000 Personal and Advertising Injury Limit
\$1,000,000 Products and Completed Operations Aggregate Limit
\$5,000 Medical Expense Limit

This insurance shall include the following provisions and /or endorsements:

- 1) The General Aggregate limit shall apply on a "per project" and on a "per location" basis;
- 2) Coverage shall apply to all liability arising from all premises and operations conducted by the Contractor, Subcontractors and independent contractors;
- 3) The Contractor agrees that liability arising from Products and Completed Operations will be covered. Such liability coverage will be maintained for two years after completion of the Work.
- 4) The Contractor shall require each of his Subcontractors to procure and maintain Commercial General Liability Insurance of the type specified in these Contract

Documents in the minimum amounts required by the Owner and the Contractor (which shall be the amounts required by this paragraph 11.1.1. of Contractor unless otherwise agreed in writing by Owner), during the term of their subcontracts.

b. **Worker's Compensation and Employer's Liability Insurance** for the Contractor's employees engaged in the Work under this Contract, in accordance with statutory requirements of the Commonwealth of Virginia. The Contractor shall require each of his Subcontractors to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees engaged on such subcontracts. If any class of employees engaged on Work under the Contract is not protected under the Worker's Compensation statute, the Contractor shall provide similar protection for these employees in amounts not less than the legal requirements. The amount of Employer's Liability Insurance for the Contractor and each of his Subcontractors shall be not less than:

\$100,000 per employee for Bodily Injury.
\$100,000 per employee for disease
\$500,000 per policy for disease

The Worker's Compensation and Employer's Liability Insurance policy shall include an "all states" or "other states" endorsement.

c. **Commercial Automobile Liability Insurance**, including coverage for owned, hired, non owned and borrowed vehicles used in the work with *minimum* limits of \$1,000,000 Combined Single Limit per occurrence. This insurance shall name the City, the City Council and its employees as additional insureds *by endorsement* to the Commercial Automobile Liability policy. Such policy shall not have a restriction on the limits of coverage provided to the City of Lynchburg as an additional insured. The City of Lynchburg shall be entitled to protection up to the full limits of the Contractor's policy regardless of the minimum requirements specified in this Contract.

d. **Umbrella Liability or Excess Liability Insurance** with the following minimum limits of:

\$5,000,000 Each Occurrence
\$5,000,000 Annual Aggregate

The following policies shall be scheduled as underlying

policies: Commercial General Liability
Commercial Automobile Liability
Employers Liability

This insurance shall name the City, the City Council and its employees as additional insureds *by endorsement* to the Umbrella or Excess Liability policy. Such policy shall not have a restriction on

the limits of coverage provided to the City of Lynchburg as an additional insured. The City of Lynchburg shall be entitled to protection up to the full limits of the Contractor's policy regardless of the minimum requirements specified in this Contract.

Proof of insurance for each type of coverage listed herein shall be provided within 10 days after issuance of the award letter for the Contract, and no Work shall proceed unless all such insurance is in effect. The Contractor shall not allow any Subcontractor to commence work on his subcontract until all such insurance of the Subcontractor has been so obtained and approved by the Contractor and found to be in accordance with the requirements set forth herein. The Contractor certifies by commencement of the Work that his insurance and that of Subcontractors is in effect and meets the requirements set forth herein.

The Contractor shall purchase and maintain required liability and all other insurance as is appropriate for the Work being performed and furnished. The insurance shall provide protection from claims which may arise out of or result from Contractor's performance and furnishing of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed or furnished by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

- a. claims under Worker's Compensation, Employers Liability, disability benefits, and other similar employee benefit acts;
- b. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
- c. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
- d. claims for damages insured by personal injury liability coverage which are sustained: (1) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor; or (2) by any other person for any other reason;
- e. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
- f. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

The insurance required to be purchased and maintained by the Contractor shall:

- a. include completed operations insurance;
- b. with respect to any other insurance coverage written on a claims-made basis, remain in effect for at least 2 years after final payment (and Contractor shall furnish the City and A/E evidence satisfactory to the City of continuation of such insurance at final payment and 1 year thereafter);
- c. contain a cross liability or severability of interest clause or endorsement. Insurance covering the specified additional insureds shall be primary insurance, and all other insurance carried by the additional insureds shall be excess insurance.

All of the aforesaid insurance policies must be endorsed to provide that the insurance company *shall give 30 days written notice to the City* if the policies are to be terminated or if any changes are made during the Contract period which will affect in any way the insurance provided pursuant to such policy. Before starting the Work, the Contractor shall provide the City with a copy of each policy that he and each of his Subcontractors is required to carry in accordance with this Article 11, together with receipted bills evidencing proof of premium payment. These policies shall contain endorsements to the policies naming the City of Lynchburg as an additional insured as required.

Nothing contained herein shall effect, or shall be deemed to affect, a waiver of the City's sovereign immunity under law.

F. Laws and Regulations

The Successful Proposor shall abide by all Federal, State and Local laws and regulations governing the provision of the services called for in the contract. The Successful Proposor shall give notice and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work. Any legal proceedings arising out of or related to this agreement shall be filed by the parties in the City of Lynchburg General District Court or the Lynchburg Circuit Court.

The selected Proposor shall not during the performance of any resultant contract knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

G. Severability

Each paragraph and provision of the resultant contract will be severable from the entire agreement and if any provision is declared invalid, the remaining provisions shall remain in effect.

H. Licenses and Permits

The Successful Proposor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work which are legally required prior to and during the work. The City will not charge for any permits required by the City of Lynchburg.

I. Nondiscrimination

If the resultant contract exceeds \$10,000, during the performance of the contract, the successful Proposor agrees as follows:

a. The Successful Proposor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Successful Proposor. The Successful Proposor 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 Successful Proposor, in all solicitations or advertisements for employees placed by or on behalf of the Successful Proposor, will state that such Successful Proposor 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 the requirements of this section.

d. The Successful Proposor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontracted Proposor or vendor.

J. Payments to Successful Proposors

In accordance with Virginia Code Section 2.2-4354 the Successful Proposor agrees that:

1. Should any contractor be employed by the Successful Proposor for the provision of any goods or services under this Contract, the Successful Proposor agrees to the following:

(a) The Successful Proposor shall, within seven days after receipt of any payments from the City pursuant to this Contract, either:

(1) Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the goods or services provided by the subcontractor; or

withhold all or a part of the subcontractors Proposor's payment with the reason for nonpayment. Written notice to the City shall be given to: City of Lynchburg, Procurement Administrator, 900 Church Street, Lynchburg, VA 24504.

- (b) The Successful Proposor shall pay interest to the subcontractors Proposor, at the rate of one percent per month on all amounts owed to the subcontractors Proposor that remain unpaid after seven days following receipt of payment from the City for goods or services provided under this Contract, except for amounts withheld under subparagraph (a)(2) above.
- (c) The Successful Proposor shall include in each of its subcontracts a provision requiring each subcontractors Proposor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractors Proposor.
- (d) The Successful Proposor's obligation to pay an interest charge to a subcontractors Proposor shall not be an obligation of the City.
- (e) No contract modification shall be allowed for the purpose of providing reimbursement for these interest charges. No cost reimbursement claim shall include any amount for reimbursement of these interest charges.

2. Invoice processing is to be in strict accordance with the rules and regulations set forth by the applicable Jurisdiction and the *Code of Virginia* Section 2.2-4352, requiring payment of invoices within 30 days of receipt of a proper invoice. No promises or commitments on the part of any employee of the Public Body shall bind the Jurisdiction to any other terms and/or conditions other than those set forth in procedures issued by the Public Body.

(a) Invoices shall be submitted to the City on a monthly basis. The City shall pay the amount of the invoice within thirty (30) days. However, the City shall have the right to verify information contained on an invoice and extend the time of payment until information is received to correct any errors found therein. The invoices submitted shall include, at a minimum, the following information:

- (1) Project name, city and state project number;
- (2) City Project Manager;
- (3) City assigned Contract Number;
- (4) Not to exceed amount or lump sum Amount;
- (5) Total payments requested to date;
- (6) Payments received;
- (7) Balance due;
- (8) Invoice number;
- (9) Period during which services were performed; and
- (10) Brief description of work covered by invoice.

- (b) Payments shall not be considered as evidence of satisfactory performance of the work either in whole or in part, nor shall any payment be construed as acceptance by the City of any defective work. The City reserves the right to withhold payment in the event the City believes that the work is unsatisfactory.
- (c) Successful Proposor shall be paid the amount approved or adjusted by the Owner, less 5% retainage, on the construction portion of this project, which is being held to assure faithful performance.

K. Contractual Claims

Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Successful Proposor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Any notice or claim shall be delivered to the City's Procurement Administrator, Third Floor City Hall, 900 Church Street, Lynchburg Virginia 24504 and shall include a description of the factual basis for the claim and a statement of the amounts claimed or other relief requested. The City's Procurement Administrator shall render a decision on the claim and shall notify the Successful Proposor within 30 days of receipt of the claim. The Successful Proposor may appeal the decision of the City's Procurement Administrator by

providing written notice to the City Manager, within 15 days of the date of the appeal notice and such decision shall be final unless the Successful Proposor appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Successful Proposor shall be delivered to the City no later than 30 days following the conclusion of the work or delivery of the goods.

L. Taxes

The Successful Proposor shall pay all City, State and Federal taxes required by law enacted at the time proposals are received and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the contract price as the taxes shall be an obligation of the Successful Proposor and not of the City and the City shall be held harmless for same by the Successful Proposor.

M. Indemnification

To the fullest extent permitted by law, the Successful Proposor, for itself, heirs, representatives, successors and assigns agrees to save, defend, keep harmless and indemnify the City and all of its officials, agents and employees (collectively, the "City") from and against any and all claims, loss, damage, injury, costs (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from, arising out of or in any way connected with the Successful Proposor's performance (or nonperformance) of the agreement terms or its obligations under this agreement.

N. Contract Assignment

The resultant contract may not be assigned, in whole or part, without the written consent of the City.

O. Royalty and License Fees and Copyright, Trademark and Patent Protection

The Successful Proposor shall pay all royalty and license fees relating to the items covered by the contract. In the event any third party shall claim that the manufacture, use and sales of these goods offered hereby constitutes an infringement of any copyright, trademark, or patent, the Offeror shall indemnify and hold harmless the City from any cost, expense, damage or loss incurred in any manner by the City on account of such alleged infringement.

P. Responsibility for Property

The Successful Proposor shall be responsible for damages to property caused by work performed under the CONTRACT. Property damage to surrounding or adjoining areas caused directly or indirectly by actions or omissions of the Successful Proposor shall be repaired or replaced by the Successful Proposor, to the satisfaction of the Owner, at the Successful Proposor's expense.

Q. Precedence of Documents

The precedence of documents shall be as follows: the CONTRACT, the Request for Proposals and the Offeror's response to the Request for Proposals.

R. Administrative Appeals Procedure

Any protest to award a contract shall be in writing and shall be delivered so that it is received by the City Manager not later than ten (10) business days after announcement of the award or award, whichever comes first.

S. Drug Free Workplace

In accordance with Sec 2.2-4312 of the Virginia Code, during the performance of this contract, the Consultant agrees to (i) provide a drug-free workplace for the consultant'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 Consultant'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 consultant that such consultant 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 sub-Consultant or vendor.

Successful consultant shall not use, possess, manufacture, or distribute alcohol or illegal drugs during the performance of the contract or while on City premises or distribute it to City employees.

Successful Consultant understands that a violation of these prohibitions constitutes a breach of the contract and that the City has the right to cancel the contract.

For the purpose of this section, "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Consultant, the employees 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.

T. Right to Audit

All contracts are subject to audit by Federal, State or City Personnel or their representatives at no cost to the City. Consultant agrees to retain all records, books and other documents relevant to this contract and the funds expended hereunder for at least four (4) years after Contract acceptance, or as required by applicable law. Requests for audits shall be made in writing and Consultant shall respond with all information requested within ten (10) calendar days of the date of the request.

U. Conflict of Interests Act

The provisions, requirements, and prohibitions as contained in Sections 2.2-3100, et seq., of the Virginia Code are applicable to this RFP.

V. Ethics in Public Contracting

The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Virginia Code, pertaining to bidders, offerors, contractors, and subcontractors are applicable to this RFP.

W. Owners Right to Stop Work

If the Contractor fails to correct defective Work as required herein or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by a written order, may order the

Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

X. Contractors Representations

By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents

That he is experienced in and competent to perform the type of work required and to furnish the plant, materials, supplies or equipment to be so performed or furnished by him;

That he is financially solvent, able to pay his debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required by the Contract

Documents;

That he is familiar with all federal, state, and local government laws, ordinances, permits, regulations and resolutions that may in any way affect the Work or those employed therein;

That such temporary and permanent Work required by the Contract Documents which is to be done by him will be satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;

That he has carefully examined the Contract Documents and the site of the Project and the Work and that from his own investigations, he has satisfied himself and made himself familiar with: (1) the nature and location of the Work, (2) the character, quality and quantity of materials likely to be encountered, including, but not limited to, all structures and obstructions on or at the project site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work, (4) the general and local conditions, including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;

That he will fully comply with all requirements of the Contract Documents;

That he will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious and economical manner consistent with the best interests of the Owner;

That he will furnish efficient business administration, an experienced superintendent, and an adequate supply of workmen, equipment, tools and materials at all times;

That he will complete the Work within the Contract Time;

That his Contract Sum is based upon the labor, materials, systems and equipment required by the Contract Documents, without exception; and

That he has satisfied himself as to the feasibility and correctness of the Contract Documents for the construction of the Work.

Y. Supervision and Construction Procedures

The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract; subject, however, to the Owner's right to reject means and methods proposed by the Contractor which are unsafe or otherwise not in compliance with the Contract Documents.

The Contractor shall be responsible to the Owner for the acts and omissions of Contractor's employees, Subcontractors and sub-subcontractors, suppliers, their agents and their employees, and of any other persons providing any of the Work through Contractor, and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.

Before starting a section of the Work, the Contractor shall carefully examine all preparatory work that has been executed by others to receive his Work to see that it has been completed. He shall check carefully, by whatever means are required, to ensure that his Work and adjacent, related work will finish to proper quality, contours, planes, and levels.

The Contractor understands and agrees that the Owner will not have any liability for or any responsibility to exercise any control over construction means, methods, techniques, sequences or

procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have any liability for or any responsibility to exercise any control over the acts or omissions of the Contractor, Subcontractors, sub-subcontractors or any of their agents or employees, or any other persons performing any of the Work.

The Contractor shall use no plant, equipment, materials, or persons for this Work to which the Owner objects.

The Contractor shall not remove any portion of the Work or stored materials from the site of the Project without the Owner's prior, written approval.

Z. Labor, Materials and Equipment

The Contractor shall furnish all plant, labor, materials, supplies, equipment and other facilities and things necessary or proper for, or incidental to, the Work, and will perform all other obligations imposed on him by the Contract Documents. Final payment will not be made until the Work is so completed.

Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

Work, materials, and equipment which are necessary in the construction but which are not specifically referred to in the specifications or shown in the drawings but implied by the Contract Documents shall be furnished by the Contractor at his own cost and expense.

The Contractor shall at all times enforce strict discipline, safety and good order among all persons providing any of the Work through him and shall not cause or allow to be used for the Work any unfit person or anyone not skilled in the task assigned to him. If any person providing any of the Work through the Contractor shall appear to the Owner to be incompetent or to act in a disorderly or improper manner, such person shall be removed immediately, at the request of the Owner, and shall not provide any of the Work except on written consent of the Owner.

No materials or supplies for the Work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage, or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the Work.

The Contractor shall provide approved and adequate sanitary accommodations. All wastes shall be covered, disinfected, incinerated or otherwise disposed of legally.

All equipment, apparatus and/or devices of any kind to be incorporated into the Work that are shown or indicated on the drawings or called for in the specifications or required for the completion of the Work shall be entirely satisfactory to the Owner as regards operation, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus, and/or device shall relieve the Contractor of his responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by Contractor with proper and acceptable equipment, apparatus, and/or device, or put in good working order satisfactory to the Owner by Contractor without additional cost to the Owner.

AA. Warranty

The Contractor warrants to the Owner that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be of first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

The Work included in this Contract is specified in the Contract Documents. The Contractor shall be required to complete the Work specified and to provide all items needed for construction of the Work, complete and in good order.

BB. Compliance

All demolition and excavation shall comply with all laws, ordinances, rules and regulations, and lawful orders of public authority, including without limitation, those for the prevention of accidents as issued by the Department of Labor and Industry of the Commonwealth of Virginia.

To the extent of the Work indicated in the Contract Documents, the Contractor shall comply and the construction shall conform with all applicable and current editions or revisions of the following codes, specifications and standards. In case of conflict, the order of precedence shall be as hereinafter listed:

.1 Lynchburg Public Procurement Code;

.2 Contract Documents;

.3 The Virginia Uniform Statewide Building Code ("USBC"), as amended including, without limitation, The International Building Code ("IBC") and other codes incorporated by the USBC and IBC); and

Should the Contractor fail to seek such a clarification thereof immediately upon the discovery of the need therefor, prior to the time the said Work is performed, the Contractor thereby assumes all risk of loss related to such error, inconsistency, ambiguity, discrepancy, conflict or variance which the Contractor (and any person in contract with Contractor relating to the Work) knew or should have known, using a normal, professional standard of care, existed prior to the time the Work was performed.

If the Contractor performs any Work contrary to any law, code, ordinance, regulation, publication, standard, permit, rule, regulation or resolution, he shall assume full responsibility therefore and shall bear all costs attributable thereto.

CC. Responsibility for Completion

The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the performance of the Work within the Milestone and Completion dates specified in the Contract. If the Owner notifies the Contractor that it has become apparent that the Work will not be completed within required Milestone or Completion Dates and such is not due solely to circumstances for which Contractor has established entitlement to an extension to the Contract Time, the Contractor agrees that it will assume full responsibility to take some or all of the following actions, at no additional cost to the Owner (except for circumstances beyond the Contractors' control), in order to ensure, in the opinion of the Owner, that the Contractor will comply with all Milestone and Completion Date requirements:

.1 Increase manpower, materials, crafts, equipment and facilities;

.2 Increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing; and

.3 Reschedule activities to achieve maximum practical concurrency of accomplishment of activities.

Failure of the Owner to notify the Contractor of the apparent delay shall not relieve Contractor of the obligation to finish the Work within the required Milestone or Completion date.

If the actions taken by the Contractor to remedy delays not due solely to circumstances for which Contractor has established entitlement to a time extension are not satisfactory, the Owner may direct the Contractor to take any and all actions necessary to ensure completion within the required Milestone and Completion Dates, without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.

if, in the opinion of the Owner, the actions taken by the Contractor pursuant to this Article or the progress or sequence of Work are not accurately reflected on the Construction Schedule, the Contractor shall revise such schedule to accurately reflect the actual progress and sequence of Work.

The Owner may, at its sole discretion and for any reason, require the Contractor to accelerate the Construction Schedule by providing overtime, Saturday, Sunday and/or holiday work and/or by having all or any subcontractors designated by the Owner provide overtime, Saturday, Sunday, and/or holiday work. If the Owner requires overtime, Saturday, Sunday or holiday work by the Contractor's or his Subcontractor's own forces, and such requirement is not related in any way to the contractor's apparent inability to comply with Milestone and Completion Date requirements, the Owner shall reimburse the Contractor for the direct cost to the Contractor of the premium time for all labor utilized by the Contractor in such overtime, Saturday, Sunday or holiday work (but not for the straight time costs of such labor), together with any Social Security and State or Federal unemployment insurance taxes in connection with such premium time. However, no overhead supervision costs, commissions, profit or other costs and expenses shall be payable in connection therewith.

This provision does not eliminate the Contractor's responsibility to comply with the City's noise ordinances, all VDOT permit requirements, and all other applicable laws, regulations, rules, ordinances, resolutions, and permit requirements.

DD. Site Clean Up

The Contractor at all times shall keep the Project site and adjacent areas free from accumulation of waste materials or rubbish caused by his operations. Before final payment is made, the Contractor shall remove all of his waste materials, rubbish, scrap materials, debris, tools, construction equipment, machinery, surplus materials, falsework, temporary structures, including foundations thereof and plant of any description, from the Project site and put the site in a neat, orderly condition.

If the Contractor fails to clean up as required herein at any time during the performance of the Work or at the completion of the Work, the Owner may, upon 24 hours notification, clean up the site at the Contractor's expense.

EE. Owners Right to Clean Up

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Article 4, Contractor, the Owner may clean up and charge the cost thereof to the contractor responsible as the Owner shall determine to be just.

