



REQUEST FOR PROPOSALS TITLE PAGE
Include This Page as the First Page in Your Proposal Response

City of Lynchburg, Virginia
Procurement Division

Proposal Title: Engineering Services Relative to Water Resources Planning and Construction Projects

This is the City of Lynchburg's Request for Proposals No. 14-891, issued January 14, 2014. Direct inquires for information to: Stephanie Suter; Phone: 434-455-3963; 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 email to stephanie.suter@lynchburgva.gov and received by 2:00 p.m., February 6, 2014. Any alteration or changes to this Request for Proposals will be made only by written addendum issued by the City of Lynchburg, Procurement Division.

Sealed proposals will be publicly accepted prior to 4:00 p.m., February 13, 2014, however only the names of firms 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. Indicate which services you are requesting pre-qualification for below. Sign in ink and type or print requested information.

Table with 4 columns: Service Description, Yes, No, Service Description, Yes, No. Rows include 3A Water, Sewer, Stormwater Mains; 5 (Optional) Condition Assessment - Smoke Testing; 5 (Optional) Condition Assessment - TV; 6 (Optional) Water Distribution Modeling - WaterCAD; 7 (Optional) Sanitary Sewer Modeling - InfoSWMM; 3B Water and Wastewater Treatment Plant; 3C Stormwater Management; 3D Dam and Reservoir Management.

Full Legal Name of Offeror: \_\_\_\_\_

Fed ID OR SOC. SEC. NO.: \_\_\_\_\_

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

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

Phone: ( ) \_\_\_\_\_

\_\_\_\_\_

Fax: ( ) \_\_\_\_\_

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

Typed or Printed Name, Title

City Procurement Manager's Signature: [Handwritten Signature]

## 1. SUBMISSION OF PROPOSALS

- A. **An original (1), so marked, and (5) copies, so marked, for a total of (6)** of your proposal document are required. In addition, one (1) copy of proposal in an electronic format, either floppy disk or CD in Microsoft Word format or PDF file format must also accompany your proposal. The City will not assume responsibility for reproduction where an insufficient number of copies have been supplied. In any such case, the City 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 City 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. The City 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 firm. The City reserves the right to contract with firms 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 the City.
- 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 firm 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. The City 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 the City.

## 2. GENERAL INFORMATION AND OBJECTIVE

The City of Lynchburg's Department of Water Resources is responsible for water treatment; wastewater treatment; maintenance of the water and wastewater treatment plants; collection and distribution systems; meter reading; stormwater management; engineering; safety; security; backflow prevention; and GIS services related to the water, sewer and stormwater infrastructure. The City provides water and wastewater service to approximately 100,000 people within the City of Lynchburg and to portions of surrounding Amherst, Bedford, and Campbell Counties. The Department of Water Resources owns two water treatment plants (at a total treatment capacity of 26 MGD), one wastewater treatment plant (at a total treatment capacity of 22 MGD dry weather flow), 11 finished water storage tanks at 7 locations, 6 water pump stations, and approximately 460 miles of water lines and 450 miles of wastewater lines.

Funding for capital and maintenance projects is developed through the water and sewer enterprise funds which are financed through City Council approved water and sewer rates. In addition, the Department of Water Resources has started an enterprise fund to finance stormwater management projects. At this time, the majority of the funding is for cataloguing and maintaining existing inlets, mains, and BMPs, but it is expected to include stormwater capital projects in the future.

The purpose of this Request for Proposal (RFP) is to solicit qualified and interested firms to submit proposals for providing "on-call" Professional Engineering Services relative to the Department of Water Resources water, wastewater, and stormwater planning and construction projects. Typical projects which may be assigned under the resulting contracts include:

- A. Water main planning and design
- B. Sanitary sewer main planning and design
- C. Stormwater main planning and design
- D. Sanitary and storm sewer pipe, manhole, and inlet rehabilitation
- E. Computer modeling of water, sanitary, or stormwater systems
- F. Pump station design and rehabilitation
- G. Water treatment plant, miscellaneous planning and design projects, including structural, mechanical, and electrical
- H. Wastewater treatment plant, miscellaneous planning and design projects, including structural, mechanical, and electrical
- I. Stormwater BMP design and inspection services
- J. Reservoir management
- K. Dam safety planning and design
- L. Construction administration
- M. Other projects, as needed

To facilitate its needs, the City desires to establish a contract under which individual projects can be assigned on an as needed basis. The City reserves the right to award to multiple firms. The services outlined in this solicitation are specifically relative to the requirements of the City of Lynchburg Department of Water Resources; however, engineering services may be required by other City departments as a lead department for projects which impact the Department of Water Resources.

The City of Lynchburg reserves the right to solicit project specific Requests for Proposals for Professional Engineering Services in lieu of this RFP. Contract limits will be bound by the Virginia Public Procurement Act (VPPA).

This RFP will pre-qualify engineering consultants to provide services to the Department of Water Resources in up to four categories. Offerors may elect to qualify for selection in all categories or any number less, dependent on their capabilities. Non-qualification in one category shall not eliminate the Offeror for inclusion in other categories. The categories are as follows, to be defined in Section III, Scope of Services.

1. Water, Sewer, and Stormwater Main Planning, Design, and Construction Administration
2. Water and Wastewater Treatment Plant Planning, Design, and Construction Administration
3. Stormwater Management Planning, Design, and Construction Administration
4. Dam and Reservoir Management, Design, and Construction Administration

### 3. SCOPE OF SERVICES

The consultant and City will mutually define the project specific scope of services on a per project basis. The consultant shall be responsible for performing all professional engineering services relative to the project construction, on a per project basis. Development of plans and specifications for projects should be in conformance with the requirements outlined in the City's Manual of Specifications and Details, latest revision: <http://www.lynchburgva.gov/manual-specifications>.

Offerors should address their ability to provide any or all of the individual services listed in this section based on the following requirements, at a minimum:

#### A. Water, Sewer, and Stormwater Main Planning, Design, and Construction Administration

The City is requesting Professional Engineering Services to assist with rehabilitation of existing, and planning and construction of new water distribution and wastewater and stormwater collection infrastructure.

1. Planning – The Offeror shall be familiar in developing water, sewer, and stormwater planning documents consistent with existing planning goals of the Department of Water Resources within the City as a whole. The Offeror will be required to coordinate water, sewer, and stormwater designs with the City's Comprehensive Plan, Water and Sewer Design Manual (available online) and other existing planning documents.

The Department of Water Resources is currently working with EPA and Virginia DEQ on the approval of a new CSO Long Term Control Plan which is expected to be approved in 2014. This document will define the Department's approach in handling sewer and stormwater piping in the combined sewer areas of the City.

2. Surveying – The Offeror shall have available, either in-house or via sub-consultant, survey capabilities to conduct all necessary courthouse research and field survey work required. Work may include property research, field survey locations and inverts, easement plat preparation, and post-construction as-built survey and drawing preparation. All surveys shall use City-referenced coordinates. As-built surveys shall be in accordance with the City of Lynchburg Manual of Specifications and Standard Details.
3. Easement Plat Preparation – The Offeror shall have available, the expertise to prepare easement plats for recordation of water, sewer, and drainage easements. Survey capabilities may be in-house or through a sub-consultant.
4. Geotechnical Services – The Offeror shall have available, either in-house or via sub-consultant, geotechnical study expertise to include soil studies, depth of groundwater or depth of rock analysis, and other geotechnical services as needed.
5. Condition Assessment – The Offeror shall demonstrate the capability of providing existing infrastructure condition assessments. Work included may include manhole, drop inlet, and curb inlet inspections, dye testing, and NASSCO evaluation of stormwater and sanitary sewer pipe.
  - a. [OPTIONAL] Condition Assessment (Smoke Testing) – The Offeror may have ability to assist the Department in conducting smoke testing for sewer or stormwater condition assessments. Not having the equipment for this task will not disqualify prospective Offerors.
  - b. [OPTIONAL] Condition Assessment (TV) – The Offeror may have ability to assist the Department in flushing and televising sanitary and stormwater mains as a part of condition assessment. Not having the equipment for this task will not disqualify prospective Offerors.

6. [OPTIONAL] Water Distribution System Modeling – The Department of Water Resources uses Bentley WaterCAD V8i (non-GIS integrated) for modeling the water distribution system. The Department's current model is limited to 5000 pipes.

Because of the various modeling software options, and the cost of obtaining the software, the Offeror is not required to have a license of this software and this will not disqualify prospective Offerors. The Offeror shall list out access to the software and expertise in its usage, if available.

7. [OPTIONAL] Sanitary Sewer and Stormwater System Modeling – The Department of Water Resources uses Innovyze InfoSWMM for modeling the sanitary sewer and stormwater collection system system.

Because of the various modeling software options, and the cost of obtaining the software, the Offeror is not required to have a license of this software and this will not disqualify prospective Offerors. The Offeror shall

list out access to the software and expertise in its usage, if available.

8. Capacity Assessments – The Offeror shall demonstrate an ability to conduct stormwater and sanitary sewer capacity assessments. Work may include flow-monitoring, evaluation of hydraulic capacity of existing and future sanitary and stormwater piping, and stormwater inlet design.
9. Pipeline, Manhole, and Inlet Rehabilitation Design – The Offeror shall demonstrate knowledge of infrastructure rehabilitation, including pipeline lining and manhole and inlet rehabilitation. The City currently has a specification for sewer system rehabilitation included in the City of Lynchburg Standards and Specifications (available on-line).
10. Design Documents Preparation – The Offeror shall have the capacity to produce construction design documents. This includes preparation of preliminary engineering or conceptual design reports, preparation of Bid Documents (to include drawings, specifications, easement plats) in multiple phases to allow City review and comments, working with City staff in resolving comments, development of erosion and sediment control plans, development of traffic control plans where needed, preparation of opinions of probable construction cost at agreed upon phases of the design project, and working and negotiating with appropriate government agencies and authorities to achieve project approval.

The City of Lynchburg reviews public utility line designs in a Road-Water-Sewer (RWS) committee. In addition to the Department of Water Resources, other City Departments also review and comment on the design documents.

The Department of Water Resources currently has a Memorandum of Agreement with the Virginia Department of Health (VDH) to allow self-review of some water distribution projects. Any projects with water lines greater than 12-inch in diameter or that involve changes to water quality or how the water is distributed must be approved by VDH.

The Department of Water Resources currently has a Memorandum of Agreement with the Virginia Department of Environmental Quality (DEQ) to allow self-review of some sewer collection projects. Any projects with gravity sewers conveying greater than 40,000 gallons per day or pump stations and force main projects greater than 2000 gallons per day must be approved by DEQ.

Design reports, plans and specifications shall be signed and sealed by a Professional Engineer, licensed in the Commonwealth of Virginia.

The City utilizes its own Manual of Specifications and Standard Details for commonly required details and items. These are available on the City's web site. The City Procurement Division also provides front-end documents and specifications for most bid projects.

11. Public Relations – The Offeror shall assist the City in gaining approval of projects through public meetings. This work may include assisting City staff, or providing the lead, in making presentations to City Council, other City officials, other governmental agencies, and to the general public in various forums as necessary.
12. Bid Phase Services – The Offeror may be required to provide consulting services during the bid phase of projects. This may include development of bid alternates; facilitation and documentation of pre-bid conferences; consultation on the acceptability of substitute materials; responding to bidders questions; preparation of addenda; and review, evaluation and negotiation of the lowest responsible bids.
13. Construction Phase Services – The Offeror shall demonstrate the ability to provide construction administration services for water, sewer, and stormwater utility projects. Work may include facilitation and documentation of the pre-construction conference; review and approval of shop drawings, tests, and inspections; determine the acceptability of substitute materials or equipment; make project inspections and document the findings of work quality; approve or disapprove work completed by the contractor; review the contractor's schedule throughout the project; respond to requests for information pertaining to the design and issue instructions to the contractor; prepare and/or review change orders; review and approve contractor's pay requests; conduct substantial completion inspections and preparation of the project punch-list; and otherwise act as the representative of the City to the extent authorized during the construction phase of the project.

The Offeror shall have available construction inspection services to the extent required by the City. This may include the use of a full-time project inspector.

14. As-Built Drawings and Survey – In accordance with the City's Water and Sewer Design Manual requirements, the Offeror shall be capable to prepare a set of As-Built prints of drawings and electronic files showing the

changes made during the construction phase of the project. These shall be based on red-line drawings provided by the contractor. Where not required to be provided by the contractor, an as-built survey is required to provide final GIS coordinates and information.

## **B. Water and Wastewater Treatment Plant Planning, Design, and Construction Administration**

The City is requesting Professional Engineering Services to assist with analysis, maintenance, design and construction or rehabilitation of existing hydraulic, structural, mechanical, and electrical systems at the City's two water treatment plants, one wastewater treatment plant, and multiple pump stations located throughout the City.

1. Surveying – The Offeror shall have available, either in-house or via sub-consultant, survey capabilities to conduct all necessary courthouse research and field survey work required. Work may include property research, field survey locations and inverts, easement plat preparation, and post-construction as-built survey and drawing preparation. All surveys shall use City-referenced coordinates. As-built surveys shall be in accordance with the City of Lynchburg Manual of Specifications and Standard Details.
2. Geotechnical Services – The Offeror shall have available, either in-house or via sub-consultant, geotechnical study expertise to include soil studies, depth of groundwater or depth of rock analysis, and other geotechnical services as needed.
3. Water and Wastewater Plant Design – The Offeror shall demonstrate experience in water treatment and wastewater treatment design. The experience would include plant modeling, plant hydraulic analysis, nutrient reduction modeling and analysis, capacity studies, equipment selection, environmental impact studies, other plant related process design, and familiarity with the regulatory environment that oversees water and wastewater treatment.

Each of the two water plants and the wastewater plant has seen an extensive rehab project in the last 10 years but lower level upkeep and maintenance projects are required.

As part of the water and wastewater treatment plant design, the Offeror shall have at their availability the following expertise, which may be in-house staff or via sub-consultant agreements.

- a. Process engineer/Project manager – the lead engineer on the project should be familiar with treatment design and capable of coordination of multiple engineering disciplines.
  - b. Architectural services – to include space utilization studies, inspections, fire and safety protocols, and other planning and architectural needs.
  - c. Structural engineer – to include building foundations, walls, columns, steel and concrete condition assessments and designs.
  - d. Mechanical engineer – to include knowledge of HVAC and ventilation of occupied and unoccupied areas.
  - e. Electrical engineer – to include power supply, building and equipment electrical design, arc-flash, and other electrical engineering needs.
  - f. Instrumentation and PLC Programming – to include SCADA, instrumentation and control design and programming of PLC logic controllers.
4. Pump Station Design and Analysis – The Offeror shall be familiar with water and wastewater pump station studies, design, and rehabilitation. The City currently does not have any sewer pump stations outside of the wastewater treatment plant. The wastewater treatment plant has a raw sewer pump station at the headworks building, a centrifuge building pump station and RAS and WAS pumps.

The City water treatment and distribution system includes finished water pump stations at both treatment plants, two raw water pump stations on the James River, and four finished water pump stations in the distribution system (Carroll Avenue, Candler's Mountain, Fort Hill, and Mill Lane). The finished water pump stations are operated off level transmitters at the appropriate water storage tanks. The pump stations include emergency generators in the event of loss of primary power.

Work included may include pump station studies, designs and renovations. The Offeror shall demonstrate experience in water and wastewater pump stations including pump selection, design, and have available electrical engineering and instrumentation and controls experience as needed.

5. Drinking Water Quality and Finished Water Quality Analysis – The City must meet federal and state required standards in production of drinking water and the treatment of wastewater. This work may include water age studies, water quality analyses and modeling for chlorine residual and disinfectant by-products, and other work to assist the treatment plant operators in meeting regulatory requirements.
6. Design Documents Preparation – The Offeror shall demonstrate the capacity to produce construction design documents for water and wastewater treatment facilities. This includes preparation of preliminary engineering or conceptual design reports, development of easement plats, preparation of Bid Documents (to include drawings and technical specifications) in multiple phases to allow City review and comments, working with City staff in resolving comments, development of erosion and sediment control plans, preparation of opinions of probable construction cost at agreed upon phases of the design project, and working and negotiating with appropriate government agencies and authorities to achieve project approval.

The City utilizes its own Manual of Specifications and Standard Details for commonly required details and items. These are available on the City's web site. The City Procurement Division also provides front-end documents and specifications for most bid projects.

Design reports, plans and specifications shall be signed and sealed by a Professional Engineer (Licensed Architect when required), licensed in the Commonwealth of Virginia.

7. Public Relations – The Offeror shall assist the City in gaining approval of projects through public meetings. This work may include assisting City staff, or providing the lead, in making presentations to City Council, other City officials, state and federal governmental agencies, and to the general public in various forums as necessary.
8. Bid Phase Services – The Offeror may be required to provide consulting services during the bid phase of projects. This may include development of bid alternates; facilitation and documentation of pre-bid conferences; consultation on the acceptability of substitute materials; responding to bidders questions; preparation of addenda; and review, evaluation and negotiation of the lowest responsible bids.
9. Construction Phase Services – The Offeror shall demonstrate the ability to provide construction administration services for water and wastewater treatment plant projects. Work may include facilitation and documentation of the pre-construction conference; review and approval of shop drawings, tests, and inspections; determine the acceptability of substitute materials or equipment; make project inspections and document the findings of work quality; approve or disapprove work completed by the contractor; review the contractor's schedule throughout the project; respond to requests for information pertaining to the design and issue instructions to the contractor; prepare and/or review change orders; review and approve contractor's pay requests; conduct substantial completion inspections and preparation of the project punch-list; and otherwise act as the representative of the City to the extent authorized during the construction phase of the project.

The Offeror shall have available construction inspection services to the extent required by the City. This may include the use of a full-time project inspector.

10. As-Built Drawings and Survey – In accordance with the City's Water and Sewer Design Manual requirements, the Offeror shall be capable to prepare a set of As-Built prints of drawings and electronic files showing the changes made during the construction phase of the project. These shall be based on red-line drawings provided by the contractor. Where not required to be provided by the contractor, an as-built survey is required to provide final GIS coordinates and information.

### **C. Stormwater Management Planning, Design, and Construction Administration**

In 2011, the City of Lynchburg approved the establishment of a stormwater utility. This enterprise fund establishes a utility fee that is intended for maintenance and capital projects related to stormwater inlets, pipes and culverts, outfalls, and best management practices (BMPs).

The City, including Departments outside of the Department of Water Resources, operates under a NPDES MS4 stormwater permit that is renewed every 5 years. The City's current permit is effective July 1, 2013 to June 30, 2018.

The wastewater collection system within some areas of the City of Lynchburg is a combined sewer. The Department of Water Resources is currently working with an engineer in modifying the Long Term Control Plan (LTCP). This document has been submitted to Virginia DEQ for approval, which is anticipated to occur in the spring of 2014. This document recommends that the City discontinue their policy of separation and instead use the remaining combined sewer area to capture stormwater with sanitary sewer flow and treat at the City's wastewater treatment plant. If approved, this will end the City's CSO separation program.

1. Planning – The Offeror may be asked to assist the Department of Water Resources in developing the required capital project planning and/or construction documents consistent with current City standards and specifications, the Virginia Stormwater Management Handbook (current edition) and the Virginia BMP Clearinghouse specifications. This will involve coordination with the Department of Public Works and the Department of Community Development.

The Offeror shall be familiar in developing water, sewer, and stormwater planning documents consistent with existing planning goals of the Department of Water Resources within the City as a whole. The Offeror will be required to coordinate water, sewer, and stormwater designs with the City's Comprehensive Plan, Water and Sewer Design Manual (available online) and other existing planning documents.

2. Surveying – The Offeror shall have available, either in-house or via sub-consultant, survey capabilities to conduct all necessary courthouse research and field survey work required. Work may include property research, field survey locations and inverts, easement plat preparation, and post-construction as-built survey and drawing preparation. All surveys shall use City-referenced coordinates. As-built surveys shall be in accordance with the City of Lynchburg Manual of Specifications and Standard Details.
3. Easement Plat Preparation – The Offeror shall have available, the expertise to prepare easement plats for recordation of water, sewer, and drainage easements. Survey capabilities may be in-house or through a sub-consultant.
4. Geotechnical Services – The Offeror shall have available, either in-house or via sub-consultant, geotechnical study expertise to include soil studies, depth of groundwater or depth of rock analysis, and other geotechnical services as needed.
5. Best Management Practices Design – The Offeror shall demonstrate experience in stormwater best management practice design in Virginia. The Offeror shall be familiar with design requirements set forth in the Virginia Stormwater Management Handbook (current edition) and the Virginia BMP Clearinghouse. This includes open channels, stormwater management ponds, and other water quality improvement measures.
6. Best Management Practice Inspection – The Department of Water Resources will be responsible for inspections of publicly and privately owned stormwater BMPs. The Offeror may be required to assist the Department in performing these BMP inspections to ensure these measures are operating pursuant to their intended design.
7. Stream Stabilization and Restoration – The Offeror shall demonstrate experience, either in-house personnel or via sub-consultant, in stream bank stabilization and restoration. The Department is including stream revitalization in many projects in attempts to reduce pollutant loading, nutrient and sediment, on the streams.
8. Design Documents Preparation – The Offeror shall demonstrate the capacity to produce construction design documents for stormwater management facilities. This includes preparation of preliminary engineering or conceptual design reports, development of easement plats, preparation of Bid Documents (to include drawings and technical specifications) in multiple phases to allow City review and comments, working with City staff in resolving comments, development of erosion and sediment control plans, preparation of opinions of probable construction cost at agreed upon phases of the design project, and working and negotiating with appropriate government agencies and authorities to achieve project approval.

Design reports, plans and specifications shall be signed and sealed by a Professional Engineer, licensed in the Commonwealth of Virginia.

The City utilizes its own Manual of Specifications and Standard Details for commonly required details and items. These are available on the City's web site. The City Procurement Division also provides front-end documents and specifications for most bid projects.

9. Public Relations – The Offeror shall assist the City in gaining approval of projects through public meetings. This work may include assisting City staff, or providing the lead, in making presentations to City Council, other City officials, state and federal governmental agencies, and to the general public in various forums as necessary.
10. Bid Phase Services – The Offeror may be required to provide consulting services during the bid phase of projects. This may include development of bid alternates; facilitation and documentation of pre-bid conferences; consultation on the acceptability of substitute materials; responding to bidders questions; preparation of addenda; and review, evaluation and negotiation of the lowest responsible bids.

11. Construction Phase Services – The Offeror shall demonstrate the ability to provide construction administration services for stormwater management projects. Work may include facilitation and documentation of the pre-construction conference; review and approval of shop drawings, tests, and inspections; determine the acceptability of substitute materials or equipment; make project inspections and document the findings of work quality; approve or disapprove work completed by the contractor; review the contractor’s schedule throughout the project; respond to requests for information pertaining to the design and issue instructions to the contractor; prepare and/or review change orders; review and approve contractor’s pay requests; conduct substantial completion inspections and preparation of the project punch-list; and otherwise act as the representative of the City to the extent authorized during the construction phase of the project.

The Offeror shall have available construction inspection services to the extent required by the City. This may include the use of a full-time project inspector.

12. As-Built Drawings and Survey – In accordance with the City’s Manual of Specifications and Standard Details, the Offeror shall be capable to prepare a set of As-Built prints of drawings and electronic files showing the changes made during the construction phase of the project. These shall be based on red-line drawings provided by the contractor. Where not required to be provided by the contractor, an as-built survey is required to provide final GIS coordinates and information.

#### **D. Dam and Reservoir Management, Design, and Construction Administration**

The City of Lynchburg own three regulated dams. The College Lake dam is located in the City of Lynchburg and impounds a small reservoir owned by Lynchburg College. Lakeside Drive, a major road crosses over the top of the dam. The Department of Water Resources is currently contracted with an engineering firm to do some emergency management planning for this dam. At this time, no results have been published.

The Department of Water Resources operates and maintains a small earth dam in Bedford County which holds the Abert Lagoon. This lagoon is the discharge point for backwash at the Abert Water Treatment Plant. The lagoon discharge flows north, under a railroad track bridge, and into the James River.

The largest dam and reservoir is the Pedlar Reservoir, located in Amherst County on the Pedlar River. The reservoir is the primary raw water supply for the City of Lynchburg. The reservoir is impounded by a 65 foot high concrete dam. The dam and intakes were last rehabbed in 2010. Water overflowing the spillway re-feeds the Pedlar River as it flows south through rural Amherst County and ultimately to the James River.

Raw water is released from the reservoir into a 36” raw water main which runs 20 miles through Amherst and Bedford County before reaching the City of Lynchburg’s two water treatment plants.

The Department of Water Resources holds dam permits for each of these structures and performs routine inspections and emergency planning as required by state regulations.

1. Planning – The Offeror may be asked to assist the Department of Water Resources in developing planning documents related to the dams and reservoirs. This will involve coordination with the Department of Public Works and the Department of Community Development.

The Offeror shall be familiar in developing water, sewer, and stormwater planning documents consistent with existing planning goals of the Department of Water Resources within the City as a whole. The Offeror will be required to coordinate with the City’s Comprehensive Plan, Water and Sewer Design Manual (available online) and other existing planning documents.

2. Surveying – The Offeror shall have available, either in-house or via sub-consultant, survey capabilities to conduct all necessary courthouse research and field survey work required. Work may include property research, field survey locations and inverts, easement plat preparation, and post-construction as-built survey and drawing preparation. All surveys shall use City-referenced coordinates. As-built surveys shall be in accordance with the City of Lynchburg Manual of Specifications and Standard Details.
3. Flood Inundation Studies and Mapping – As required by the state regulatory agencies, flood zone mapping and inundation studies are a part of the City’s Emergency Action Plan’s for each of the dams. The Offerors may be required to provide assistance to the Department of Water Resources in developing or updating these maps and studies.
4. Dam Inspections and Condition Assessments – The Department of Water Resources conducts annual inspections of the dams, to maintain compliance with regulatory agencies and identify maintenance issues. The Offeror shall have experience in conducting dam inspections and shall have available a structural engineer with knowledge in geotechnical and concrete structures.

5. Safe Yield Studies – The last safe yield study at Pedlar Reservoir was performed in 2002, at approximately the last time a reservoir sediment survey was conducted. In the future the Department of Water Resources will likely conduct another reservoir survey and would need to update the safe yield of the Pedlar Reservoir.
6. Design Documents Preparation – The Offeror shall demonstrate the capacity to produce construction design documents. This includes preparation of preliminary engineering or conceptual design reports, development of easement plats, preparation of Bid Documents (to include drawings and technical specifications) in multiple phases to allow City review and comments, working with City staff in resolving comments, development of erosion and sediment control plans, preparation of opinions of probable construction cost at agreed upon phases of the design project, and working and negotiating with appropriate government agencies and authorities to achieve project approval.

Design reports, plans and specifications shall be signed and sealed by a Professional Engineer, licensed in the Commonwealth of Virginia.

The City utilizes its own Manual of Specifications and Standard Details for commonly required details and items. These are available on the City’s web site. The City Procurement Division also provides front-end documents and specifications for most bid projects.

7. Public Relations – The Offeror shall assist the City in gaining approval of projects through public meetings. This work may include assisting City staff, or providing the lead, in making presentations to City Council, other City officials, state and federal governmental agencies, and to the general public in various forums as necessary.
8. Bid Phase Services – The Offeror may be required to provide consulting services during the bid phase of projects. This may include development of bid alternates; facilitation and documentation of pre-bid conferences; consultation on the acceptability of substitute materials; responding to bidders questions; preparation of addenda; and review, evaluation and negotiation of the lowest responsible bids.
9. Construction Phase Services – The Offeror shall demonstrate the ability to provide construction administration services for stormwater management projects. Work may include facilitation and documentation of the pre-construction conference; review and approval of shop drawings, tests, and inspections; determine the acceptability of substitute materials or equipment; make project inspections and document the findings of work quality; approve or disapprove work completed by the contractor; review the contractor’s schedule throughout the project; respond to requests for information pertaining to the design and issue instructions to the contractor; prepare and/or review change orders; review and approve contractor’s pay requests; conduct substantial completion inspections and preparation of the project punch-list; and otherwise act as the representative of the City to the extent authorized during the construction phase of the project.

The Offeror shall have available construction inspection services to the extent required by the City. This may include the use of a full-time project inspector.

#### 4. **DELIVERABLES**

Where deliverables are required as a part of the scope of work, all documents shall be delivered in the following formats, and shall become property of the City of Lynchburg:

1. Reports and Text Documents – Submit in MS Word format and pdf format.
2. Design Drawings – Submit in AutoCAD format and pdf format
3. As-Built Survey – Submit in AutoCAD format

#### 5. **INDIVIDUAL PROJECT ASSIGNMENTS**

##### 5.1 **Selection of Engineer**

Individual work assignments will be negotiated for each specific project on an as needed basis. It shall be the sole decision of the City regarding which engineer the assignment is awarded to if contracts are awarded to multiple firms. The City reserves the right to perform work in-house or to award large projects through a separate procurement action.

##### 5.2 **Compensation and Method of Payment**

As full payment and compensation for the performance and completion of work acceptable to the City for each project, the City will pay the engineer in accordance with the sum determined for the individual project assignment. All work shall be performed for each project and shall be done on a lump-sum, not-to-exceed basis or the fee shall be negotiated prior to assignment by incorporating a maximum hourly fee charge. Total fee shall include all expenses for performing the necessary work, including professional fees and reimbursable expenses. Reimbursable expenses, which shall be the actual expenses incurred in connection with the work performed for transportation, and sustenance incidental thereto, toll telephone calls and telegrams, reproduction of reports, drawings and specifications and computer time shall be estimated at the time of negotiation with actual expenses added to invoices. When assignments are negotiated on a lump-sum or not-to-exceed basis, the cost of attending the number of meetings as required by the City, shall be included in the fee.

### 5.3 **Performance Schedule**

The engineer shall perform work in accordance with a performance schedule negotiated at the time of project assignment. The engineer shall assign the work to qualified personnel in sufficient numbers to complete the work according to the performance schedule. The engineer shall designate one employee to oversee each project. The designated employee shall work continuously on the project until final reports are accepted by the City.

### 5.4 **Changes in Performance Schedule**

The City may make changes to the work previously negotiated for an individual assignment. If any such change increases or decreases the time required to perform the work, the performance schedule will be adjusted accordingly. The engineer shall not be entitled to adjustments for changes in work that in the opinion of the City do not result in an increase in the engineer's cost of performing the work. Any changes in the scope of work for project assignments and performance of any additional services shall proceed only with express written authorization of the City.

## 6. **CONTRACT TERM**

6.1 The initial term of the resulting contract shall be for a period of one year effective at the time of award.

6.2 At the time of contract expiration, the engineer shall complete, at the discretion of the City, any assignment undertaken, but not yet completed. The engineer will be compensated for all such work undertaken and completed to the satisfaction of the City.

## 7. **RENEWAL OF CONTRACT**

7.1 The resulting contract may be renewed by the City for four successive one year periods under the terms and conditions of the original contract except as stated in A. and B. below. Price increases may be negotiated only at the time of renewal. Upon a determination by the City to renew this contract for an additional term, written notification will be given to the Contractor.

A. If the City elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased by more than the percentage increase/decrease of Table 4 "Other Services" category of the Consumer Price Index (CPI) of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available. The source for this index shall be <http://www.bls.gov/cpi>.

B. If during any subsequent renewal periods, the City elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased by more than the percentage increase/decrease of Table 4 "Other Services" category of the Consumer Price Index (CPI) of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available. The source for this index shall be <http://www.bls.gov/cpi>.

## 8. **PROFESSIONAL STANDARD**

8.1 Offerors should demonstrate their ability to:

A. Perform all tasks in accordance with generally accepted professional standards.

B. Provide to the City the best possible advice and consultation within engineer's authority and capacity as a professional engineer.

C. Comply with all applicable regulations, laws, ordinances and requirements of all applicable governmental agencies and authorities.

- D. Assign work to be performed to qualified personnel in sufficient numbers to meet negotiated performance schedules.

## 9. CITY RESPONSIBILITIES

### 9.1 The City shall:

- A. Provide all information in possession of the City, including GIS data, which relates to the City's requirements for individual projects.
- B. Assist in obtaining permission to enter upon public and private property as required for the engineer to perform services. The city will acquire the necessary easements and property.
- C. Examine all studies, test results, reports, sketches, drawings and proposals and any other documents presented by the engineer.
- D. Pay all necessary advertising costs necessary to obtain bids.
- E. Designate a person to act as the City's representative with respect to the work to be performed for each assignment.

## 10. PROPOSAL PREPARATION

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, title page, transmittal letter, and table of contents, 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.

Offerors should organize their proposals using the format described below:

1. Letter of transmittal including name, address and telephone number of firm, including the location of the office that will directly contract for the work.
2. Title page
3. Table of Contents
4. Summary of Firm's Qualifications to include:
  - A. A list of approximately five clients for whom projects related to water and wastewater construction have been performed, who could attest to the quality of previous work, timeliness, diligence and ability to meet budget and schedule. Include project assignments, contact persons, addresses, telephone numbers and email addresses.
  - B. Resumes of all key individuals of the firm and of any subconsultants who would be involved in providing services under this contract. Resumes should adequately describe educational background, specific area of expertise, physical location, role/responsibility for this contract and related experience with historical properties.
  - C. The percentage of the firm's professional services revenue for each of the last 3 calendar years from 1) municipal work; 2) state work; 3) federal and other governmental agencies work; and 4) of the work performed for the three groups identified, what percentage of the work was for water and wastewater work. If the majority of the work to be performed under this contract will be conducted from a branch office, provide the same information for the branch office.
5. A qualifying statement as to your firm's registry status with the Virginia State Corporation Commission.
6. All selected pre-qualified firms must submit a fee rate structure to be utilized in negotiating specific tasks. Fee rates may be increased from year-to-year as limited under 7.1.A.

## 11. CRITERIA FOR PROPOSAL EVALUATION

### Evaluation Criteria:

These criteria are to be utilized in the evaluation of qualifications for development of a pre-qualified shortlist of firms who may be considered for "on-call" services:

1. Pertaining to the specific categories which the Offeror is submitting qualifications, demonstration of the firm's ability to perform engineering services relative to those required for water, wastewater, and stormwater utility planning, design, and construction. Demonstrate a minimum of five years of experience in the areas which the firm is proposing (25 percent);
2. Depth of experience and education of all personnel, including subconsultants, who will be assigned to work on City projects (25 percent);
3. Demonstrated knowledge of local conditions with the ability to respond to City project sites within twenty-four hours (25 percent).
4. Demonstrated quality commitment and ability to develop multiple professional services projects, studies or design plans concurrently within a designated schedule and budget (25 percent);

## **12. METHOD OF AWARD**

Following evaluation of the written proposals, the City shall select at least two Offerors with the best qualifications to be identified as "pre-qualified". The City may choose to pre-qualify any number of additional Offerors, at its discretion. Offerors may be pre-qualified for any individual services or may be pre-qualified for all services listed in this request for proposals depending on the Offeror's qualifications.

When requiring Professional services, the City shall solicit a pre-qualified Offeror based on the proposed scope of the services required. At the City's discretion, the City may solicit multiple pre-qualified Offerors. The Offeror shall coordinate with the City to develop the scope of work, fee schedule, and schedule for the proposed services. A contract shall be negotiated and prepared between the City and the Offeror on a project-by-project basis.

The City reserves the right to negotiate with any or all Offerors on any specific project for which they are prequalified. Selection may be based on qualifications, quickness of response (or proximity to the City), project team availability, projected fee, or other method at the City's disposal. Pre-qualification does not guarantee any future contract.

Projects which are projected by the City to exceed a State designated contract value will not be considered for negotiation with pre-qualified Offerors. These projects will be posted by the City for open submittal under State procurement law and will be open for submittals from pre-qualified Offerors and other Offerors.

## **13. GENERAL TERMS AND CONDITIONS**

### **A. Subcontracting and Assignment of Work**

The successful firm 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, firm, or corporation that is the proposed subcontracting firm. This submittal shall also include a list of the key personnel that the subcontractor firm will assign to the project. All work performed by any subcontractor firm shall be coordinated by the successful firm and the successful firm will be responsible to the City for all work performed by any subcontracting firm or special consultant.

### **B. Payment for Services**

Payments to the successful firm 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 firm's records and documentation supporting such invoices shall be made available to the City upon reasonable request. The successful firm 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 firm**

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

### **D. Notification**

Any notice required by the Contract shall be effective if given by registered mail, return receipt requested, to the Successful firm in the name and at the address given in its proposal submission; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to the City shall be given to the City of Lynchburg, Procurement Administrator, 900 Church Street, Lynchburg, VA 24504. The Successful firm agrees to notify the City immediately of any change of legal status or of address. Any notice provided

in accordance with this paragraph shall be deemed to have been completed five calendar days after the date of mailing.

E. Termination and Ownership of Documents

The City reserves the right to terminate the contract upon written notice to the Successful firm. In the event of termination pursuant to this paragraph which is not the fault of the Successful firm, the Successful firm 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 firm 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 firm.

F. Insurance

The selected firm shall be required to maintain in force such insurance, in amounts acceptable to the City, as will protect himself and the City from claims which may arise out of or result from the execution of the work, whether such execution be by himself, his employees, agents, subcontractor firms or by anyone for whose acts any of them may be liable. This coverage should include, at a minimum, Worker's Compensation, General Liability (including premises/operations, independent successful firms, products and completed operations, contractual liability and personal injury liability) and Professional Liability. All insurance shall be provided by companies authorized to conduct business in the Commonwealth. The selected firm shall furnish the City with an original Certificate of Insurance upon request. The Certificate should name the City as additional insured. The selected firm shall notify the City at least 30 days prior to policy cancellation, non-renewal or reduction of coverage.

G. Laws and Regulations

The Successful firm shall abide by all Federal, State and Local laws and regulations governing the provision of the services called for in the contract. The Successful firm 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.

H. Additional Services

The City may add to the Scope of Services or make changes in the Scope of Services any services of a similar nature to those specified in the Scope of Services of this Request for Proposals as mutually agreed to at a price mutually agreed upon.

I. Serveability

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.

J. Licenses and Permits

The Successful firm 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.

K. Nondiscrimination

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

- a. The Successful firm 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 firm. The Successful firm 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 firm, in all solicitations or advertisements for employees placed by or on behalf of the Successful firm, will state that such Successful firm 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 firm 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 firm or vendor.

L. Payments to Successful Firms

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

1. Should any contractor be employed by the Successful firm for the provision of any goods or services under this Contract, the Successful firm agrees to the following:
  - (a) The Successful firm 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
    - (2) Notify the City, as applicable, and the subcontractor, in writing, of the intention to withhold all or a part of the subcontractors firm'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 firm shall pay interest to the subcontractors firm, at the rate of one percent per month on all amounts owed to the subcontractors firm 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 firm shall include in each of its subcontracts a provision requiring each subcontractors firm to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractors firm.
  - (d) The Successful firm's obligation to pay an interest charge to a subcontractors firm 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.

M. 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 firm'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 firm within 30 days of receipt of the claim. The Successful firm 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 decision. The City Manager shall render a decision on the claim within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Successful firm appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Successful firm shall be delivered to the City no later than 30 days following the conclusion of the work or delivery of the goods.

N. Taxes

The Successful firm 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 firm and not of the City and the City shall be held harmless for same by the Successful firm.

O. Indemnification

To the fullest extent permitted by law, the Successful firm, 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 firm's performance (or nonperformance) of the agreement terms or its obligations under this agreement.

P. Contract Assignment

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

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

The Successful firm 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.

R. Responsibility for Property

The Successful firm 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 firm shall be repaired or replaced by the Successful firm, to the satisfaction of the Owner, at the Successful firm's expense.

S. 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.

T. Administrative Appeals Procedure

(a) The following are the exclusive procedures for a bidder or offeror to protest the city's award or decision to award a contract.

- (1) 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 five (5) business days after announcement of the award or decision to award, whichever comes first. Otherwise any such protest shall be deemed to be waived.
- (2) Except for a protest of an emergency or sole source procurement, a protest of a city award or decision to award a contract may only be made by a person who submitted a bid or proposal for the procurement at issue and who was reasonably likely to have its proposal accepted but for the city's decision. In the case of an emergency or sole source procurement, a protest may only be made by a person who can show that he was reasonably likely to have submitted a successful bid or proposal if the procurement had been other than emergency or sole source.

- (3) Protests shall only be granted if (1) the protester has complied fully with this Sec. 18.1-6 and there has been a violation of law, the Lynchburg public procurement code, or mandatory terms of the solicitation that clearly prejudiced the protestor in a material way, or (2) a statute requires voiding of the decision.
  - (4) The city manager shall issue a written decision on a protest within ten (10) days of its receipt by the city manager.
  - (5) If the protest is denied, the protestor may only appeal the denial or otherwise contest or challenge procurement by then filing suit in the Lynchburg circuit court, Lynchburg, Virginia, and serving the city with such suit within ten (10) days of such denial. Otherwise, the city manager's decision shall be final and conclusive, and the protestor's right to appeal the denial or to otherwise contest or challenge the procurement shall be deemed to be waived.
  - (6) The city should defer award of a contract where the decision to award has been protested unless there is a written determination by the city manager that proceeding without delay is necessary to protect the public interest or unless the bid or offer of the prospective awardee would expire.
  - (7) The validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal is filed.
  - (8) The exclusive relief allowed if a protest is granted is to void the decision being protested. If a contract has already been awarded and performance under the contract has begun, the contract need not be voided if not in the public interest to do so. Under no circumstances will any monetary amount be allowed to the protestor as part of any relief granted.
  - (9) Strictly following these procedures shall be a mandatory prerequisite for protest of the city's award or decision to award a contract. Failure by a bidder to follow these procedures strictly shall preclude that bidder's protest and be deemed to constitute a waiver of any protest.
- (b) A protest may not be based upon the alleged non-responsibility of a person to whom the city awards or makes a decision to award a contract.

#### U. 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 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.

#### V. Termination for Convenience

The performance of work under contract may be terminated by the Public Body upon written notice to the Contractor without cause, for any reason in whole or in part; whenever it is determined that such termination is in the Public Body's best interest. In the event of such termination, the rights and obligations of the parties, which by their nature survive termination of services covered by a contract, shall remain in full force and effect after termination. In the event of such termination, the Contractor shall be paid for services rendered and approved up to the date of termination. The Contractor may submit any termination claim within 60 days after receipt of the notice of termination.

#### W. Termination for Nonpayment

In the event the Public Body fails to make payment in accordance with applicable standard payment terms, the Contractor may declare the Public Body in default and exercise any right to cure such default. If the Public Body fails to cure such default within 30 days of receiving such written notice, the Contractor may, by giving written notice to the Jurisdiction, terminate the contract and/or the applicable Scope of Work as of the end of such 30-day period on such date as is specified in such notice of termination.

X. Notice of Cure

A cure letter is used when a contractor has failed to perform or deliver in accordance with the provisions of contract. Such notice provides the Contractor a period of time to correct or “cure” the deficiency and places Contractor on notice as to the consequences for failure to take the required corrective action. Such notice may be given orally or in writing. Notice of Cure informs the Contractor that non-conformance is a breach of contract and if the deficiency is not corrected within a stated number of days, the Public Body will terminate the contract for default and hold the Contractor liable for any excess costs.