WILLIAMSBURG- JAMES CITY COUNTY PUBLIC SCHOOL DIVISION

issues this

REQUEST FOR PROPOSALS #20-14583

For a

SCHOOL BUS SAFETY VIDEO-MONITORING SYSTEM

THIS PUBLIC BODY DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS

February 2020
JAMES CITY COUNTY, VIRGINIA
REQUEST FOR PROPOSALS No. 20-14583

Title: School Bus Safety Video-Monitoring System

Issue Date: February 21, 2020

Due Date: March 23, 2020, 2PM, local time at the Purchasing Office

Submit: SEALED PROPOSALS, One (1) Original and Eight (8) copies. Return this signed cover sheet and all required attachments (Functional Requirements-Attachment A).

Inquiries: Kitty Hall, (757) 253-6644/6646, Kitty.Hall@jamescitycountyva.gov

All questions regarding this RFP shall be directed to Kitty Hall not later than 2:00pm on March 5, 2020, via email Kitty.Hall@jamescitycountyva.gov. All questions that are pertinent to the RFP will be answered in the form of an addendum which will be placed on James City County website: http://www.jamescitycountyva.gov/467/Bids-Requests-For-Proposals

This public body does not discriminate against faith-based organizations.

In compliance with this Request for Proposal and subject to all the conditions thereof, the undersigned offers to furnish the goods/services requested and certifies he/she has read, understands, and agrees to all terms, conditions and requirements of this proposal and is authorized to contract on behalf of the firm named below. By my signature on this solicitation, I certify that this firm/individual is properly licensed for providing the goods/services specified.

The Undersigned certifies that he (they) are the only person (persons) interested in said project and that it is made without connection with other persons submitting a proposal on the same scope of services; that the proposal is made without collusion, fraud, or reservation; that no official or employee of the Owner is directly or indirectly interested in said proposal, or any portion thereof.

PROPRIETARY INFORMATION YES ( ) NO ( )

Trade secrets or proprietary information is hereby submitted and identified. Reasons for protection and exclusion form the Virginia Freedom of Information Act (2.2 et seq.) is set forth below. (Additional sheet may be added if necessary.)

Offerors should indicate on the Cover Sheet the portions of their proposal that are proprietary. Please list the page numbers and the reason(s). Do not mark the whole proposal proprietary. If Proprietary information is stated, Offerors shall submit One (1) Original and One (1) Redacted copy (removing any proprietary data or material). Clearly identify on the Cover Sheet the “Original” and “Redacted” copy, as “Redacted Copy of Original Proposal” RFP# 20-14583- School Bus Safety Video Monitoring System
Company Name: _______________________________________________________________________

Contractor License# __________________________ Type: _________________________________

*State Corporation Commission ID # __________________________

Address: _______________________________________________________________________

City/State/Zip: ___________________________________________________________________

Telephone: ___________________ FAX: _______________________

Email Address: ___________________________________________________________________

Federal Tax ID: ___________________________________________________________________

Print Name: ______________________ Title: ______________________

Signature _______________________ Date ______________________

Acknowledgement of Addendums:  #1________________    #2________________

*State Corporation Commission Requirement per the Virginia Public Procurement Act, VPPA:

§ 2.2-4311.2. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth. — A. All public bodies shall include in every written contract a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

B. Pursuant to competitive sealed bidding or competitive negotiation, all public bodies shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

C. Any bidder or offeror described in subsection B that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of the Department of General Services or his designee or by the chief executive of a local governing body.

D. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

E. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
*Virginia State Corporation Commission (“SCC”) registration information: The undersigned Offeror:

☐ is a corporation or other business entity with the following SCC identification number: ____________  -OR-

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust -OR-

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder’s out-of-state location) -OR-

☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror’s current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

**NOTE** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver): ☐
NON COLLUSION AFFIDAVIT

Williamsburg-James City County Public School Division, project: RFP 20-14583

___________________________________________________________ Date: _____________

COMMONWEALTH OF VIRGINIA
(City/County)

This day personally appeared before the undersigned, a Notary Public in and for the City/County and State aforesaid,

who having been first duly sworn according to law, did depose and aver as follows:

(a) That he/she is___________________________________________________________
    (Owner, Partner, President, etc.)

    of

    ____________________________
    (insert name of Bidder)

(b) That he/she is personally familiar with the bid______________________________
    submitted in connection with the above captioned Owner’s project.

(c) That said Bid was formulated and submitted in good faith as the true Bid of said Bidder.

1. In preparation and submission of this Bid, the Bidder did not either directly or indirectly, enter into any combination or agreement with any person, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman act (15 U.S.C. Section 1) or sections 59.1-9.1 through 59.1-9.17 or sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

2. The undersigned Bidder hereby certifies that neither this Bid nor any claim resulting therefrom, is the result of, or affected by, any act of collusion with, or any act of another person or persons, firm or corporation engaged in the same line of business or commerce; and that no person acting for or employed by the Owner has any personal interest in this Bid.

3. The undersigned hereby further agrees that upon request of the Owner, the records and books pertaining to this Bid shall be voluntarily supplied, furnished, and released to the Owner.

4. The undersigned hereby further certifies that the Bidder has not knowingly falsified, concealed, misled, or covered up by any trick, scheme, or device a material fact in connection with this bid. The undersigned also certifies that the Bidder has not made any false, fictitious or fraudulent statements or representations or made or used any false writing or documents knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with this Bid.
5. The undersigned further agrees that the Bidder shall comply with section 2.2-4374 of the Code of Virginia, 1950, as amended, and has not bought or purchased any equipment from any person employed by the Owner as an independent contractor to furnish architectural or engineering services for this Project, nor from any partnership, association or corporation in which such architect or engineer has a pecuniary interest.

6. The undersigned further agrees to require all subcontractors, consultants, sub-consultants, or any other persons, corporations, or legal entities providing or furnishing labor, material, equipment or work related to this project to execute this anti-collusion statement as a condition of payment. This paragraph is expressly limited to those in a direct contractual relationship with the undersigned of over $10,000 except those persons whose only direct contractual agreement with the undersigned is an employment contract.

7. All Covenants and Agreements made by the Contractor are made by it on behalf of the Contractor and its successors, personal representatives and assigns, the same as if they had been specifically named in each instance.

And further this deponent saith not.

Subscribed and sworn to before me this__________ day of ______________, 20___

My commission expires: 20___

____________________________________
Period of Validity Notary Public
CERTIFICATION REGARDING DEBARMENT

This is to certify that this person/firm/corporation is not now debarred or enjoined by the Federal Government or by the Commonwealth of Virginia or by any other state, or by any town, city, or county, from submitting Bids on contracts for construction covered by this solicitation, nor are they an agent of any person or entity that is now so debarred or enjoined.

________________________  
Name of Official

________________________  
Title

________________________  
Firm or Corporation

________________________  
Date
CERTIFICATION OF COMPLIANCE WITH § 22.1-296.1 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

I, ______________________________, a duly authorized representative and officer of _______________________________ (Contractor’s name), in accordance with § 22.1-296.1 the Code of Virginia, 1950, as amended, hereby certifies that the employees, subcontractors, partners, and representatives who will be in direct contact with students (i) have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; and (ii) have not been convicted of a crime of moral turpitude. For the purposes of this certification, "direct contact with students" is defined as "being in the presence of students during regular school hours or during school-sponsored activities."

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. Williamsburg-James City County Public School Division shall not be liable for materially false statements regarding the certifications required by the Code of Virginia. The contractor is responsible for ensuring that each of its employees, subcontractors, partners, and representatives who will be in direct contact with students have [also executed a copy of this certification agreement] and shall maintain such certifications on file for the duration of the contract period.

I understand that I am required to update this certification if I become aware of changed circumstance.

I do understand the above information and certify that the above statements are true.

________________________________________
(Contractor’s Authorized Officer – Signature)

________________________________________
(Contractor’s Authorized Officer – Printed Name)

__________________________________
(Title)

______________________
(Date)
CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS AND REGULATIONS

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

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

Type or print legibly when completing this form.

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

Type of Business Entity:

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

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

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

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

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

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

Name and Position of Person Completing this Certificate:

Physical Business Address:

Primary Correspondence Address (If different from physical address):
Are all Employees Who Work in the United States Eligible for Employment in the United States?

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

Sworn this ___ day of _____________, 20___ on behalf of ______________________ as evidenced by the following signature and seal:

Name of Contractor: __________________________________
Printed Name of Signatory: ________________________________
Signature: _____________________________________________
Date: ______________

COMMONWEALTH OF VIRGINIA:
CITY/COUNTY OF____________________________, to-wit:

The foregoing instrument was acknowledged before me this ___ day of _____________, 20___, by __________________________.

__________________________
Notary Public

Registration No.:__________________

RETURN SIGNED COVER SHEET (ALL PAGES) WITH PROPOSAL
I. PURPOSE: The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation for the purchase of services associated with an automated School Bus Safety Video-Monitoring System by Williamsburg-James City County Public Schools (hereinafter referred to as WJCC, the Division.). WJCC seeks to identify the most suitable turnkey solution for providing this service. By “turnkey”, WJCC means that the contractor will provide and install all hardware required to operate the video-monitoring system, provide and assist with installing any necessary software required to operate the system, provide training and support necessary to implement the program and to operate it, and provide ongoing support for the program’s hardware and software. The Division would also want to engage the successful contractor to conduct a public awareness campaign to educate the community the benefits of the Stop Arm Camera program and raise awareness of existing driving laws related to school buses and school bus safety. The Division is open to considering various means to accomplish the public awareness and education regarding this program, including but not limited to; social media posts, press conferences, community outreach…

The intent of this RFP and resulting contract is to obtain implementation plans and price proposals from organizations specializing in providing video-monitoring systems for school transportation safety and related expertise in the implementation, training, and support for such as system. Proposals are requested from those experienced vendors who have had commercially available systems in the market for at least three years. The successful offeror should have an active user group of clients, preferably within the Commonwealth of Virginia. The vendor should support a large user base with clients, preferably within the Commonwealth of Virginia. The vendor should support a robust user base with clients of similar size and nature to Williamsburg-James City County.

II. BACKGROUND: WJCC is a public school division serving both the City of Williamsburg, Virginia and the neighboring James City County. It is a rapidly growing, urbanizing community of 141 square miles with an estimated population of 73,767. The school division has a total student population of approximately 11,500 and includes three high schools 9-12 grade, four middle schools consisting of grades 6-8, nine elementary schools house grades K-5, an Operations Center and the School Board Office.

The WJCC Public Schools Transportation Department consists of over 200 employees and maintains a fleet of 257 vehicles of which 160 are school buses. They have a daily requirement to operate 126 school buses and 3 automobiles in support of the programs in Williamsburg-James City County (WJCC) and surrounding school divisions. They support 3 High Schools, 4 Middle Schools, 9 Elementary Schools, 1 GED and 1 Learning Lab program within our community. Daily bus runs also transport students to/from Richmond, Hampton, Newport News and York County for multiple programs. They complete just over 672 school bus runs each day along with field trips and Virginia High School League (VHSL) trips. After School programs are offered in every school and school bus service is provided to return those students back to their homes and/or neighborhoods most evenings. All combined bus runs consist of over 13,000 miles traveled each day in support of school requirements.

It is estimated that nearly 3,500 instances of vehicles passing stopped school buses occurs within Williamsburg-James City County, each school year. Nationally, about half a dozen students are struck and killed by vehicles passing school buses that are stopped to either load or unload pupil passengers. Williamsburg-James City County Public Schools, with support of the James City County and City of Williamsburg Police Departments, will utilize a video monitoring system to identify violations and, ultimately, to change motorists’ behavior, in order to protect increase the safety of students during the loading and unloading process.

III. STATEMENT OF NEEDS:

A. General Requirements

The contractor shall provide all equipment, labor, and materials required to provide a video-monitoring system for school buses to WJCC. The video-monitoring system must be capable of identifying vehicles that pass a stopped school bus taking on or discharging children on the highway, to include vehicles approaching from any direction, vehicles approaching at any rate of speed, and vehicles that fail either to stop or to remain stopped. The video-monitoring system shall provide, at a minimum, evidentiary recordings as specified in the Code of Virginia §46.2-844 and in the Code of the County of James City, Virginia, (Ordinance 66A-75), and in the Code of the City of Williamsburg, (Ordinance #19-22).

B. Specific Requirements & Provisions

The offeror’s proposal should address, but is not limited to, the following features and specifications:
1) Provision of a complete system, including supply, installation, implementation, and maintenance of all hardware and software necessary for the operation of the video-monitoring system in accordance with all applicable laws, including, but not limited to:
   a. Code of Virginia §46.2-844
   b. Respective County/City Codes (cited in Section III.A.)
2) Issuance of warning notices, citations, and past due notices to the registered owners of violator vehicles;
3) Options for on-line viewing of violations and payment of fines;
4) Processing of payments received;
5) Processing of requests for court hearings;
6) Preparation of evidence packages for court;
7) Operation of a toll-free telephone response system for public inquiries;
8) Operation of a public awareness/community relations education campaign;
9) Training for WJCC, both Police Departments, Courts, County Attorney, Commonwealth’s Attorney, and other officials involved in the use of the system;
10) Provision of expert witness testimony in Court, confirming the functionality and accuracy of the System;
11) Option to relocate equipment to alternate vehicles
12) Systems and services support, warranty, and post-warranty services;
13) Restoration of all Schools property following the removal of equipment.
14) Provision of monthly reports related to violations identified, citations issued, citations paid/resolved, citations contested to County and School officials.
15) Ability to abide by established working hours for WJCC staff for installation of hardware, training, and support, without.

IV. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS:

A. GENERAL INSTRUCTIONS:

1. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original and eight (8) copies of each proposal along with an electronic copy of the proposal on CD either in Microsoft Word or PDF format must be submitted to the County as a complete sealed proposal. Should the proposal contain proprietary information, provide one (1) redacted hard copy of the proposal and attachments with proprietary portions removed. This copy should be clearly marked “Redacted Copy” on the front cover. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable. James City County/WJCC Public School Division shall not be responsible for the Contractor’s failure to exclude proprietary information from this redacted copy.

2. Proposal Preparation:
   a. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all information requested may result in the County of Albemarle requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the County. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
   b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
   c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross-references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination
from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

d. As used in this RFP, the terms "must", "shall", "should" and "may" identify the criticality of requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however, it may seriously affect the overall rating of the Offerors’ proposal.

e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.

f. Ownership of all data, materials, and documentation originated and prepared for the County pursuant to the RFP shall belong exclusively to the County and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of Virginia Code § 2.2-4342(F), in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable.

g. All costs of proposal preparation and presentation shall be borne by each offeror. The County is not liable for any cost incurred by the offeror prior to issuance of a contract.

3. **Oral Presentation:** Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the County. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The County will schedule the time and location of these presentations. Oral presentations are an option of the County and may or may not be conducted.

C. **SPECIFIC PROPOSAL INSTRUCTIONS:** Proposals should be as thorough and detailed as possible so that the County may properly evaluate your capabilities to provide the required goods/services. Offerors are required to submit the following items as a complete proposal:

1. **Section 1 – Proposed Solution:** Provide a thorough description of the proposed solution, including a detailed response to the requirements outlined in Section III, and in Attachment A. Provide a detailed implementation proposal, which includes proposed dates for steps in the implementation plan to be completed. Proposals should provide details regarding system’s reliability and effectiveness:
   - Performance during adverse weather conditions and rough handling
   - Accuracy of GPS locations and date/time stamp,
   - Accuracy of capturing Stop Arm violators
   - Wireless video feed reliability and speed
   - Effectiveness of reducing stop arm violations

2. **Section 2 – Experience:** A written narrative statement to include:
   - Experience in providing the services described herein, including narrative describing firm’s customer support and responsiveness, in its ability to service and staff a WJCC account to include all operational, citation and financial processing for Williamsburg and James City County School, Police Departments and other organizations as required.
   - Staffing: Provide the names, qualifications, degrees, certifications, experience and licenses of key employees, consultants, and sub-consultants to be assigned to the project. Provide the length (time and number of projects) of relationship the offeror has with the proposed employees, consultants, and sub-consultants.
References: Provide at least three (3) references for which work of a similar nature to that described herein was performed within the past three years. The reference should include the name, title, address, phone number, and email for the person on the owner’s team most intimate with the details of project being referenced.

3. **Section 3 – Proposed Price/Rate Structure:** Submit a detailed price proposals which includes any and all costs associated with providing the service.

4. **Section 4 – Additional Information:**
   - Return the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.
   - Attachment A – Functional Requirements
   - Attachment C – Certification of Compliance
   - Attachment D – Non-Collusion Certification

V. **EVALUATION AND AWARD CRITERIA:** TOTAL POSSIBLE POINTS = 100

A. **EVALUATION CRITERIA:** Proposals shall be evaluated by representatives of both jurisdictions, school staff and other stakeholders, using the following criteria:

1. **Specific plans or methodology to be used to perform the services.** The ability, capacity, and skill of the firm to perform the work described herein in a manner consistent with County goals and standards. This should be addressed in **Section 1 – Proposed Solution** portion of the proposal. 20 points

2. **Qualifications and experience of offerors staff to be assigned to perform the services.** The ability, experience, and continuity of the proposed staff, consultants, and sub-consultants to be assigned to the project including the capability of the required staff, consultants, and sub-consultants to perform the services needed within the timeframe designated. The firm must provide assurance that the continuity of the consulting team will be maintained and not changed without prior approval of the County. Offerors are required to provide current resumes for the individuals that they propose for this project. The resumes must specifically describe their training, certification levels, and experience. This should be addressed in **Section 2 – Experience** portion of the proposal.: 20 points

3. **Price.** The ability to provide a cost-efficient service. This should be addressed in **Section 3 – Proposed Price/Rate Structure** portion of the proposal. 15 points

4. **Strength of overall proposal.** Overall proposal submitted specifically addresses the County’s Request for Proposals including the basic approach and understanding of the County’s objectives. 20 points

5. **Functional and Technical Requirements.** Ease of operation for all departments, Quality and Accuracy of Exterior and interior Videos/Photos in varying weather and lighting conditions, Record a stop-arm violation incidents in multiple lanes, Video and photo storage capacity, Type of camera provided, number, and location of each camera, Current and historical vehicle location, speed and direction of travel at each stop and along path of travel, Security of system (Physically tamper proof and hack proof). Management and reporting capabilities, System environment and connectivity, Training plan, support and documentation 25 points

The RFP Committee may request that an organization submitting a proposal provide either an on-site or virtual demonstration of the proposed solution. The purpose of the demonstration will be to assist the committee in verifying the requested functionality and in determining the best solution for the Division. Submitting a proposal does not guarantee that an organization will be selected for a demonstration, so all proposals should be complete and fully address the items identified in the Statement of Needs (Section III) and Attachment A-Functional Requirements.

B. **AWARD OF CONTRACT:** The selection process shall be as per Virginia Code § 2.2-4301(3)(b) for the procurement of non-professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among all the offerors on the basis of the evaluation criteria, including price. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the committee shall select the offeror which in their opinion has made the best proposal, and shall award the contract
to that offeror. Should the committee, as appropriate, determine in writing and in their 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.

VI. REPORTING AND DELIVERY INSTRUCTIONS: The contractor shall provide a monthly progress report to the Director of Transportation outlining:

1. The specific accomplishments achieved during the reporting period related to the implementation of the video-monitoring system.
2. Updated projections for the continued implementation of the system, to include installation of additional units.
3. Data regarding violations identified, citations issued, citations paid, and number of contested or unresolved citations.

VII. PREPROPOSAL CONFERENCE: A preproposal conference is not scheduled.

VIII. GENERAL TERMS AND CONDITIONS: (ATTACHMENT B)

IX. SPECIAL TERMS AND CONDITIONS

A. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the County will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the County is a client or in any list of customers in advertising and promotional materials, unless the contractor has been given written permission by a County representative who is authorized to sign on behalf of the County.

B. CLARIFICATION OF TERMS: The County will assume no responsibility for oral instructions, suggestion or interpretation. Any question regarding the proposal documents and/or scope of work/specifications shall be directed to the Purchasing Division and any material change will be submitted to all offerors through issuance of an addendum. Any questions related to this RFP MUST be submitted in writing via email to: Kitty.Hall@jamescitycountyva.gov by not later than 2:00 pm on March 5, 2020. Any contact with any County representative, other than that outlined within this solicitation, concerning this RFP is prohibited. Such unauthorized contact may disqualify your firm from this procurement.

C. INSURANCE: By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will purchase and maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the following types of coverages and minimum limits, protecting from claims which may arise out of or result from the Offeror’s performance or non-performance of services under this Contract, or the performance or non-performance of services under this Contract by anyone directly or indirectly employed by the Offeror or for whose acts it may be liable:

   a. Workers’ Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the County of increases in the number of employees that change their workers’ compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract. This policy shall specifically list Virginia as a covered state.
   b. Employer’s Liability - $100,000. This policy shall specifically list Virginia as a covered state.
   c. Commercial General Liability - $1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. James City County, Williamsburg James City County Public School Division and its officers, employees agents and volunteers must be named as additional insureds and be so endorsed on the policy.
   d. Automobile Liability - $1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

All insurance coverage:
1. shall be issued by an insurance carrier authorized to do business within the Commonwealth of Virginia and rated A – VIII or better, by A. M. Best Company or equivalent rating from an alternate recognized ratings agency, and otherwise acceptable to the County;
2. shall be kept in force throughout performance of services;
3. shall be an occurrence based policy;
4. shall include completed operations coverage;

Proof Of Insurance: Prior to performance of any services or delivery of goods, the Offeror shall (i) have all required insurance coverage in effect; (ii) the Offeror shall deliver to the County certificates of insurance for all lines of coverage. The Offeror shall be responsible that such coverage evidenced thereby shall not be substantially modified or canceled without 30 days prior written notice to the County; and (iii) the Offeror shall deliver to the County endorsements to the policies which require the County and its officials, officers, employees, agents and volunteers be named as “additional insured”. Policies which require this endorsement include: Commercial General Liability. Such endorsements must be approved by the County, and (iv) upon the request of the County, provide any other documentation satisfactory to the County in its sole discretion, evidencing the required insurance coverage, including but not limited to a copy of the insurance policy and evidence of payment of policy premiums. The Offeror shall require each of its subcontractors and suppliers to have coverage per the requirements herein in effect, prior to the performance of any services by such subcontractors and suppliers. Further, the Offeror shall ensure that all Required Insurance coverages of its subcontractors and suppliers is and remains in effect during performance of their services on the Project and certifies by commencement of the Work that this insurance and that of subcontractors is in effect and meets the requirements set forth herein. The County shall have no responsibility to verify compliance by the Offeror or its subcontractors and suppliers.

Effect Of Insurance: Compliance with insurance requirements shall not relieve the Offeror of any responsibility to indemnify the County for any liability to the County, as specified in any other provision of this contract, and the County shall be entitled to pursue any remedy in law or equity if the Offeror fails to comply with the contractual provisions of this contract. Indemnity obligations specified elsewhere in this Contract shall not be negated or reduced by virtue of any insurance carrier’s denial of insurance coverage for the occurrence or event which is the subject matter of the claim, or by any insurance carrier’s refusal to defend any named insured.

Waiver Of Subrogation: The Offeror agrees to release and discharge the County of and from all liability to the Offeror, and to anyone claiming by, through or under the Offeror, by subrogation or otherwise, on account of any loss or damage to tools, machinery, equipment or other property, however caused.

Sovereign Immunity: Nothing contained herein shall affect, or shall be deemed to affect, a waiver of the County’s sovereign immunity under law.

Right to Revise or Reject: The County reserves the right, but not the obligation, to revise any insurance requirement not limited to limits, coverages and endorsements, or reject any insurance policies which fail to meet the criteria stated herein. Additionally, the County reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally.

D. OSHA STANDARDS: All contractors and subcontractors performing services for the County are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

E. OWNERSHIP OF DOCUMENTS: All information, documents, and electronic media furnished by the County to the Contractor belong to the County, are furnished solely for use in connection with the Contractor’s performance of Services required by this Agreement, and shall not be used by the Contractor on any other project or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than Services rendered to the County hereunder is specifically authorized in writing by the County in advance. All documents or electronic media prepared by or on behalf of the Contractor for the County are the sole property of the County, free of any retention rights of the Contractor. The Contractor hereby grants to the County an unconditional right of use, for any purpose whatsoever, documents or electronic media prepared by or on behalf of the Contractor pursuant to this Agreement, free of any copyright claims, trade secrets, or any other proprietary rights with respect to such documents.
F. PAYMENT:

A. To Prime Contractor:

All invoices will be paid promptly by the County/City unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The firm shall provide complete cooperation during any such investigation. All invoices shall be forwarded to the Project Manager for review and acceptance for payment.

Payment terms will be net 30 days from receipt of approved invoice unless otherwise proposed by an Offeror. Prompt payment discounts offered will be considered.

Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the County shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve a County department of its prompt payment obligations with respect to those charges which are not in dispute (Virginia Code § 2.2-4363).

B. To Subcontractors:

a. A contractor awarded a contract under this solicitation is hereby obligated:

   (1) To pay the subcontractor(s) within seven (7) days of the contractor’s receipt of payment from the County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

   (2) To notify the County and the subcontractor(s), in writing, of the contractor’s intention to withhold payment and the reason.

b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the County, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor’s obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the County.

G. PAYMENT TERMS: Proposal must clearly state payment terms desired. Such terms as proposed shall be negotiable.

H. PERMITS AND FEES: All proposals submitted shall have included in price the cost of any business or professional licenses, permits or fees required by the County of Albemarle or the Commonwealth of Virginia. The offeror must have all necessary licenses to perform the services in Virginia and, if practicing as a corporation, be authorized to do business in the Commonwealth of Virginia.

I. PRECEDENCE OF TERMS: The following General Terms and Conditions: APPLICABLE LAWS AND COURTS, NON-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF COUNTY FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

J. PUBLIC INSPECTION OF CERTAIN RECORDS: Except as otherwise provided, and in accordance with Virginia Code § 2.2-4342, all proceedings, records, contracts and other public records relating to the County’s procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 et seq). Any
offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after
interviews and negotiations are completed, but prior to award, except in the event the County decides not to accept
any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection
only after award of the contract. Trade secrets or proprietary information submitted by an offeror in connection
with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the
offeror (i) invokes the protections of Virginia Code § 2.2-4342 prior to or upon submission of the data or other
materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why
protection is necessary. A general designation of a contractor’s entire proposal submission as being “confidential”
shall not be sufficent to invoke the protections referenced above.

K. QUALIFICATIONS OF OFFERORS: The County may make such reasonable investigations as deemed proper
and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall
furnish to the County all such information and data for this purpose as may be requested. The County reserves
the right to inspect offeror’s physical facilities prior to award to satisfy questions regarding the offeror’s
capabilities. The County further reserves the right to reject any proposal if the evidence submitted by, or
investigations of, such offeror fails to satisfy the County that such offeror is properly qualified to carry out the
obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

L. RIGHT TO ACCEPT OR REJECT OFFERORS: The County reserves the right to accept or reject any or all
proposals in whole or in part.

M. SCHOOL CONTRACTOR CERTIFICATION: Contractor acknowledges that any contract resulting from this
solicitation for services may require Contractor, Contractor’s employees or other persons within Contractor’s
control to have direct contact with Williamsburg-James City County Public School students on school property
during regular school hours or during school-sponsored activities. As evidenced by the authorized signature
below, Contractor hereby certifies to the W-JCC School Board that all persons who will provide such services for
or on behalf of the Contractor on public school property have not been convicted of a felony or any offense
involving the sexual molestation or physical or sexual abuse or rape of a child.

Contractor hereby acknowledges that, pursuant to Virginia Code § 22.1-296.1, any person making a materially
false statement regarding any such offense shall be guilty of a Class I misdemeanor and, upon conviction, the fact
of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant,
the revocation of any license required to provide such services.

Contractor hereby agrees that this Certification shall be binding throughout the contract term, and that it will
provide immediate notice to the Williamsburg-James City County Public School Division and the members of
the W-JCC School Board of any event that renders this certification untrue.

N. TAXES: Include only taxes applicable to the project in this proposal. The County is exempt from State Sales
Tax and Federal Excise Tax. Tax Exemption Certificate indicating the County’s tax exempt status will be
furnished upon request.

O. TESTING AND INSPECTION: The County reserves the right to conduct any test/inspection it may deem
advisable to assure goods and services conform to the specifications.

P. TRANSPORTATION AND PACKAGING: All prices submitted must be FOB Destination - Freight Prepaid and
Allowed. By submitting their proposals, all offerors certify and warrant that the price offered for FOB destination
includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the
goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping
containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase
order number, commodity description, and quantity.

Q. AUDIT: The contractor shall retain all books, records, and other documents relative to this contract for five (5)
years after final payment, or until audited by the County of Albemarle, whichever is sooner. The agency, its
authorized agents, and/or the County of Albemarle shall have full access to and the right to examine any of said
materials during the said period.

S. RENEWAL OF CONTRACT: Resulting contract shall be for one year beginning from the date of contract
execution with the option to renew under the terms of the original agreement for up to four (4) additional one year
terms if agreed upon in writing by both parties. Prior to the expiration date of the initial contract or any subsequent
renewal, the Contractor may request price adjustments to be effective during the upcoming contract period. Price
increases shall be limited to no more than the percentage increase in the Consumer Price Index, Urban Wage
Earners and Clerical Workers (CPI-U), U. S. City Average, **Other Services**, for the previous twelve months as published by the U. S. Department of Labor, Bureau of Labor Statistics. The base price to which any adjustments will be made shall be the prices in effect during the contract term prior to the proposed term.

IX. SPECIAL TERMS AND CONDITIONS

The following terms and conditions apply to this Request for Proposal, and by submitting its proposal, the Offeror agrees to them without exception:

9.1 FAMILIARITY WITH PROPOSED WORK

It is the responsibility of the Offeror, by careful personal examination of the RFP Documents and the Scope of Work, to visit the area of the work to be performed, if that is required, and to satisfy the full scope of services required for the total project. The Offeror should study and carefully correlate its knowledge and observations of the RFP Documents and such other related data and to promptly notify the designated Purchasing point of contact of all conflicts, errors, ambiguities, inconsistencies, or discrepancies that the Offeror has discovered in or between the RFP Documents and such other related documents or conditions. Failure to do so shall not relieve the Successful Offeror of its obligation to perform as per the provisions of the resulting contract. The Successful Offeror shall not at any time after the execution of the contract make any claims whatsoever alleging insufficient data or incorrectly assumed conditions, nor shall it claim any misunderstanding with regard to the nature, conditions or character of the work or services to be provided under the contract.

9.2 PRECEDENCE OF TERMS

In the event of an inconsistency between the Request for Proposal, the Contract Terms and Conditions, other included documents, state procurement law, the inconsistency shall be resolved by the following order of precedence:

1. Virginia’s Public Procurement Act, as amended
2. Special Terms & Conditions contained in this Request for Proposal
3. JCC General Terms & Conditions, included in this Request for Proposal
4. The remainder of this Request for Proposal document
5. Contractor’s Proposal.

9.3 ASSIGNMENT

The Contractor is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this agreement or its rights, title or interest therein or its power to execute such agreement to any other person, company or corporation without the prior consent and approval in writing by the County.

9.4 COUNTERPARTS

This Contract and any amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Contract or any amendment or renewal. A
signature by any party to this Contract provided by facsimile or electronic mail is binding upon that party as if it were the original.

9.5 **SEVERABILITY**

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

9.6 **LICENSURE**

To the extent required by the Commonwealth of Virginia (see e.g. 54.1-1100 et seq. of the Code of Virginia) or JCC of James City, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.

9.7 **DURATION OF OBLIGATION**

The Contractor agrees that all of Contractor's obligations and warranties which directly or indirectly are intended by their nature or by implication to survive Contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the Contract.

9.8 **USE OF WJCC's NAME**

No advertising, sales promotion or other materials of the Contractor or its agents or representatives may identify or reference this Contract or WJCC in any manner absent WJCC's prior written consent. As a condition of entering into this Contract, the Contractor further agrees to refrain from the following, absent WJCC's prior written approval:

(a) making any statement to the media regarding the subject matter of this Contract; or (b) making any statement to the media on any issue which is in WJCC's judgment likely to cause WJCC or WJCC staff to be viewed as anything other than neutral with respect to the subject matter of this Contract, or cast doubt on the competence or integrity of WJCC or the Contractor. Failure to comply with this requirement by the Contractor shall constitute a material breach and shall entitle WJCC to terminate this Contract for default.

9.9 **LITIGATION AND NOTIFICATION**

The Contractor shall notify the JCC Purchasing Director if any of the following occur:

A. The Contractor is served with a notice of violation of any law, regulation permit or license that relates to this Contract;

B. Proceedings are commenced which could lead to revocation of related permits and licenses;

C. Permits, licenses or other Government authorizations relating to this Contract are revoked;

D. Litigation is commenced in which the Contractor is a named party who is otherwise a provider of indirect services or products under this Contract; or

E. The Contractor becomes aware that its equipment or facilities or actions are not in compliance with relevant law or the terms and conditions of this Contract
9.10 **INSURANCE**

The Contractor shall be responsible for its work and every part thereof, and all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under the Contract.

The contractor and all subcontractors shall, during the continuance of all work under the Contract provide the following:

Workers compensation and Employer’s Liability to protect the Contractor from any liability or damages, for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.

Comprehensive General Liability Insurance to protect the Contractor, and the interest of WJCC, its officers, employees, and agents against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall also include the Broad Form Property Damage Endorsement, in addition to coverage for explosion, collapse, and underground hazards, where required.

Automobile Liability insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor.

The Contractor agrees to provide the above referenced policies with the following limits. Liability insurance limits may be arranged by General Liability and Automotive policies for the full limits required, or by a combination of underlying policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

1. **Workers Compensation and Employers Liability**
   a. Coverage A – Statutory
   b. Coverage B -- $100,000/$100,000/$500,000
   c. A broad form of all states endorsement should be attached.

2. **Commercial General Liability Including Contractual and Completed Operations.**
   a. Limit of Liability - $1,000,000 per Occurrence
   - **Products/Completed Operations**
     a. Limit of Liability - $2,000,000 AGG
   - **Personal/Advertising Injury**
a. Limit of Liability - $1,000,000 per occurrence

- General Aggregate:
  a. Limit of Liability - $2,000,000

3. Commercial Auto Liability Including Hired and Non- Owned Car Liability Coverage

The Contractor shall purchase and maintain during the life of this Contract such commercial automobile liability insurance including employer’s non-ownership liability and hired car liability insurance to protect him and any subcontractors performing work covered by this Contract from claims for damages, whether such operations be by him or any subcontractor, or by anyone directly or indirectly employed by either of them.

a. Limit of Liability $1,000,000 Per Occurrence

4. Professional Liability – Liability for Errors and Omissions in the Performance of the Contract, including Technology Errors & Omissions

a. Limit of Liability $2,000,000 per occurrence

5. Cyber Security Liability & Network Security (access) including coverage for subcontractors and the following at $2,000,000 per occurrence

- Denial of Services
- Breach of Privacy
- Remediation
- Fines and penalties
- Virus
- Unauthorized Access
- Security Breach
- Loss of Use and Resulting Business Interruption
- Intellectual Property Infringement

The following provisions shall be agreed to by the Contractor:

No change, cancellation, or non-renewal shall be made in any insurance coverage without forty-five (45) day written notice to WJCC. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

Liability Insurance “Claims Made” basis:

If the Liability Insurance purchased by the Contractor has been issued on a “claims made” basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same.

The Contractor must:

1. Agree to provide certificates of insurance evidencing the above coverage for a period of
two (2) years after final payment for the Contract for General Liability policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's work under this Contract, or purchase the extended reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

2. The Contractor must disclose the amount of deductible/self-insured retention applicable to the General Liability and Automobile Liability. WJCC reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible/self-insured plan. If this provision is utilized, the Contractor will be permitted to provide evidence of its ability to fund the deductible/self-insured retention.

3. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VII European markets including those based in London, and the domestic surplus lines market that operate on a non-admitted basis are exempt from this requirement provided that the Contractor's broker can provide financial data to establish that a market's policyholder surpluses are equal to or exceed the surpluses that correspond to Best's A:VII Rating.

4. The Contractor will provide an original signed Certificate of Insurance and such endorsements as prescribed herein.

5. The Contractor will provide on request certified copies of all insurance coverage related to the Contract within ten (10) business days of request by WJCC. These certified copies will be sent to WJCC from the Contractor's insurance agent or representative. Any request made under this provision will be deemed confidential and proprietary.

6. Any certificates provided shall indicate the Contract name and number.

7. WJCC, its officers and employees shall be named as an "additional insured" on the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage "is primary to all other coverage WJCC may possess." (Use "loss payee" where there is an insurable interest).

8. Compliance by the Contractor with the foregoing requirements as to carrying insurance shall not relieve the Contractor of their liabilities provisions of the Contract.

9. The Contractor is to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.

10. If an "ACORD" Insurance Certificate form is used by the Contractor's insurance agent, the words "endeavor to" and "...but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.

11. The Contractor agrees to waive all rights of subrogation against WJCC, its officers, employees, and agents.

9.11 INDEMNIFICATION

The Contractor hereby binds himself and his successors to indemnify, defend and save harmless James City County, its subsidiaries, and its respective officers, directors, trustees, agents and employees, from all suits and actions of every name and description brought against them, and all costs or damages to which they may be put, on account of, or by reason of any injury or alleged injury to the person or property of another, resulting from or on account of the negligent acts, errors or omissions, recklessness or intentionally wrongful conduct of the Contractor, its employees, agents and representatives in the performance of the contract; and that the whole or so much of the
moneys due to the Contractor under and by virtue of this Contract, as such or may be considered necessary by WJCC, shall and may be retained until all such suits and claims for damages as aforesaid shall have been settled, and evidence to that effect furnished to the satisfaction of WJCC. The said Contractor further agrees to indemnify and save harmless James City County, its subsidiaries, and its respective officers, directors, trustees, agents and employees against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against them by reason of any injury sustained by any of the Contractor’s employees in and about the said work, under and pursuant to the provisions of the Workman’s Compensation Law or any amendments thereto, and the Contractor shall produce certificates or other satisfactory evidence of ample protection against such liability.

9.12 CONFIDENTIAL INFORMATION

The Contractor shall not copy, display to other parties, or distribute WJCC data, information, reports, or other materials given to, prepared or assembled by the Contractor without the express written permission of WJCC.

The Contractor shall not copy, display to other parties, or distribute WJCC-owned programs, proprietary data, or information without the express written permission from WJCC.

9.13 NOTICE AND ASSISTANCE REGARDING INTELLECTUAL PROPERTY RIGHT INFRINGEMENT

The Contractor shall report to the JCC Purchasing Director or other designated WJCC staff, promptly and in reasonable written detail, each notice or claim of Intellectual Property Right infringement based on the performance of this Contract of which the Contractor has knowledge.

In the event of any claim or suit against WJCC, on account of any alleged Intellectual Property Right infringement arising out of the performance of this Contract or out of the use of any supplies or materials furnished or work or services performed hereunder, the Contractor shall furnish to WJCC, when requested by the JCC Purchasing Director or other designated WJCC staff, all evidence and information in possession of the Contractor pertaining to such suit or claim.

9.14 WJCC RIGHTS TO CONTRACTOR WORK PRODUCT/WJCC INTELLECTUAL PROPERTY RIGHTS DEFINITION

When used in this Contract, the term "Intellectual Property Right" shall mean intellectual property and proprietary rights including, without limitation, all rights of inventorship and authorship, inventions, patents, patent applications, and know-how for any product, process, method, machine, manufacture, design, composition of matter, or any new or useful improvement, as well as copyrights, trademark, trade dress, and service mark rights and all rights in trade secrets, computer software, data and databases, and mask works.

A. Ownership of Information

Except as otherwise expressly provided in this Contract, all reports, information, data specifications, computer programs (including but not limited to design and operational components and source code), technical reports, operating manuals and similar work or other documents, all deliverables, and other work product first developed or authored by Contractor for WJCC under this Agreement, and all Intellectual Property Rights associated with the foregoing items
(collectively, the “Work Product”) shall be and remain the sole and exclusive property of WJCC. Any such works will not be stamped with the Contractors’ proprietary marking. On request, the Contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to WJCC to evidence WJCC’s sole ownership of specifically identified intellectual property created or developed in the performance of the Contract. The Contractor shall return all information to WJCC upon termination, and/or request and shall not utilize any of the information for purposes outside of the scope of this Contract or without express approval of WJCC.

A deliverable under this Contract will be considered a Work Product if it fits any of the following three criteria: (1) it is developed using equipment, supplies, facilities, or trade secrets of WJCC; (2) it results from Contractor’s work for WJCC.

Any general knowledge and skill gained by the Contractor through performance of the Services shall not be deemed to be Work Product, unless such knowledge or skill constitutes a Trade Secret or Confidential Information under this Agreement. Any Contractor works of authorship comprised within the Work Product shall be deemed to be “work made for hire,” as that term is defined in the United States Copyright Act, 17 U.S.C. §101, and shall belong solely, irrevocably, and exclusively throughout the world to WJCC. However, to the extent any court or agency should conclude that any such work of authorship does not constitute or qualify as a work made for hire, the Contractor hereby assigns, grants, and delivers (solely, irrevocably, exclusively, and throughout the world to WJCC), all Intellectual Property Rights and other rights to the Work Product at issue, worldwide and for all applications and media, whether now known or developed in the future. The Contractor also agrees to cooperate with WJCC and to execute such other further grants and assignments of all rights as WJCC from time to time reasonably may request for the purpose of evidencing, enforcing, registering, or defending WJCC’s ownership of the Work Product.

Except as otherwise specified herein, no Work Product may be published, reproduced or used by Contractor in whole or in part, in any manner or form, without WJCC’s prior written consent. Contractor shall secure WJCC’s legal title and interests in and to all Work Product that is first produced by third parties for the Contractor pursuant to this Agreement.

The Contractor grants WJCC an non-exclusive, perpetual, worldwide, fully paid up license to all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product not first developed for WJCC under this Agreement but which is incorporated in the work furnished under this Agreement, and all Intellectual Property Rights associated with the foregoing items. Such rights include, but are not limited to, the right to reproduce, adapt, distribute, and use the work product and to create derivative works based on or incorporating such work product, for use by or for WJCC. The Contractor agrees to place the source code and other necessary design and operational components of computer software work product licensed under this Agreement and documentation for such software into escrow pursuant to this Agreement.

B. Infringement and Performance Breach Remedies

If it is claimed that any work furnished under this Agreement, whether first developed by the Contractor for WJCC or not, infringes any Intellectual Property Right or is otherwise unlawful, the Contractor agrees to defend or settle any such claim or suit at the Contractor's expense and to indemnify and hold WJCC harmless from any losses, damages or harm, including attorney’s fees
and legal expenses, incurred as a result of such claim. Without WJCC’s prior written approval, the Contractor shall not accept any liability on WJCC’s behalf for the infringement, nor shall the Contractor reach a settlement that from WJCC’S perspective impairs the value or usefulness of the work that is the subject of the infringement claim. The Contractor will also pay all damages and costs that by final judgment, settlement or other resolution are assessed against WJCC due to such alleged or proven infringement and reimburse WJCC for any direct damages suffered by WJCC as a result of the infringement claim, including but not limited to attorney’s fees.

The Contractor's obligation as set forth in this Section is expressly conditioned upon the following:

- that the Contractor shall be notified promptly in writing by WJCC of any claim or suit of which WJCC is aware;
- that the Contractor shall have sole control of the defense or settlement of any claim or suit;
- that WJCC, at the Contractor's expense, shall cooperate with the Contractor in all reasonable ways to facilitate the settlement or defense of any claim or suit; and
- that the claim or suit does not arise solely from modifications made by WJCC to Contractor-provided work, without the Contractor’s knowledge or approval.

If any work provided by the Contractor under this Contract becomes, or in the Contractor's opinion, is likely to become the subject of a claim of infringement, the Contractor will, at its option: (i) procure for WJCC the right to continue using the applicable work; (ii) replace the work with a non-infringing product complying with the Contract specifications; or (iii) modify such work so it becomes non-infringing and performs in a manner that meets the Contract specifications. All payment obligations of WJCC shall be suspended until Contractor provides one of the remedies described. Contractor also will reimburse WJCC for any direct damages suffered as a result of the need to take any of the actions contemplated in this provision.

Contractor will indemnify and hold harmless WJCC and its affiliates from any failure by the Contractor to fulfill its obligations to provide the Solution and services as required herein.

Contractor shall indemnify, defend, and hold harmless WJCC and its affiliates, against any liability, demands, damages, expenses, and losses for death, personal injury, illness or property damage arising out of the Contractor’s breach of its representations, warranties, or performance, or based on an alleged defect or design error in any element, part or combination thereof in the software.

C. Contractor Responsibilities

Contractor is responsible for obtaining all assignments, agreements, licenses and grants from third parties as needed for the Contractor to meet its obligations under this provision. All such third-party assignments, agreements, licenses and grants shall be in writing and delivered to WJCC.

9.15 SOURCE CODE ESCROW

The selected software Offeror shall provide their proposed Solution's source code and software documentation, this also includes source code and documentation for all third-party proposed products to WJCC, or establish an escrow account with the exact version of the source code, software documentation and third-party source code and documentation being implemented by WJCC within thirty (30) days of execution and effective date of the Contract. The selected software Offeror must provide to WJCC, or escrow, the original, unaltered code, and software documentation which must be replaced with the as-built code subsequent to completing the a)
testing, b) acceptance and c) implementation phases of this project. The selected software Offeror shall notify WJCC every time code versions are sent to escrow. This is required to ensure that WJCC has unrestricted access to use of the source code and software documentation in the event the selected software Offeror ceases to exist, ceases to support the application, or otherwise terminates its relationship and/or ownership to the product.

9.16 CONFIDENTIALITY

The Contractor shall not copy, display to other parties, or distribute County data, information, reports, or other materials given to, prepared or assembled by the Contractor without the express written permission of the County. The Contractor shall not copy, display to other parties, or distribute County owned programs, proprietary data, or information without the express written permission from the County.

9.17 DATA AUTHENTICITY, INTEGRITY AND AVAILABILITY

A. “County Data” or “Data” means all information processed or stored in the performance of this Contract and as part of the Contractor’s Solution, on computers or other electronic media, by the County or on the County’s behalf, or provided to the Contractor for such processing or storage, as well as any information derived from such information. County Data includes, without limitation: (a) information on paper or other non-electronic media provided to the Contractor for computer processing or storage, or information formerly on electronic media; (b) information provided to the Contractor by the County’s customers (citizens) or other users or by other third parties; and (c) personally identifiable information from such customers, users or third parties.

A. The Contractor will take reasonable measures, including audit trails, to protect the County against deterioration or degradation of Data quality and authenticity. The Contractor shall be responsible for ensuring that County Data, per the Virginia Public Records Act, “is preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.”

B. The County reserves the right to perform or request audits of the Contractor to ensure compliance with the terms of this Agreement and applicable laws and industry standards related to the security of its electronic systems and facilities that are used to process and house County Data.

C. The Contractor will ensure backups are successfully completed at the agreed interval and that restoration capability is maintained for restoration to a point-in-time and/or the most current backup available.

D. The Contractor will maintain an uptime of 99.9% or greater, as agreed to for the contracted services via the use of appropriate redundancy, failover, replication, and continuity of operations and disaster recovery planning and implementations, excluding regularly scheduled maintenance time. Aside from scheduled maintenance periods, WJCC should have access to the solution and its Data 24 hours a day/7 days a week.

E. The Contractor shall notify WJCC via e-mail to assigned WJCC first contact fourteen (14) days in advance of any outage scheduled outside of the daily hours of non-availability. Contractor shall provide WJCC the date and time any outage scheduled outside of the daily hours of non-availability will begin and end. Contractor shall notify WJCC of the actual end of the outage. If an unplanned outage occurs or becomes necessary, the Contractor shall notify WJCC twelve (12) hours before or
as soon as possible after the outage begins. Contractor shall notify WJCC when the unplanned outage ends and when resumption of WJCC operations is possible.

F. Should the cloud-based data storage and reporting system experience excessive outages or failure, the Contractor shall reimburse WJCC a prorated amount of WJCC’s payment for support and maintenance fees, commensurate with the amount of time during which WJCC lost access to the hosted system, its data and reporting capabilities.

9.18 COUNTY RIGHTS TO DATA

The County retains ownership of all data and rights to extract data into non-proprietary formats. County current system data shall remain the sole property of the County. Therefore, all tools and capabilities native to the database/OS environment as proposed shall be available to the County to allow for full access to that data. All tables, layouts, queries, stored procedures, XML schema and other content developed to support the operation of the database and the FOIA solution in the County’s environment become the property of the County, and shall be available to the appropriate County personnel as needed and upon request. Database query, extract and data download capabilities into external formats such as MS Excel and Access or any other machine readable format shall be completely operational and available for appropriate County personnel to access.

The above is not meant to include proprietary programs or other intellectual property unique to the Offeror’s solution. However, such claim to proprietary content cannot intrude on the County’s right to access its data without undue interference or additional cost. Data owned by the County may not be used by the Contractor for any purpose.

9.19 DATA TRANSFER UPON TERMINATION OR EXPIRATION

A. The Contractor’s obligations shall survive termination of this Agreement until all County Data has been returned or Securely Destroyed, meaning taking actions that render data written on media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88 guidelines relevant to data characterized as high security.

B. Upon termination or expiration of the Agreement, the Contractor will ensure that all County Data are securely transferred, returned or destroyed as directed by the County in its sole discretion within sixty (60) days of termination or expiration of this Agreement. The transfer, return, or destruction of County Data will be provided by the Contractor at no additional cost to the County; any fees for such services will be included in the contract pricing. Transfer/migration to the County or a third party designated by the County shall occur without significant interruption in service. The Contractor shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the County or its transferee, and to the extent technologically feasible, that the County will have reasonable access to the County’s Data during the transition. Contractor shall provide all County Data in a usable format as specified by the County.

C. In the event that the County requests destruction of its Data, the Contractor agrees to Securely Destroy all Data in its possession and in the possession of any subcontractors or agents to which the Contractor might have transferred County Data. The Contractor agrees to provide documentation of Data destruction to the County and to complete any required County documentation regarding the destruction of County Data.
D. The Contractor will notify the County of impending sale, transfer, forfeiture of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and Data and providing the County access to the Contractor’s facilities to remove and destroy County-owned assets and Data. The Contractor will communicate prior to implementing its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the County. The Contractor will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the County. The Contractor will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the County, all such work to be coordinated and performed in advance of the formal, final transition date.

E. The County has the right to terminate the Agreement in the event the Data needs to be transferred due to an impending sale, transfer or forfeiture.

9.20 REGENERATION OF LOST OR DAMAGED DATA

With respect to any data which Contractor has lost or damaged, Contractor shall, at its own expense and to the extent possible, promptly replace or regenerate such data from WJCC’s machine-readable supporting material, or obtain, at Contractor’s own expense, a new machine-readable copy of lost or damaged Data from WJCC’s Data sources. The Contractor shall not be responsible for any expenses that are the result of the failure of WJCC to maintain backup data in accordance with County procedures, unless the Contractor caused such failure.

9.21 SOFTWARE LICENSES

Unless otherwise stated in the solicitation, the software license(s) identified in the pricing schedule shall be purchased on a perpetual basis and shall continue in perpetuity. However, WJCC reserves the right to terminate the license at any time, although the mere expiration or termination of this Contract shall not be construed as intent to terminate the license. All acquired license(s) shall be for use at any computing facilities, on any equipment, by any number of users, and for any purposes for which it is procured. There shall be no licensing restrictions to granting access to citizens and business partners via the Internet. The Contractor and its subcontractors shall retain all title, copyright and other proprietary rights in its Software Products and all modifications, enhancements, and other derivative works of the Software Products unless developed by the County or otherwise agreed upon by the parties.

9.22 LATEST SOFTWARE VERSION

Any software product(s) provided under the Contract shall be the latest version available to the general public as of the due date of this solicitation.

9.23 SOFTWARE UPGRADES

WJCC shall be entitled to any and all upgraded versions of the software covered in the Contract that becomes available from the Contractor. These upgrades shall be at no cost to WJCC and shall be included in the maintenance warranty and subsequent support and maintenance renewals.
9.24 SOFTWARE DISPOSITION

Unless otherwise instructed by the Contractor, WJCC shall render unusable all copies of software acquired under the Contract within thirty (30) days of termination of its license; however, WJCC shall reserve the right to retain one (1) copy of the software for archival purposes when appropriate.

9.25 THIRD PARTY ACQUISITION OF SOFTWARE

The Contractor shall notify WJCC in writing should the intellectual property, associated business, or all of its assets be acquired by a third party. The Contractor further agrees that the Contract’s Terms and Conditions, including any and all license rights and related services, shall not be affected by the acquisition. Prior to completion of the acquisition, the Contractor shall obtain, for WJCC’s benefit and deliver thereto, the assignee’s agreement to fully honor the terms of the Contract.

9.26 TITLE TO SOFTWARE

The Contractor represents and warrants that it is the sole owner of the software or, if not the owner, that it has received all legally required authorizations from the owner to license the software, has the full power to grant the rights required by this solicitation, and that neither the software nor its use in accordance with the Contract will violate or infringe upon any patent, copyright, trade secret, or any other property rights of another person or organization.

9.27 WARRANTIES AGAINST SHUTDOWN DEVICES

The Contractor warrants that the equipment and software provided under the Contract shall not contain any lock, counter, CPU reference, virus, worm, or other device capable of halting operations or erasing or altering data or programs. Contractor further warrants that neither it, nor its agents, employees, or subcontractors shall insert any shutdown device following delivery of the equipment and software.

9.28 SECURITY REQUIREMENTS

A. The Contractor shall use only WJCC-approved access technologies for remote access to WJCC networks, servers, and applications.

B. The Contractor shall access WJCC networks, servers, and applications only for business reasons associated with the provision of services to WJCC.

C. The Contractor shall use hardened passwords for all access related to WJCC networks, servers, and applications. Such passwords shall contain at least eight (8) characters, and shall contain at least one (1) each: alpha character, numeric character, and special character.

D. Hardware, operating system, software and applications software provided through this Contract shall be provided with all known security vulnerability patches applied.

E. For an Application Service Provider (ASP) solution to be accepted it shall meet the following conditions:

- The Contractor’s physical security systems, arrangements, policies and procedures shall be found sufficient to WJCC.
- The Contractor’s IT security architecture, and procedures and access to hosted data procedures shall be acceptable to WJCC.
F. Upon request by WJCC, the Contractor shall produce a Third Party Security Audit Report that was performed within the year prior to the date of request.

G. Security Breach: Immediately (within one day) upon becoming aware of a security breach, or of circumstances that could have resulted in unauthorized access to or disclosure or use of County data, the Contractor will notify the County, fully investigate the incident, and cooperate fully with the County’s investigation of and response to the incident. Except as otherwise required by law, the Contractor will not provide notice of the incident directly to any person and/or agency whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the County. In addition to any other remedies available to the County under law or equity, when applicable to the type of services being provided, the Contractor will pay for or reimburse the County in full for all costs incurred by the County in investigation and remediation of such Security Breach, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year’s credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach. The Contractor agrees to indemnify, hold harmless and defend the County from and against any and all claims, damages, or other harm related to such Security Breach.

9.29 WARRANTY OF SERVICES

A. System Software Solution Performance Warranty

Contractor represents and warrants that the system software Solution provided under this Contract will: (i) meet the acceptance or completion criteria as set forth in this Request for Proposal, the design document and/or any change order; (ii) be free from all material defects; and (iii) perform in accordance with the requirements set forth in this Request for Proposal, the design document and/or any change orders, for any initial Warranty Period and for the duration of the Contract’s Support and Maintenance Period.

B. System Integration Warranty

Contractor represents and warrants that, following Final Acceptance of the System by WJCC and for the duration of the Warranty Period and/or Support and Maintenance Period, all Contractor-provided and/or third-party equipment and/or software installed under this Contract, including all components thereof, (i) is compatible and will operate with one another and with WJCC’s hardware, software, and network environment as exists at the time of project initiation, (ii) shall function properly as a fully integrated and implemented system, and (iii) when operated together will not cause any material delays, defects, or problems with the system software Solution. The parties acknowledge that, under the provisions of this Warranty, in the event that the implementation of one component causes errors in another software component(s), the Contractor shall be obligated, at no additional cost to WJCC, to remedy the error in one or all components, as the case may be, regardless of whether or not the latter component’s warranty period may have expired.

C. Component Services, Software and Equipment Warranties
The Contractor warrants that all services performed and software and equipment provided under this Contract to meet each milestone will at the time of WJCC’s acceptance of each milestone be free from defects in workmanship and conform to the requirements of this Contract and that they will remain so through Final Acceptance of the System by WJCC and for the duration of the Contract’s Warranty Period and/or Support and Maintenance Period. To the extent software, equipment and services will be provided by entities other than the Contractor, the Contractor shall require third party warranties to conform to this provision and pass through all warranties to WJCC if said warranties will continue beyond the expiration date of this Contract. Contractor will provide WJCC with a written list of all third-party IP or products and related warranties that Contractor plans to provide or use as part of the systems software solution.

D. Software Warranties

The Contractor shall warrant that the contents of its proposal accurately reflect the software’s capability to satisfy the requirements of this Contract’s Statement of Work. In addition, the Contractor shall require software vendors to warrant that the software provided under this Contract will conform in all material respects to those requirements and to specifications stated in the software vendor’s license. Said software warranties shall remain in place following final acceptance of the System by WJCC and for the duration of the Contract’s Warranty Period and Support and Maintenance Period.

In addition to the above and not as a limitation, Contractor provides the following warranties:

E. Third Party Agreements Warranty

Contractor represents and warrants that Contractor’s performance does not and shall not violate any agreement or obligation between the Contractor and a third party.

F. Third Party Intellectual Property Rights Warranty

Contractor represents and warrants that any and all work, products, and/or services implemented pursuant to this Agreement and/or delivered to WJCC do not and will not infringe any Intellectual Property Right held by any third party.

G. Warranty Repairs

WJCC’s remedy for a violation of any performance, product or integration warranty shall be as follows: If any services, software or equipment provided under the Contract fails during normal use, or fails to comply with the Contract’s requirements, during the Warranty Period or Support and Maintenance Period, the Contractor shall correct the failure at no cost to WJCC after written notice is received from WJCC. Corrections shall be undertaken in accordance with the Scope of Work, the terms of the Contract, and industry standards and best practices. WJCC shall determine the severity level. If, after making all reasonable efforts, the Contractor is unable to correct the failure, WJCC shall be entitled to receive a refund equal to the amount paid for the services, software and/or equipment in question; provided, however, if the failure prevents WJCC from using the system software solution, in whole or substantial part, for its intended purpose, WJCC will be entitled to receive a refund equal to the entire amount paid for the said System, plus reasonable escalation.

While the warranty and/or Support and Maintenance Periods is in effect, the Contractor shall maintain a log of all warranty/support and maintenance issues and the resulting action. The
Contractor shall submit a periodic report listing all warranty/maintenance claims submitted during a time period agreed upon by both parties as well as a short annotation describing the resulting action.

9.30 INSPECTION OF SERVICES

- **Definitions.** "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- The Contractor shall provide and maintain an inspection system acceptable to WJCC covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to WJCC during Contract performance and for as long afterwards as the Contract requires.
- WJCC has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. WJCC shall perform inspections and tests in a manner that will not unduly delay the work.
- If any of the services do not conform to Contract requirements, WJCC may require the Contractor to perform the services again in conformity with Contract requirements at no increase in Contract amount. When the defects in services cannot be corrected by re-performance, WJCC may require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and reduce the Contract price to reflect the reduced value of the services performed.
- If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, WJCC may (a) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by WJCC that is directly related to the performance of such service or (b) terminate the Contract for default.

9.31 CHANGE ORDER PROCESS

Any changes to the Scope of Work established as part of a Contract resulting from this solicitation will be authorized by a Change Order. No order, statement, or conduct of WJCC other than a Change Order shall be treated as a change under the Contract or entitle the Contractor to an adjustment under the contract. The Contractor shall promptly submit a written Request for Change to WJCC when it receives direction, instruction, interpretation, or determination other than Change Order, from any source, that it believes to be a change. Except where WJCC’s authorized representative determines that such work is not a change and orders the Contractor to proceed with the work, the Contractor shall not proceed with the work which is the subject matter of the Request for Change until WJCC issues a Change Order. The Contractor shall continue to perform work during the change process in a diligent and timely manner, and shall be governed by all applicable provisions of the Contract. Upon receipt of a Change Order, the Contractor shall promptly proceed with the change involved, which will be performed under the applicable conditions of the Contract.

9.32 DELAYS

If delay is foreseen, the Contractor shall give immediate written notice to the Purchasing Office and Project Manager. The Contractor must keep WJCC advised at all times of the status of the order. Default in promised delivery (without accepted reasons) or failure to meet specifications,
authorizes the Purchasing Office to purchase supplies elsewhere and charge full increase in cost and handling to defaulting Contractor.

9.33 MAINTENANCE AND SUPPORT

Contractor shall provide annual costs for support and maintenance of the proposed solution for the five (5) years of the contract term. Those costs shall be firm for the five (5) year term. Any applicable Warranty Period shall begin after full System Acceptance. Upon expiration of the initial Warranty Period, WJCC will issue annual purchase orders for System Support and Maintenance. Price for any subsequent years after the initial five (5) year term may be negotiated at time of renewal. Each successive period of maintenance may be ordered by WJCC in writing at least thirty (30) days prior to expiration of the existing maintenance period.

9.34 PAYMENTS TO SUBCONTRACTORS

Within seven (7) days after receipt of amounts paid by WJCC for work performed by a subcontractor under this Contract, the Contractor shall either:

A. Pay the subcontractor for the proportionate share of the total payment received from WJCC attributable to the work performed by the subcontractor under this Contract; or

B. Notify WJCC and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The Contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item B. above.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as set forth above with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of WJCC.

9.35 INVOICING AND PAYMENT

The Contractor shall submit invoices based upon completion of tasks or deliverables and shall include progress reports.

All such invoices will be paid promptly by WJCC unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The firm shall provide complete cooperation during any such investigation. All invoices shall be forwarded to the Project Manager for review and acceptance for payment.

Payment terms will be net 30 days from receipt of approved invoice unless otherwise proposed by an Offeror. Prompt payment discounts offered will be considered.

Upon receipt and verification of undisputed invoice, WJCC will render payment within thirty (30) days.
Individual Contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide their federal employer identification number on the pricing form.

9.36 SUBSTITUTIONS

The Contract is based on the materials, equipment and methods described in the Contract documents that will allow for compliance to all Federal, State, and Local rules and regulations. No substitutions or cancellations shall be permitted after award without the written approval of WJCC. WJCC will consider requests for substitutions of materials, equipment and methods only when such requests are accompanied by full and complete technical data and all other information required to evaluate the proposed substitution.

The Contractor shall not substitute materials, equipment or methods unless WJCC has specifically approved such substitutions in writing. Substitutions, if approved, shall be without any additional compensation from WJCC, unless approved otherwise.

9.37 SUBCONTRACTING

A. In the event the Contractor desires to subcontract part of the work specified herein, the Contractor shall submit with the Proposal, a list of the Subcontractors anticipated to be utilized during the course of the Contract and their required certifications, qualifications, experience, project assignment and contact information.

B. During the period of performance, the Contractor shall not substitute Subcontractors and/or the Subcontractors’ key personnel without the prior written approval of WJCC. Any new Subcontractors must be identified as per Paragraph A above. The Contractor shall provide WJCC with information as to the circumstances necessitating the proposed change and other information as requested.

C. Proposed substitutions must have comparable qualifications and experience to those being replaced. WJCC will notify in writing the Contractor within ten (10) calendar days after the receipt of all required information if this change is approved. WJCC and the Contractor shall subsequently amend the required Contract documents.

D. WJCC reserves the right to request from the Contractor during the solicitation process and any time during Contract performance, additional information about a Subcontractor proposed by the Contractor, that WJCC deems necessary to evaluate the qualifications of the Subcontractor.

E. The Contractor shall, however, remain fully liable and responsible for the work to be done by its Subcontractor(s) and shall assure compliance with all requirements of the Contract.

F. The volume of work performed by the Subcontractor(s) shall not exceed forty-nine percent (49%) of the total Contract value.

9.38 WORK UNDER THE CONTRACT

Work may not commence under this Contract until all conditions for commencement are met, including execution of the Contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed. The Contractor’s work shall be continuous and uninterrupted throughout the Contract and the Contractor shall take all reasonable measures necessary to ensure timely delivery of work.
9.39 **WJCC NOT LIABLE FOR DELAYS**

It is agreed that WJCC shall not be liable to the Contractor, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of WJCC or any other party hereunder.

9.40 **SAFETY**

All Contractors and subcontractors performing services for WJCC are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and WJCC Safety and Occupational Health Standards and any other applicable rules and regulations. Also all Contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.

9.41 **PERMITS**

It shall be the responsibility of the Contractor to comply with WJCC ordinances by securing any necessary permits. WJCC shall waive any fees involved in securing WJCC permits.

9.42 **CONTRACT PRICE ADJUSTMENTS**

Prices quoted are firm for the initial five (5) year term of the Contract. After the initial five (5) years, the Contractor may submit to WJCC a request for price adjustment for any annual renewal term at least thirty (30) days prior to the contract renewal date. A request for price adjustment from the Contractor will not be approved unless the Contractor submits to WJCC sufficient justification and documentation to support the Contractor’s request based on Contractor’s increase in net costs in delivery of goods and services under the Contract. A request for any price adjustment may not be approved if it exceeds the lesser of five percent (5%) or the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve (12) month period immediately prior to the date of the request, based upon the CPI for all urban consumers issued for the Washington-Baltimore, DC-MD-VA WV Metropolitan area, by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS. A price adjustment may only be approved prospectively by a written Contract Change Order executed by the Purchasing Office.

9.43 **NO TERMINATION OR SUSPENSION OF SERVICES**

Notwithstanding anything to the contrary contained herein, and even if any claim or other dispute arises between the parties and regardless of whether or not it requires at any time the use of the dispute resolution procedures described above, in no event nor for any reason shall the Contractor interrupt or suspend or terminate the provision of services to WJCC or perform any action that prevents, impedes, or reduces in any way the provision of Services or WJCC’s ability to conduct its activities, unless: (i) authority to do so is granted by WJCC or conferred by a court of competent jurisdiction; or (ii) the Term of this Agreement has been terminated and Contactor has performed its obligations with respect to a Disentanglement.

9.44 **CONTRACTUAL DISPUTES**

The Contractor shall give written notice to the Purchasing Office of intent to file a claim for money or other relief within ten (10) calendar days of the occurrence giving rise to the claim or at the beginning of the work upon which the claim is to be based, whichever is earlier.
The claim, with supporting documentation, shall be submitted to the Purchasing Office by US Mail, courier, or overnight delivery service, no later than sixty (60) days after final payment. The Contractor shall submit its invoice for final payment within thirty (30) days after completion or delivery. If the claim is not disposed of by agreement, WJCC Attorney’s Office shall reduce his/her decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of WJCC’s receipt of the claim.

9.45 TERMINATION

Termination for Default: WJCC may terminate the Contract in whole or in part, at any time whenever WJCC determines that the Contractor is:

- defaulting in performance or is not complying with any provision of this Contract;
- failing to make satisfactory progress in the prosecution of the Contract; or
- endangering the performance of this Contract.

Termination for Convenience: This Contract may be terminated by WJCC, in whole or in part, upon thirty (30) days written notice to the Contractor, when WJCC determines this to be in its best interest. The termination for convenience is effective on the date specified in WJCC’s written notice. Termination for convenience may entitle the Contractor to payment for reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. The Contractor shall not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the Contract.

Termination Due to Unavailability of Funds in Succeeding Fiscal Years: If funds are not appropriated or otherwise made available to support continuation of the performance of this Contract in a subsequent fiscal year, then the Contract shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract.

9.46 KEY PERSONNEL

A. Certain skilled, experienced, professional and/or technical personnel are essential for successful accomplishment of the work to be performed under the Contract. These are defined as “Key Personnel” and are those persons whose resumes were submitted for approval as part of the proposal for evaluations. No substitutions may be made except in accordance with this clause.

B. The Contractor understands that no Key Personnel substitutions will be permitted unless these substitutions are unavoidable because of sudden illness, death or termination of employment. In any of these events, the Contractor shall promptly notify the WJCC Project Manager and provide the information described in paragraph D. below.

C. The Contractor must submit to the WJCC Project Manager all proposed substitutions, in writing, at least fifteen (15) days in advance and provide the information required by paragraph D below.

D. Any request for substitution must include a detailed explanation of the circumstances necessitating the proposed substitution, a resume for the proposed substitute, and any other information requested by the WJCC Project Manager. Any proposed substitute
must have qualifications equal to or superior to the qualifications of the incumbent. WJCC will evaluate such requests and promptly notify the Contractor in writing of its approval or disapproval. If disapproved, WJCC may, at its sole discretion, permit the Contractor to promptly submit and alternate substitution.

E. The provisions of this Section shall be applicable to any subcontract which may be entered into.

F. In the event that any of the identified Key Personnel cease to perform under the Contract and the substitute is disapproved, the Contract may be terminated in accordance with the Termination for Default Section of the Contract.

ATTACHMENTS:

Attachment A: Functional Requirements
Attachment B: General Terms and Conditions
### Stop Arm Camera (RFP Requirements)

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<th>Requirement</th>
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<td>The technology vendor should provide excellent customer service both in person and online</td>
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<td>The technology vendor should provide a full service processing center to review video/photo evidence, forward to each of our two (2) Police Departments within the city of Williamsburg and James City County (WJCC) for review/approval, etc., and send citations to Violators</td>
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<td>The technology vendor should be able to service our two (2) Police Departments within the City of Williamsburg and James City County (WJCC). This includes vendor properly identifying property lines between the two municipalities and areas of responsibility between the organizations to ensure correct citations are processed by each department</td>
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<td>The technology vendor will provide required training to Police and Transportation personnel and provide court support to both Police Departments if required</td>
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<td>The technology vendor should provide the most advanced/latest model exterior Stop Arm Cameras and weather/vandal proof housing (if applicable) to match the bus color in accordance with Virginia law. Furthermore, the cameras and housing (if applicable) should be designed in such a way to minimize freezing and fogging that may occur on the interior and exterior of the camera lens or housing lens cover. The housing cover (if applicable) lens should have the ability to be heated and vented to prevent freezing and fogging on inside and outside of the lens cover</td>
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<td>The technology provided should be capable of monitoring up to six (6) lanes of traffic and detecting/capturing color video and still images of vehicles illegally overtaking and/or passing stopped school buses displaying deployed stop arm/stop sign and alternating flashing red lights</td>
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<td>The technology must have the ability to capture multiple violations at each stop if required</td>
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<td>The technology vendor should provide one (1) exterior camera capable of capturing video and still images on the passenger side of the bus to capture students loading and unloading the bus</td>
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<td>The technology exterior cameras should have the ability to capture clear pictures/videos of license plate numbers, vehicle/driver characteristics in all weather and lighting conditions</td>
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<td>The technology provided should have infrared cameras capable of capturing video and still images in low light and dark environments such as early mornings, late evenings, etc.</td>
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<td>The Technology vendor should provide five (5) interior color cameras with the latest/most advanced video and still photo technology. Interior cameras are to be placed as follows: One (1) facing out of the front windshield; One (1) to capture the driver and passenger entry door (180 Degree Capability); One (1) from the front of the bus facing rearward, One (1) from the rear of the bus facing forward, and One (1) camera in the middle of the bus (180 Degree Capability). Additionally, the most advanced cameras with audio capability will need to be available for all interior and exterior cameras. Interior cameras will also have advanced blur technology to protect student's identity. Finally, customer must be allowed to verify and approve all interior and exterior camera placement, angle, and picture view in order to ensure proper images are captured with no visual or audio interference by other equipment such as HVAC, Stop sign, etc.</td>
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The technology should be cloud based. All data should be transmitted via cellular network and stored on a secure Web platform. Certification of web security is required by the Cloud vendor (Such as: AWS, Azure, or Google) and the technology/hardware vendor.

The technology provided should support a minimum of 500GB of storage allowing for collection and storage of video on a first-in, first-out basis, unless retrieved. Additionally, remote video retrieval should be available whenever vehicle is on, or in the accessory position.

The technology provided should be capable of providing live communications and telemetry as well as real time remote/Live video and audio access and transmission accessible by authorized Transportation and Police Department personnel when required.

The technology provided should allow bus drivers to alert Transportation dispatch and or Police of any emergencies or serious situations in real time with an emergency/panic button.

The technology vendor should be able to provide authorized personnel with copies of requested exterior/interior videos/pictures, etc., within 24 hours.

The technology vendor will provide all required maintenance, equipment replacement, and required upgrades in a timely manner in order to ensure all systems are completely operational and in good working condition.

**MEDIUM**
The Technology vendor should be able to provide each of our two Police Departments with custom designed and configured citations as per their requests. Evidence packages will include all required information such as videos, pictures, time/date stamp, location of occurrence, etc. Furthermore, the evidence package for the Police Departments "ONLY", and "NOT" the general public will include the interior video of the driver and passenger entry door with a 180 Degree camera. This will be used by the Police to verify that in fact children are being loaded and unloaded when the Stop Arm is deployed, which will also be part of the evidence package that can be used in court. This requirement will additionally verify whether or not the bus driver waves motorists on (or any other alleged activities) even when the Stop Arm is deployed.

The technology vendor will coordinate with both the city of Williamsburg and James City County Treasurers Offices concerning any financial requirements and manage all collection efforts.

The technology should provide a rear facing exterior camera mounted to the back of the bus capable of capturing video and still images of license plates, car model, driver, etc.

The technology should be capable of providing real time GPS locations along with current and historical vehicle location, speed and direction of travel at each stop and along path of travel.

The technology provided should have a cell phone app or provide select personnel with the ability to view encrypted and secure live video feeds from their cell phones when required.

The technology provided should have the ability to conduct remote systems health checks.

**LOW**
The technology provided should have the capability to store external/internal video and picture evidence in the cloud for at least 60 days.
GENERAL TERMS & CONDITIONS AND INSTRUCTIONS TO BIDDERS

These CONDITIONS AND INSTRUCTIONS TO BIDDERS shall be binding on all bidders or offerors and are incorporated by reference in all contracts resulting from any written Request for Quotes, Invitation to Bid or Request for Proposals issued, collectively the (“Request”), to which they are attached. Use of the term “bid” in these General Terms & Conditions and Instructions to Bidders is not intended to be restricted to an Invitation to Bid and shall also affect written Request for Quotes, Invitation to Bid or Request for Proposals. The Purchasing Office is responsible for the purchasing activity of James City County, a political subdivision of the Commonwealth of Virginia, and the James City Service Authority, herein referred to collectively as “James City County” or “County”. Bidder/Offeror or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids/proposals: failure to do so will be at the bidder’s/offeror’s own risk and except as provided by law, relief cannot be secured on the plea of error.

Subject to all Federal, State and local laws, policies, resolutions, regulations, rules, limitations and legislation including the County Purchasing Policy and the County Purchasing Manual, bids/proposals on all solicitations issued by the Purchasing Office will bind bidders/offerors to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

Cooperative Purchasing--James City County issues this solicitation in accordance with Section 2.2-4304 of the Virginia Public Procurement Act and Chapter 1, Section 5 of the James City County Purchasing Policy, and on behalf of the members of the Southeastern Virginia Governmental Purchasing Cooperative (SVGPC), as well as other public bodies, governmental jurisdictions and school divisions.

Bidders/Offerors are advised that all resultant contracts will be extended, with the authorization of the bidder/offeror, to other public bodies, governmental jurisdictions and school divisions as may be interested. Should other entities decide to use the final contract, the contractor shall deal directly with that jurisdiction or political subdivision concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing and payments. James City County acts only as the “Contracting Agent” for these jurisdictions and political subdivisions. Failure to extend a contract to any jurisdiction will have no effect on consideration of your bid or offer.

It is the responsibility of the contractor to notify the public bodies, jurisdictions and political subdivisions of the availability of the contract.

Each participating public body, jurisdiction and political subdivisions has the option of executing a separate contract with the contractor. Such contracts may contain general terms and conditions unique to those jurisdictions and political subdivisions. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the contractor, the contractor may withdraw its extension of the award to that jurisdiction.

James City County shall not be held liable for any costs or damages incurred by another public body or jurisdiction as a result of any award extended to that public body, jurisdiction or political subdivision by the contractor.

SVGPC members reserve the right to make awards to the lowest responsive and responsible offeror during the contract term. SVGPC members not explicitly named in the IFB are not obligated to participate, nor is the successful offeror obligated to contract with other SVGPC members.

City of Chesapeake    Newport News Public Schools
City of Hampton       Williamsburg/James City County Public Schools
City of Newport News  York County Public Schools
City of Norfolk       Christopher Newport University
City of Portsmouth    College of William & Mary
City of Virginia Beach Norfolk State University
City of Williamsburg  Tidewater Community College
County of Gloucester  Jamestown/Yorktown Foundation
County of James City  Southeastern Public Service Authority
County of King William County of York
Thomas Nelson Community College Portsmouth Redevelopment & Housing
Newport News Redevelopment & Housing CAS Norfolk Regional Office
DDS Tidewater Regional Office

Revised 1/17/19
1. AUTHORITY AND COOPERATIVE PURCHASING: The County Purchasing Director has the sole responsibility and authority for negotiating, placing, and when necessary modifying every solicitation, contract, and purchase order issued by James City County. In the discharge of these responsibilities, the County Purchasing Director may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Director, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations, or contracts, or in any way obligate the government of the County of James City for an indebtedness. Any purchase order or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. COMPETITION INTENDED: It is the County’s intent that this solicitation permit competition. It shall be the Bidder’s/Offeror’s responsibility to advise the Purchasing Director in writing if any language, requirement, specification, etc., or any combination thereof, stifles competition or inadvertently restricts or limits the requirements stated in this solicitation to a single source. The Purchasing Director must receive such notification not later than five (5) business days after solicitation release date.

CONDITIONS OF BIDDING

3. CLARIFICATION OF TERMS –
   a. Questions: If any Bidder/Offeror has questions about the specifications or other solicitation documents, the prospective Bidder/Offeror shall contact the buyer whose name appears on the face of the solicitation no later than five (5) business days after solicitation release date. Any revisions to the solicitation will be made only by addendum issued by the buyer. Notifications regarding specifications may not be considered if received more than five (5) business days of the release date of the solicitation.
   b. Exceptions:
      i. Information Technology procurements. Exceptions to liability provisions must be stated by the offeror in writing at the beginning of negotiations.

4. Compliance with Contractual Terms and Financial Responsibility: Architectural or Engineering services. i. Offerors shall provide relevant financial data demonstrating the firm’s capability to successfully perform over the life of the contract. ii. Provide a definitive statement of intent to comply with the contract terms and conditions as delineated in the RFP. If proposed terms and conditions are not acceptable as described, provide a statement that the firm intends to take exception to the contract terms and conditions. After offerors are ranked for negotiation the County may request firms to note and explain any exceptions. Failure to agree to terms required by law or County purchasing regulations may be grounds for disqualification of the proposal. iii. Acknowledge and describe any proposed deviations from the Scope of Services.

5. USE OF COUNTY FORM AND TERMS AND CONDITIONS:
   Failure to submit a solicitation on the official James City County form provided for that purpose or unauthorized modification of or additions to any portion of the solicitation documents may be a cause for rejection of the bid/proposal if the price, quality, quantity, delivery, necessary assurances, performance of the contract and other factors deemed important to the solicitation will be affected. James City County reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject any bid or proposal which has been modified. The County shall not be responsible for any errors or omissions of the bidder/proposer. The solicitation shall be signed by a representative authorized to legally bind the firm. By signing the solicitation, the bidder/proposer agrees to the terms and conditions of the solicitation and certifies that they have inspected the job site(s) and are aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, shall not be considered by the County.

6. LATE BIDS/PROPOSALS & MODIFICATION OF BIDS/PROPOSALS:

Any bid/proposal/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/proposal/modification is considered a late bid/proposal/modification.

James City County is not responsible for delays in the delivery of the mail by the U.S. Postal Service, private carriers, or the interoffice mail system. It is the sole responsibility of the Bidder/Offeror to ensure their bid/proposal reaches the Purchasing Office by the designated date and hour.
   a. The official time used in the receipt of bids/proposals is that time stamped by the automatic time stamp machine in the Purchasing Office. Date/time stamps marked after the designated time of receipt will be rejected.
   b. Late bids/proposals/modifications will be returned to the Bidder/Offeror UNOPENED, if solicitation number, acceptance date and Bidder/Offeror’s return address is shown on the container.
   c. If the County closes its offices due to inclement weather scheduled bid openings or receipt of proposals will be extended to the next business day, same time.
   d. Vendors may modify their bids prior to the date and time specified for the bid opening. Facsimile modification of bids shall not be accepted unless the solicitation allowed such submission.

7. WITHDRAWAL OF BIDS/PROPOSALS:

A bidder/proposer for a contract other than for public construction may request withdrawal of his or her bid/proposal under the following circumstances:
   a. Bids/Proposals may be withdrawn on written request from the Bidder/Offeror received at the address shown in the solicitation prior to the time of acceptance.
   b. Requests for withdrawal of bids/proposals after opening of such bids/proposals but prior to award shall be transmitted to the County Purchasing Director, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
   c. Bids/proposals shall not be withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in a solicitation or resulting contract or purchase order shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a bidder/proposer as a result of the breach or nonperformance of such contract or purchase order.

No Bid/Proposal may be withdrawn under this paragraph when the result would be the awarding of the contract on another Bid/Proposal of the same bidder/proposer or of another bidder/proposer in which the ownership of the withdrawing bidder/proposer is more than five percent. In the case of invitation for Bids, if a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid. No bidder/proposer who is permitted to withdraw a bid/proposal shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid/proposal was submitted.

8. CANCELLATION OF BIDS/PROPOSALS:

If James City County intends to issue another solicitation within a reasonable time after cancellation of the bid/proposal for the same materials, services or construction, any responses received under the canceled solicitation shall be retained in the Procurement file.
and James City County shall withhold responses from public inspection, if the Purchasing Director makes a Written Determination that such action is advantageous to James City County. After Award of a Contract under a subsequent solicitation, responses submitted in response to the canceled solicitation shall be open for public inspection.

9. ERRORS IN BIDS/PROPOSALS – When an error is made in extending total prices, the unit bid price will govern. Erasures in bids/proposals must be initialed by the bidder/offeror. Carelessness in quoting prices, or in preparation of bid/proposal otherwise, will not relieve the Bidder/Offeror of his responsibilities to provide the good or service. Bidders/Offerors are cautioned to recheck their bids/proposals for possible errors. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

10. IDENTIFICATION OF BID/PROPOSAL ENVELOPE: The signed bid/proposal and requested copies should be returned in a separate envelope or package, sealed and identified with the following information:

ADDRESS AS INDICATED ON PAGE 1
IFB/RFP NUMBER
TITLE
BID/PROPOSAL DUE DATE AND TIME
VENDOR NAME AND COMPLETE MAILING ADDRESS (RETURN ADDRESS)

If a bid/proposal is not addressed with the information as shown above, the Bidder/Offeror takes the risk that the envelope may be inadvertantly opened and the information compromised, which may cause the bid/proposal to be disqualified. Bids/Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

11. ACCEPTANCE OF BIDS/PROPOSALS: Unless otherwise specified, all formal bids/proposals submitted shall be valid for a minimum period of ninety (90) calendar days following the date established for acceptance. At the end of the ninety (90) calendar days the bid/proposal may be withdrawn at the written request of the Bidder/Offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

12. PRICING:

a. Bidder warrants by virtue of bidding that prices, terms, and conditions quoted in his bid will be firm for acceptance for a period of ninety (90) days from the date of bid opening unless otherwise stated by the County or Bidder.

b. Prices should be stated in units of quantity as specified in the bid form.

c. Life cycle cost analysis may be considered when determining the lowest responsive and responsible bid. This analysis may consider, in addition to purchase price, any proposed upward or downward escalator clauses proposed for the initial contract term and any potential renewal terms; operating and related costs over the life of the item including maintenance, down time, energy costs, salvage value, etc.

d. Bid prices shall be for complete installation ready for the County’s use and shall include all applicable freight and installation charges; extra charges will not be allowed.

e. When an annual contract is not requested by the County, and the bid is for products or services to be delivered on a one-time only or staggered basis, only firm pricing shall be given consideration. General terms such as “price in effect at time of delivery” shall not be considered for award.

13. CONDITIONAL BIDS: Conditional bids are subject to rejection in whole or in part if the price, quality, quantity, delivery, necessary assurances, performance of the contract and other factors deemed important to the solicitation will be affected.

14. OPENING: At the time fixed for the opening of responses to a bid, all bids will be opened and the names of the bidders and the amount bid shall be read aloud and made readily available to the public.

If a public opening of a Request for Proposals is held, only the names of the offerors will be read publicly.

15. RESPONSE TO SOLICITATIONS: In the event a vendor cannot submit a bid on a solicitation, the vendor is requested to return the solicitation cover sheet with an explanation as to why the vendor is unable to bid on these requirements. Because of the large number of firms listed on the County’s Bidders List, it may be necessary to delete from this list the names of those persons, firms or corporations who fail to respond after having been invited to bid for three (3) successive solicitations. Such deletion will be made only after formal notification of the intent to remove the firm from the County’s Bidder’s List.

16. BIDDER INTERESTED IN MORE THAN ONE BID: If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

17. TAX EXEMPTION: The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. Tax exemption certificates will be furnished if requested by the Bidder/Offeror.

18. DEBARM/CURRENT ENJOINMENT STATUS: By submitting their bids/proposals, Bidders/Offerors certify that they are not currently debarred or enjoined by James City County, the Commonwealth of Virginia, the Federal Government, any local government or government agency/entity/authority from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred or enjoined.

19. ETHICS IN PUBLIC CONTRACTING: The provisions contained in Sections 2.2-4367 through 2.2-4377, Code of Virginia, as amended, shall be applicable to all contracts solicited or entered into by James City County. By submitting their bids/proposals, all Bidders/Offerors certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, Offeror, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

The Bidder/Offeror certifies that to the best of his knowledge, no employee of the County, nor any member thereof, nor any public agency or official impacted by the solicitation or resulting contract has any pecuniary interest in the business of the Bidder/Offeror, and that no person associated with the Bidder/Offeror has any interest that would conflict in any manner with the performance of the contract resulting from this solicitation.

20. VENDOR REWARDS/GIFT PROGRAMS: It is the policy of the County not to participate in any rewards programs offered by vendors and not to accept any gifts or gift cards, or other rewards from vendors for purchases made by the County. If you customarily provide, or if you plan to provide, rewards programs, gifts or gift cards, or other rewards to your customers for purchases made by such customers, you must identify this fact in your bid and demonstrate in the bid how you have applied the value of such rewards to a reduction in the price of the goods and/or services being offered to the County.
21. PERFORMANCE BOND: When requested in the bid, the County shall require the successful bidder to furnish a performance bond and labor and material payment bond with surety satisfactorily to the County Attorney in the amount of the contract price at a time of or prior to execution of the contract.

22. NO CONTACT POLICY: No Bidder/Offeror shall initiate or otherwise have contact related to the solicitation with any County employee, other than the Purchasing Office, after the date and time established for receipt of bids/proposals. Any contact initiated by a Bidder/Offeror with any County representative, other than the Purchasing Office, concerning this solicitation is prohibited and may cause the disqualification of the Bidder/Offeror from this procurement process.

23. LICENSES, PERMITS, AND FEES: All bids submitted shall have included a list of any business and professional licenses, permits, or fees required by James City County or the Commonwealth of Virginia.

24. QUALIFICATIONS OF BIDDERS AND SUBCONTRACTORS: The apparent low Bidder shall submit to the Owner a list of all Subcontractors who will be performing work on the project. An experience statement with shall accompany such list pertinent information as to similar projects and other evidence of experience and qualification for each such Subcontractor, person and organization and documented work history of the subcontractor with the Bidder. If the Owner, after due investigation, has reasonable objection to any proposed Subcontractor, other person or organization, the Owner may, before giving the Notice of Award, request the apparent low Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent low Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute a Bidder's default.

25. SPECIFICATIONS

26. FORMAL SPECIFICATIONS: When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

27. OMissions & Discrepancies: Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

The Bidder/Offeror shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances., etc., shall be construed as to the minimum requirements of these specifications.

28. EQUIPMENT STANDARDS: Any equipment delivered shall be standard new equipment, latest model, the best quality, and the highest grade work, except as otherwise specifically stated in bid. Any part of nominal appurtenances which are usually provided in the manufacturer's stock model shall be furnished.

29. ANNUAL CONTRACT USAGE REQUIREMENTS: Whenever a bid is sought seeking a source of supply for an annual contract for products or services, the quantities or usage shown are estimates only. No guarantee or warranty is given or implied by James City County as to the total amount that may not be purchased from any resulting contracts. These quantities are for Bidder's information only and will be used for tabulation and presentation of bid.

30. AWARD OR REJECTION OF BIDS: The Purchasing Director shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Director reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids/proposals and to waive any informality in bids/proposals received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders/offerors as deemed necessary to fulfill the anticipated requirements of James City County. The Purchasing Director reserves the right to negotiate with the lowest responsive, responsible bidder should bids exceed available funds. The Purchasing Director shall reject the bid if the bidder is deemed to be a non-responsible or non-responsive bidder.

31. PUBLIC INSPECTION OF CERTAIN RECORDS: Shall be per the Virginia Public Procurement Act (VPPA) 2.2-4342

32. QUALIFICATIONS OF BIDDERS OR OFFERORS: James City County may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder/Offeror to perform the work/furnish the item(s) and the Bidder/Offeror shall furnish to James City County all such information and data for this purpose as may be requested. James City County reserves the right to inspect Bidder's/Offeror's physical facilities prior to award to satisfy questions regarding the Bidder's/Offeror's capabilities. James City County further reserves the right to reject any bid or proposal if the evidence submitted by or investigations of, such Bidder/Offeror fails to satisfy James City County that such Bidder/Offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.

33. TIE BIDS: In the case of a tie bid, the County may give preference to goods, services and construction produced in the County or provided by persons, firms or corporations having principal places of business in the County. If such choice is not available, preference shall then be given to goods and services produced in the Commonwealth pursuant to Code of Virginia § 2.2-4342. If no County or Commonwealth choice is available, the tie shall be decided by lot.
42. FACTORS OTHER THAN PRICE IN AWARD DECISION: The following factors, in addition to price (as they apply), shall be a consideration in the award decision:

a. The quality of performance/workmanship of previous contracts, services or products, or references which attest to other specific experiences;

b. The timely completion of previous contracts or services or the timely delivery of past orders; or references which attest to other specific experiences;

c. The sufficiency of financial resources and its impact on ability of the bidder to perform the contract or provide the services;

d. The County reserves the right to conduct on-site inspections of any bidder's facilities prior to award. The results of said inspection will be considered by the County in determining bidder's capabilities of successfully administering to this contract;

e. The ability and availability of the bidder to provide both quality and timely maintenance, service, and/or parts;

f. The resale value, life cycle costing, and value analysis of a product;

g. The availability and capability of local and regional vendor support as it affects the quantity, quality, and timeliness of the work or products required;

h. Delivery of a product and timely completion of a project as stated by vendor in bid;

i. Substantial compliance or noncompliance with specifications set forth in bid as determined by the County;

j. Product or parts inventory capability as it relates to a particular bid; and

k. Results of product testing.

CONTRACT PROVISIONS

35. APPLICABLE LAW AND COURTS: Any contract resulting from this solicitation shall be governed in any respects by the laws of Virginia, and any litigation with respect thereto shall be brought in the Circuit Court or General District Court of James City County, Virginia. The Contractor shall comply with applicable federal, state and local laws and regulations.

36. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into this contract, vendor certifies that it does not and will not during the performance of this contract knowingly employ an unauthorized alien as defined in, or otherwise violate the provisions of, the federal Immigration Reform and Control Act of 1986, as amended.

37. OBLIGATIONS OF COUNTY AND CONTRACTOR: County: The County shall furnish to the contractor all available information as listed in the solicitation that may be useful for the contract work. The County shall assist the contractor in obtaining access to enter upon public and private property as required to perform the contract work. The County shall designate a representative who shall serve as the principal contact and give direction to the contractor throughout the duration of the contract. Contractor: The contractor represents that he has, or shall secure at his expense, all personnel, including subcontractors, required to perform and complete the Scope of Work.

38. CONFIDENTIALITY AND OWNERSHIP OF DATA: Any reports, information, intellectual property, data, drawings, specifications, estimates and summaries given to or prepared or assembled by the contractor under the Scope of Work of the contract, shall not be made available to any individual or organization by the contractor without prior written approval of the County. All of these items shall become the property of the County upon payment of fees as required by the contract.

39. REPORTS OF WORK: The County and the contractor shall schedule progress meetings at appropriate intervals throughout the duration of the contract. These meetings shall provide for the exchange of information related to the status of the Scope of Work, anticipated progress and any problems that have occurred.

40. ANTI-TRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to James City County all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust law of the United States and James City County, relating to the particular goods or services purchased or acquired by James City County under said contract. Consistent and continued tie bidding could cause rejection of bids by the Purchasing Director and/or investigation for Anti-Trust violations.

41. PAYMENT TERMS: Unless otherwise provided in the solicitation payment will be made thirty (30) days after receipt of a proper invoice with complete supporting documentation, or thirty (30) days after receipt of all goods or acceptance of work, whichever is the latter. For construction projects, the County may retain five percent (5%) of the total amount of each partial progress payment to assure faithful performance of the contract by the contractor. The County will release all retainage upon final payment.

a. Invoices for items/services ordered, delivered/perform and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number, purchase order number, and any federal employer identification number.

b. Any payments made to individuals in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

c. The date of payment shall be deemed the date of postmark in all cases where payment is made by mail.

42. PAYMENT TO SUBCONTRACTORS: A contractor awarded a contract under this solicitation is hereby obligated:

a. To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from James City County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

b. To notify James City County and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from James City County, except for amounts withheld as stated in b above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of James City County.

43. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Purchasing Director.

44. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, James City County, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to another remedies which James City County may have.
45. **AVAILABILITY OF FUNDS:** It is understood and agreed between the contractor and the County herein that the County shall be bound hereunder only to the extent of the funds available or which hereafter become available for the purpose of the contract.

46. **ANTI-DISCRIMINATION:** By submitting their bids/proposals, Bidders/Offerors certify to James City County that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and the Code of Virginia § 2.2-4311, as amended. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient’s religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts shall be subject to audit by the public body. (Code of Virginia § 2.2-4343.1.E).

In every contract over $10,000 the provisions in a and b below apply:

a. During the performance of this contract, the Contractor agrees as follows:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

3) 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.

b. The Contractor will include the provisions of a. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

47. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitations or award of this contract because of race, religion, color, sex, national origin, age or disability or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, James City County shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, service, or disbursements from an alternative provider.

48. **INVOICES:** Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the IFB/RFP number and/or purchase order number.

49. **PRECEDENCE OF TERMS:** In the event there is a conflict between the General Terms and Conditions and any Special Terms and Conditions, the Special Terms and Conditions shall apply.

50. **CHANGES TO THE CONTRACT:** There shall be no extra work allowed on the contract without prior written authorization in the form of a change order signed by the Purchasing Director or the County Administrator. No officer, agent or employee of the County is authorized to give verbal instructions to increase the Scope of Work and the contractor shall not use verbal instructions as the basis for additional costs. Changes can be made to the contract in any of the following ways by the issuance of a Change Order:

a. The parties may agree to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

b. James City County may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes with the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the County a credit for any savings. Said compensation shall be determined by one of the following methods.

1) By mutual agreement between the parties in writing; or

2) By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the County’s right to audit the Contractor’s records and/or determine the correct number of units independently; or

3) By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the County with all vouchers and records of expenses incurred and savings realized. The County shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Office within thirty (30) days from the date of receipt of the written order from the Purchasing Office. If the parties fail to agree on an amount of adjustment, the questions of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for relieving disputes provided by the Disputes Clause of the contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the County or with the performance of the contract generally.

c. No modification for a fixed price contract may be increased by more than 25% or $50,000, whichever is greater, without the advanced written approval of the Board of Supervisors.

51. **AUTHORIZATION TO TRANSACT BUSINESS, STATE REGISTRATION OF CONTRACTORS (IF APPLICABLE) AND COUNTY BUSINESS LICENSE:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
Pursuant to competitive sealed bidding or competitive negotiation, all bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 are required to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Attention is directed to Chapter 11, title 54.1 of the Code of Virginia (Re: State registration of contractors), which requires that all bidders must show evidence of the proper license under the provision of this chapter before such bid is considered.

All firms doing business in James City County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in James City County are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Business License Inspector, (757) 253-6698.

52. PROPRIETARY INFORMATION: Section 2.2-4342F of the Code of Virginia states: "Trade secrets of proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction shall not be subject to public disclosure unless the Virginia Freedom of Information Act. However, the bidder, offeror, or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary." Declaring an entire bid or proposal response as proprietary is unacceptable.

53. INDEMNIFICATION: The Contractor hereby binds himself and his successors to indemnify, defend, and save harmless James City County, its officers, agents or employees, from all suits and actions of every name and description brought against it or them, and all costs or damages to which it or they may be put, on account of, or by reason of any injury or alleged injury to the person or property of another, resulting from or on account of the negligent acts, errors or omissions, recklessness or intentionally wrongful conduct of the Contractor or his agents in the performance of the contract; and that the whole or so much of the moneys due to the contractor under and by virtue of this Contract, as such or may be considered necessary by the County, shall and may be retained until all such suits and claims for damages as aforesaid shall have been settled, and evidence to that effect furnished to the satisfaction of the County. The said Contractor agrees to indemnify and save harmless James City County against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against it by reason of any injury sustained by any of the Contractor's employees in and about the said work, under and pursuant to the provisions of the Workman's Compensation Law or any amendments thereto, and the Contractor shall produce certificates or other satisfactory evidence of ample protection against such liability.

54. NOTICE OF REQUIRED DISABILITY LEGISLATION: The County government is required to comply with State and Federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) of 1990 Title II and the Virginia with Disabilities Act of 1990. Specifically, the County; may not, through its contractual and/or financial agreements to indemnify and save harmless James City County against any and all claims, suits or demands that may accrue to, be suffered by, or adjudicated against it by reason of any injury sustained by any of the Contractor's employees in and about the said work, under and pursuant to the provisions of the Workman's Compensation Law or any amendments thereto, and the Contractor shall produce certificates or other satisfactory evidence of ample protection against such liability.

55. DRUG-FREE WORKPLACE: During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

56. Non-Responsive Performance:

Delivery Delays: James City County reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Bidder fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract. Unacceptable Deliveries (Rejections): Upon notification by James City County that goods and/or service deliverables provided by the Successful Bidder under this contract are damaged and/or not of the quality specified by James City County, such goods and/or service deliverables will be rejected. Successful Bidder shall remove such rejected goods and/or service deliverables immediately or within a reasonable time as determined by James City County. Successful Bidder shall remove all rejected materials, equipment or supplies from the premises of James City County within ten (10) days of notification. Rejected goods and/or service deliverables not removed from James City County premises within ten (10) days will be regarded as abandoned, shall become the property of James City County, and James City County shall have the right to dispose of such items. James City County Purchase From Alternate Sources: James City County reserves the right to authorize immediate purchase from other sources against delayed deliveries and/or rejections. The Successful Bidder shall reimburse James City County promptly for excess cost incurred by the County for such procurements. Any such purchases will be deducted from the contract amount. In the event James City County cost of obtaining goods and/or service deliverables from other sources be less, Successful Bidder shall have no claim to the difference.

Liability: Successful Bidder shall be liable to James City County for all costs incurred by James City County as a result of Successful Bidder's failure to perform in accordance with the contract. Successful Bidder's liability shall include, but not be limited to: Damages and other delay costs, to include costs to procure goods/services from alternate suppliers. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Successful Bidder and/or rejections of Successful Bidder's goods and/or service deliverables. Warranty and rework costs, liability to third party, excess of arrangement expenses and related costs incurred by James City County due to non-responsive performance of Successful Bidder.

57. BREACH OF CONTRACT: Successful Bidder shall be deemed in breach of this contract if the Successful Bidder: Fails to comply with any terms of this contract; Fails to cure such noncompliance within five (5) calendar days from the date of the Owner written notice or such other time frame, greater than five (5) calendar days, specified by the JCC Contract Administrator in the notice; Successful Bidder fails to submit a written response to the Owner notification of noncompliance within five (5) calendar days after the
The bidder certifies by submission of bid that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the product or services shipped or ordered as a result of this bid. The successful bidder shall, at his own expense, defend any and all actions or suits charging such infringement, and will save James City County, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

DELIVERY: In the appropriate space, the bidder shall state the time of proposed delivery or project completion in number of calendar days. Unless otherwise specified, calendar days shall be presumed. Unless otherwise specified, quote the earliest delivery possible, as this may be considered a factor in making award. Delivery expressed in calendar days may be given preference over such general terms as "stock immediately," and "as soon as possible." As time will be of the essence for any orders placed as a result of this bid, the County reserves the right to cancel such orders, or any part thereof, without obligation, if delivery is not made at the time(s) specified on bid form.

INDEPENDENT CONTRACTOR: The contractor shall be legally considered an independent contractor and neither the contractor nor its employees shall, under any circumstances, be considered servants or agents of James City County or James City Service Authority, and the County shall be at no time legally responsible for any negligence or other wrongdoing by the contractor, its servants, or agents. The County shall not withhold from the contract payments to the contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the contractor. Further, the County shall not provide to the contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the County for its employees.

SUBCONTRACTS: No portion of the work shall be subcontracted without prior written consent of the Purchasing Director. In the event that the contractor desires to subcontract some part of the work, the contractor shall furnish the Purchasing Director the names, qualifications and experience of the proposed subcontractors. The contractor shall remain fully liable and responsible for the work to be done by its subcontractors and shall assure compliance with all requirements of the contract.

HOLIDAYS: The Contractor shall receive approval of the County, in advance, of any work to be performed on Holidays. James City Service Authority/James City County observes the following Holidays:

- New Year's Day: 1st day of January
- Martin Luther King’s Birthday: 3rd Monday in January
- President’s Day: 3rd Monday in February
- Memorial Day: Last Monday in May
- Independence Day: 4th day in July
- Labor Day: 1st Monday in September
- Veteran’s Day: 11th day in November
- Thanksgiving Day: 4th Thursday in November
- Day after Thanksgiving: 4th Friday in November
- Christmas Eve: 24th day in December
- Christmas Day: 25th day of December

DELIVERY PROVISION

SHIPPING INSTRUCTIONS-CONSIGNMENT: Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor’s name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 a.m. – 3:00 p.m. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the designated individual at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays unless previous arrangements have been made. It shall be the responsibility of the contractor to insure compliance with these instructions for items that are drop-shipped.

RESPONSIBILITY FOR SUPPLIES TENDERED: The Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, and a physical inspection is made and material is requested or rejected, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.
67. **TESTING AND INSPECTIONS:** James City County reserves the right to conduct any test/inspection it may deem advisable to assure supplies and services conform to the specification. Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

68. **COMPLIANCE:** Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Office when not in conflict with the bid/contract. The decision as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Office, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages of extra compensation for such delay or suspension. These conditions may vary for construction contracts.

69. **POINT OF DESTINATION:** All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract. The materials must be delivered to the “Ship To” address indicated on the purchase order.

70. **REPLACEMENT:** The Contractor at no cost to the County shall replace Materials or components that have been rejected by the Purchasing Office, in accordance with the terms of the contract.

71. **PACKING SLIPS OR DELIVERY TICKETS:** All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

- Purchase Order Number/Contract Number
- Name of Article and Stock Number,
- Quantity Ordered,
- Quantity Shipped,
- Quantity Back Ordered,
- The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

72. **SAMPLES:** Evidence in the form of samples may be requested if brand being quoted upon is other than as specified. The County reserves the right to request that such samples be furnished at the time of bid opening. The County also reserves the right to request samples after the date of bid opening. Requested samples must be furnished free of expense to the County and if not used in testing or destroyed, will, upon request, be returned at the bidder’s expense.

**BIDDER/CONTRACTOR REMEDIES**

73. **PROTEST OF AWARD OR DECISION TO AWARD:** Any Bidder/Offeror who desires to protest the award or decision to award a contract, by James City County shall submit such protest in writing to the County no later than ten (10) days after public notice of the award or announcement of the decision to award, whichever comes first. No protest shall lie for a claim that the selected bidder/Offeror is not a responsible Bidder/Offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Director shall issue a decision in writing within ten (10) days stating the reasons for the action taken. This decision shall be final unless the bidder/offeror appeals within ten (10) days of the written decision by instituting legal action. Nothing in this paragraph shall be construed to permit an offeror to challenge the validity of the terms or conditions of the solicitation.

74. **DISPUTES:**

**Claims.** Written notice of the Contractor to file a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such claims, whether for money or other relief, shall be submitted in writing to the County’s Purchasing Director no later than sixty (60) days after final payment. The Purchasing Director shall give written notification of the final decision on such claim to the Contractor within thirty (30) days of the date the claim was received. The Contractor may not institute legal action before receiving the Purchasing Director’s final written decision, unless the Purchasing Director fails to render such decision within the specified time. Pendency of claims shall not delay payment of amounts agreed due in the final payment. (Code of Virginia, § 2.2-4363).

**Claims Relief.** Under certain circumstances beyond the control of the Contractor, such as acts of God, sabotage, and fire or explosion not caused by negligence of the Contractor or its agent, the Purchasing Director may extend the time limit for performance required by this Contract. Any such extension must be issued in writing and signed by the Purchasing Director.