



REQUEST FOR PROPOSALS

OLD CITY JAIL SITE

DEPARTMENT OF DEVELOPMENT
CITY OF HOPEWELL

INVITATION: #10-11

DATE: DECEMBER 2, 2011

Sealed Proposals, subject to the general conditions and specifications hereby attached, will be received by the City Clerk, or her designee in Room 216, Municipal Building, 300 North Main Street, Hopewell, Virginia 23860 until, but not **later than 11:00 a.m. TUESDAY, JANUARY 24, 2012.**

1. In order to be considered for selection, Vendors must submit a complete response to this RFP. One (1) original, five (5) copies, and a portable document format (pdf) version of the proposal shall be submitted to the City of Hopewell, Virginia.
2. Regardless of delivery method of proposal, the **outside** of each envelope must clearly indicate the following: *(If Proposal is delivered by Federal Express, UPS, USPS Priority, etc. or any other means, the outside of **each** envelope **must also** clearly indicate):*

Office of the City Clerk
Room 216
Municipal Building
300 North Main Street
Hopewell, Virginia 23860
Closing Date of Proposal: January 24, 2012
Old City Jail Site
RFP #10-11

3. Proposals by telephone, telegraph, or facsimile **will not** be accepted.
4. **ANY PROPOSAL RECEIVED AFTER 11:00 A.M. ON THE AFOREMENTIONED DATE OF OPENING, WHETHER BY MAIL OR OTHERWISE, WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED.**

Nothing herein is intended to exclude any responsible firm or in any way restrict competition. The selection process will be competitive negotiation as outlined in Chapter 2A of the Code of

the City of Hopewell, Virginia, and Section 2.2-4300 (Virginia Public Procurement Act) of the Code of Virginia.

All Proposals submitted must be signed by an individual authorized to bind the Offeror. Proposals submitted without such signature will be deemed non-responsive, and will not be considered. The City of Hopewell reserves the right to cancel the RFQ/RFP, to award in part or in whole or reject any and all proposals deemed to be in the City's best interest. The City may modify any requirements in the RFQ/RFP prior to the deadline by written notice to any Offeror requesting a copy of the RFQ/RFP. The City may modify the project's scope of services and required tasks during negotiation process with the successful Offeror. The City shall neither be obligated nor prohibited from awarding or amending any contract with the successful Offeror for services less than or greater than the scope of services contemplated in this proposal.

If you desire not to quote on this invitation, please forward your acknowledgement of NO PROPOSAL. FAILURE TO COMPLY WITH THIS REQUIREMENT WILL BE CAUSE FOR REMOVAL OF YOUR COMPANY'S NAME FROM THE QUALIFIED OFFEROR LIST.

The right is reserved to extend any resulting contract, for terms to be mutually negotiated and agreed upon.

All proposals are subject to general terms and conditions hereby attached and will be rejected if not properly executed.

Individual contractors must provide their social security numbers and other types of firms must provide their federal employer identification numbers in the payment clauses to be included in contracts.

The City reserves the right to be sole judge and to make the award in accordance with its own judgment as to what will best meet its requirements and be in the best interest of the City.

AVAILABILITY OF FUNDS: It is understood and agreed between the Offeror and the City that the City shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this quotation or agreement.

WITHDRAWAL OF PROPOSAL: No proposal may be withdrawn for a period of thirty (30) days from the date of opening unless the Offeror has made a clerical error. The Offeror shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the opening procedure and shall submit original work papers substantiating the error with such notice. The City reserves the right to reject any or all proposals, to waive all informalities, and to reject any or all items of any proposal.

Proposal and contracting procedures shall conform to all applicable regulations and provisions of the *City of Hopewell Procurement Ordinance* effective July 1, 2005, as amended; a copy of which is available for inspection at the office of the City Clerk.



April Cone
Purchasing Agent

Please return the Proposals to the City Clerk, Room 216, Municipal Building, 300 N. Main Street, Hopewell, Virginia 23860. Regardless of delivery method of Proposal, the **outside** of each envelope must clearly indicate the following: *(if Proposal is delivered by Federal Express, UPS, USPS Priority, etc. or any other means, the outside of **each** envelope **must also** clearly indicate):*

**Office of the City Clerk
Room 216
Municipal Building
300 North Main Street
Hopewell, Virginia 23860
Closing Date of Proposal: January 24, 2012
Old City Jail Site
RFP #10-11**

In compliance with Invitation for RFP **#10-11** and subject to all conditions thereof and attached thereto, the undersigned offers and agrees if the proposal and conditions are accepted within ninety (90) calendar days from the date of opening, to furnish any and all of the items upon which the prices are quoted, at the price set opposite each item, delivered at the points as specified and as scheduled.

Note of Clarification:

All References to **BID** contained within this Invitation should be referred to as **PROPOSAL**.
NO QUOTED PRICES FOR SERVICES ARE TO BE INCLUDED.

_____ NAME OF ORGANIZATION	
_____ STREET ADDRESS	_____ TELEPHONE NUMBER
_____ CITY, STATE, ZIP CODE	_____ FAX NUMBER
_____ NAME (TYPE OR PRINT)	_____ OFFICIAL TITLE
_____ SIGNATURE	_____ DATE
_____ STATE CORPORATION COMMISSION ID#	_____ IRS I.D. #

I. Purpose

The City of Hopewell, Virginia invites qualified developers with experience in commercial, retail, and/or office development to submit proposals for the adaptive reuse of the Old City Jail Site located at 402 E. Poythress Street within historic downtown Hopewell. All proposals must contain a commercial/retail element. The 0.25 acre site being offered contains a 4,636 square foot brick/block two (2) story building that was constructed in 1928 and renovated in 1989. The building served as the former city jail until 2000 when the City discontinued its use.

The redevelopment of this property is a part of the overall Downtown Hopewell Vision adopted by the Hopewell City Council in January 2003. The revitalization of the downtown is a major element of the City's overall strategy to redefine and improve the City's connection with the river. The City's goal is to provide enhanced development opportunities that capitalize on the unique assets of the city's riverfront location and encourages the revitalization of the downtown and the adjacent neighborhoods. The City is conveniently located 20 miles southeast of the City of Richmond, Virginia at the confluence of the Appomattox and James Rivers.

The City of Hopewell is a community of approximately 22,600 residents and is located at the confluence of the Appomattox and James Rivers within the Richmond Metropolitan Area. The City is conveniently located 20 miles southeast of the City of Richmond, Virginia. The approximate 0.25-acre site is situated on the south side of the E. Poythress Street approximately 1200 feet west of E. Randolph Road (Rt. 10).

II. City's Proactive Approach to Revitalizing Downtown

In 2003 Hopewell City Council adopted the Downtown Revitalization Plan, as part of a proactive approach to strengthening the City's downtown. In May 2003, the City increased the real estate tax rate by \$0.05 and dedicated those funds for the revitalization of Hopewell's historic downtown. This increase allowed the City to leverage \$20 million in bond financing to begin the implementation of the downtown plan, starting with construction of a new library along with supporting streetscape enhancements.

Central to the downtown vision is the resurgence of the residential and office markets. An increase in the day and night time population resulting from the development of additional market rate residential unit and office space in the downtown will enhance retail, restaurant, and arts and entertainment opportunities in the downtown.

The emergence of the City's downtown, as a desirable redevelopment area is due in part to the City's commitment to invest in its future. To that end, City Council established a dedicated funding source to implement the capital projects included in the Downtown Revitalization Plan. This is evidenced by the City's commitment to the following projects and programs:

- Beacon Theatre – The Downtown Revitalization Plan encourages the development of a cultural arts district within the downtown, centered on the Beacon Theatre and the new headquarters library for the Appomattox Regional Library System. The rehabilitation to date the restoration of the first floor

storefronts, the 2nd floor conference room, and the 3rd floor ballroom. The City has approved \$5 million in bond financing to move forward with the renovation of the theater space and is currently soliciting proposals for the renovation work.

- New Headquarters Library – The new 36,000 square foot, state of the art two-story facility was dedicated on April 20, 2007. The library was designed by Grimm + Parker Architects, and W.M. Jordan Company served as the general contractor. The facility replaced the former 9,000 square foot library that was housed in a renovated grocery store.
- Butterworth's Lofts – Monument Construction, LLC completed the rehabilitation of this Beaux Arts, three-story, five-bay, 24,900 square foot former furniture building originally constructed in 1916 by J.W. Stewart Construction Company as the Larkins Hotel. The hotel occupied the entire second and third floors, and the first floor housed five retail tenants, offering goods such as hardware, shoes, dresses, and jewelry. In the 1920's three of the first floor retail bays were combined into the Metropolitan Chain Stores (as shown in photo). By 1927 the entire building was occupied by Butterworth's Furniture Store. The City purchased the building in 2001, and entered into a Development Agreement with Monument Construction in 2009 to transfer ownership of the building for the project. Today, the building consists of 24 renovated market-rate apartment units and 3 retail storefronts.
- Downtown Streetscape – The City completed the implementation of a \$3.6 million streetscape enhancement project designed by the team of DCS Design, LSG Landscape Architecture, and Timmons Group. The project included enhancements to E. Cawson Street, N. Main Street, Appomattox Street, and the construction of a new street adjacent to the new library. This phase of streetscape enhancements focused on the core redevelopment area within the downtown, and included the installation of brick sidewalks, decorative crosswalks, ornamental streetlighting, street trees, and landscaping. The overall streetscape enhancement project includes improvements to all of the streets within the downtown area. Work on the remaining streetscape phases will be completed as funding becomes available.
- Façade Improvement Program – A façade improvement program has been established to encourage property owners within the downtown with the rehabilitation of the historic buildings and contribute to the overall revitalization of the downtown. The program provides financial assistance to the property owners to be used for outside renovations, window repairs, signage, awnings, landscaping, design assistance, roof repair, building cleaning or other repairs or improvements. The grant applications are reviewed and approved by the Downtown Design Review Board.
- Real Estate Tax Abatement Program – This program provides for a partial exemption from real estate taxes on an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the structure, which is no less than twenty-five (25) years old. The program provides properties

located in the downtown with a ten (10)-year tax abatement that provides relief on a declining scale beginning with a 100% abatement in the first year after completion of the work down to a 10% abatement in the 10th and final year of the program.

The City of Hopewell seeks to strengthen its downtown by fully utilizing City-owned real estate assets and structuring partnerships with competitively selected private developer(s) to design, finance, develop, construct and operate the first mixed-use development included in a multi phase development plan.

The City currently owns eight (8) sites available for development in the downtown. The Old City Jail Site, the subject of this offering, is the second of these properties to be offered to interested parties. The remaining properties, along with the potential acquisition and development of additional properties will be included in future development phases. While the City has organized the development program into multiple phases, the City is willing to consider the award of future phases to the developer(s) selected as part of this Request for Proposals. The award of future phases is dependent on the performance of the development team(s) in structuring and implementing the project proposed in response to this RFP. The City Council reserves the right to award or not award future phases to the developer(s) selected for the RFP at its sole discretion.

One of the most important objectives of the City is to select a developer(s) that demonstrates an understanding of the urban environment and for developing projects that are responsive to the scale and character of the project context. The City Council believes the design of the space, the design of the proposed buildings, and the relationship between the buildings and the public space are critical to the success of the project.

III. Submittal Requirements

All proposals in response to this RFP should include the following:

1. Page 3 of this RFP. Complete and sign page 3 of this RFP and return with your proposal.
2. Identification. Provide the name, address, telephone and facsimile numbers, and email address of developer and contact persons for this proposal and that of the representative authorized to act on the developer's behalf and who is available to respond to questions or requests for additional information. Also provide the organizational form of developer (individual, company, corporation, partnership, joint venture, other).
3. Design Team. Provide the names and information about the architect, engineer, construction contractor, financial advisor, minority participation plans, and/or other principal associates who would work with the developer on the project.

4. Urban Design Philosophy. The developer’s preferred approach to obtaining high-quality urban design, architecture and landscape architecture for the development. Creative ideas for the use of the site.
5. Purchase Price for Land and Building. Please provide specific information as to amount offered and what you expect to be purchasing. Also indicate when and by what means you intend for the transaction to take place.
6. Willingness to Post Security or Performance Bond. The City will require a “performance” bond for the project. Please discuss your ability/willingness to post a bond in the amount of \$50,000.
7. Number and Mix of Units. Please describe the units planned for the project and include number of commercial, retail or office suites, total square footage, HVAC, and any special design considerations contemplated.
8. Targeted Uses. Please provide a list of the types of businesses that would be considered for the retail/commercial storefronts on the first floor of the building.
9. Rent Structure. Please describe the anticipated rent structure for the various sized units as well as amenities, utilities, and services included in the rent.
10. Construction Details and Build Out. Please describe planned quality of build out including fixtures, furniture, and equipment.
11. Marketing Plan. Please describe your marketing plan for the project including targeted populations and demographics.
12. Project Budget. Please provide a detailed project budget and operating pro forma for the first two years of operation. Include total investment amount and estimated taxes generated by the project.
13. Conceptual Site Plan. Provide conceptual site plan and building floor plan based on the enclosed drawings.
14. References. Please forward a list of project references, to include your most recent project and the five (5) previous projects.

The proposing firm must specifically and clearly identify what it considers to be trade secret information and confidential commercial and financial information, and must so mark the information in accordance with the Virginia Public Procurement Act, §2.2-4342(F). Information correctly identified shall not be made public except as otherwise required by law. The entire response may not be marked confidential. All responses prepared by the respondents under this request will be for the exclusive and deliberate use of the City of Hopewell.

IV. Selection Criteria

Development proposals in response to this RFP will be evaluated by the City Administration and the City Council. Based on the evaluation criteria described below, the City Administration will prepare a recommended “short-list” of developers to be submitted to the City Council for review. The City Council is not bound by the

recommendations of the City Administration. It is anticipated that City Council will conduct interviews with three (3) to five (5) developers.

The evaluation of developers responding to the Request for Proposals will be completed in a systematic manner using the following evaluation criteria (in no order of priority):

- The degree to which the proposal would achieve such development objectives of enlivening the public realm with pedestrian activity, contributing to downtown as a destination, and implementation of the principals and guidelines contained in the Downtown Master Plan of January 2003.
- The qualification and experience of the development team and their demonstrated ability to design and develop the type of project proposed.
- Market and financial feasibility of the proposal, including proposed sale prices or rents that are marketable in the Hopewell area.
- The proposed preliminary building program.
- Financial capacity of Developer, ability to finance the proposal, and if the developer has any case at-risk in the project.
- Purchase price of the land.
- Timeline and phasing.
- Completeness and quality of the proposal.

V. Selection Process

A four-phase process has been established for soliciting developer participation in the finance, design, development, construction and operation of the properties. The City reserves the right to modify the process as it determines. If and when such changes in the schedule were to occur, notice will then be provided to developers still involved at that stage of the selection process.

Phase I. Request for Proposals

The intent of this phase is to identify teams that have a proven capacity, track record, interest and creativity to design and develop the properties. Specifically, the intent is to obtain substantiated evidence of performance capacity to complete an undertaking of this magnitude, along with verification of prior or present involvement in the finance, development and operation of this type of development (or highly related type of development) and complex public/private real estate partnerships.

It is envisioned that developers prepare and submit a detailed development proposal that provides a sufficient basis for the City Administration and the City Council to assess development feasibility, practicality of financing, requested participation by the City, and the amount and risk of economic return on the City's land investment.

Phase II. Developer Pre-Proposal Conference

The primary purpose of the Pre-Proposal Conference is for the City to present the development opportunities and to provide a forum to discuss this request. The Pre-Proposal Conference will be held on Friday, January 6, 2012, at 10:00 a.m. at the following address:

Old City Jail Site
402 E. Poythress Street
Hopewell, VA 23860

Although attendance by developers is not mandatory, all questions regarding submissions and the project will be addressed during this meeting or in follow-up correspondence. All written questions must be received by the City no later than **Friday, January 13, 2012**.

Phase III. Developer Interviews

Each of the developers submitting a proposal in response to the Request for Proposals will be required to present their qualifications and proposed finance and development plans.

Phase IV. Ranking the Top Developers

The City Administration will prepare a Developer Evaluation Report describing the basis for ranking developers and recommendations. This report will be based on the Statements of Qualifications and the Proposals submitted by the developers. This report will be submitted to the City Council for its review. The City Council will decide the final ranking of the top developers. Immediately after determining the final ranking, the City Council and City Administration will schedule interviews with the top three (3) to five (5) developers. Once City Council conducts the interviews and selects a developer, the City Administration will begin negotiations of the Development Agreement and conveyance of the property. If an agreement cannot be successfully negotiated in a timely manner, the City has the right to terminate negotiations with the highest ranked developer, and begin negotiations with the next highest ranked developer. The developers ranked below the second highest developer would only be contacted if negotiations failed with the developer ranked immediately above them.

VI. RFP Timeline

Event	Date
City Publishes Request for Proposals	December 4, 2011
Pre-Proposal Conference at 10:00 a.m.	January 6, 2012
Final Day to Submit Questions to the City at 5:00 p.m.	January 13, 2010
RFP Submission Deadline by 11:00 a.m.	January 24, 2010
City Administration Reviews Submissions	January 25 – February 7, 2012
Recommendation to City Council	February 14, 2012
Potential Candidate Interviews	TBA
City Council meeting with Recommended Respondent	TBA
City Administration Authorized to Negotiate Development Agreement	TBA
Final Development Agreement Approved by City Council	TBA

The selected firm is required as part of the Bid Proposal to provide a timeline for completing the project.

The City reserves the right to alter the schedule at any point in the process, but agrees to provide adequate notice to respondents should the schedule be amended.

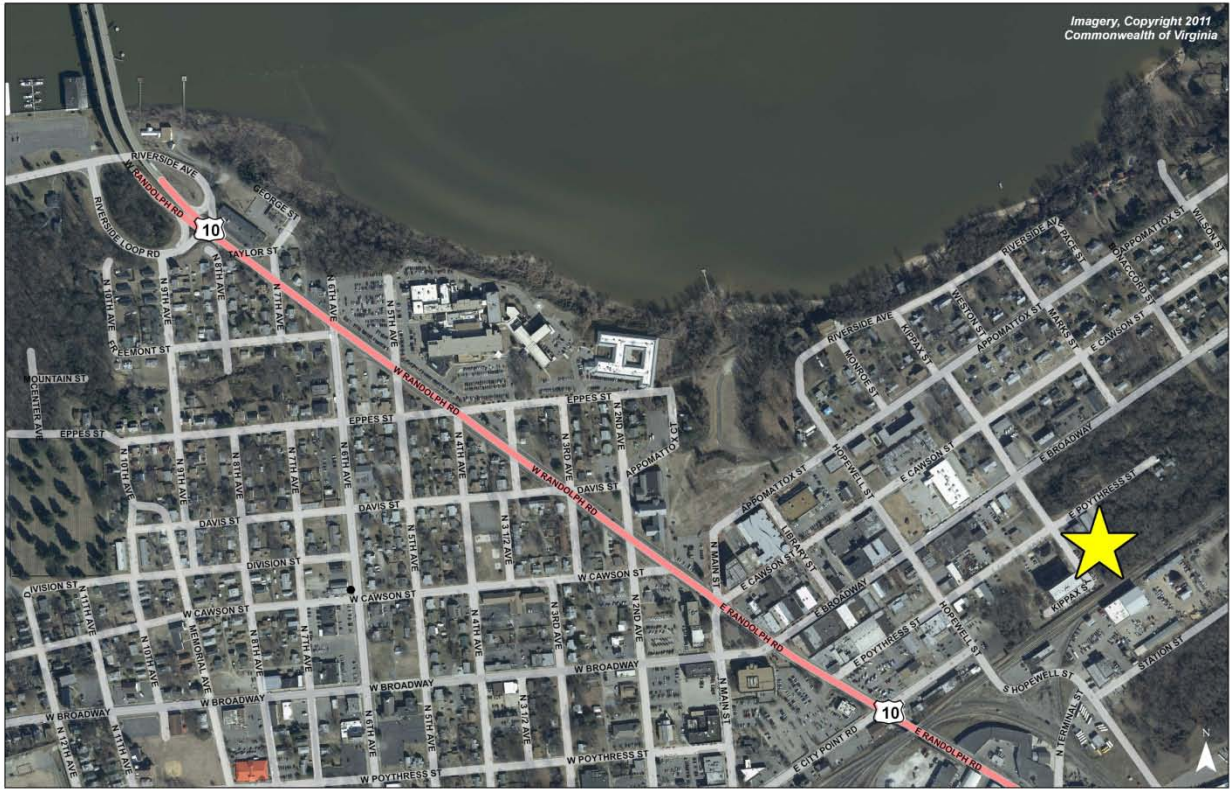
VII. Technical Assistance

Questions regarding proposal submissions should be directed to the City’s Purchasing Agent, April Cone at (804) 541-2205 or acone@hopewellva.gov. Technical questions regarding this project should be directed to:

John M. Altman, Jr.
 ACM for Development
 Department of Development
 300 N. Main Street
 Hopewell, VA 23860
 Telephone: (804) 541-2220
 Fax: (804) 541-2318
 E-Mail: maltman@hopewellva.gov

In order to maintain equal access to information we request that you not contact anyone other than the individuals named above. If there are any changes to the scope of work, addenda will be issued by the Purchasing Agent to all known participants.

APPENDIX A – LOCATION MAP OF THE OLD CITY JAIL SITE



APPENDIX B – AERIAL OF THE OLD CITY JAIL SITE



APPENDIX C – PHOTOGRAPHS OF THE OLD CITY JAIL SITE





APPENDIX D – GENERAL TERMS AND CONDITIONS

- A. APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and the City of Hopewell, Virginia; any litigation with respect thereto shall be brought in the courts of the City. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- B. ANTI-DISCRIMINATION:** By submitting the bids, the bidders certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §11-51 of the *Virginia Public Procurement Act*.

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, or disabilities, except where religion, sex or national origin 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 these requirements.
4. To provide a drug-free workplace for the contractor's employees.
5. To post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensing, 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.
6. To state in all solicitations or advertisements of employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.

The contractor will include the provisions of the foregoing paragraphs 1, 2, 3, 4, 5 and 6 in every subcontract or purchase order over ten thousand dollars (\$10,000) so that the provisions will be binding upon each subcontractor or vendor.

- C. DIRECT TAXES:** All bids shall be submitted exclusive of direct Federal, State, and local taxes. However, if the bidder believes that certain taxes are properly payable by the City, he may list such taxes separately in each case directly below the respective item bid price. Tax exemption certification will be furnished on request.
- D. INDEMNITY:** The contractor agrees to defend, indemnify and hold harmless, the City of Hopewell and its members, officers, directors, employees, agents, and representatives from and against any and all claims, damages, demands, losses, costs and expenses, including attorney's fees, and any other losses of any kind or nature whatsoever including claims for bodily injuries, illness, disease, or death and physical property loss or damage in favor of contractor, its sub-contractors, their employees, agents, and third parties arising during the performance of services and resulting from tort, strict liability, or negligent acts or omissions of contractor, its sub-contractors and their employees or agents under the agreement, or resulting from breaches of contract, whatever by statute or otherwise.
- Each contractor shall assume the responsibility for damage to or loss of its material, equipment or facilities located at the site and, in order to effect this limitation of liability, the contractor agrees to insure or self-insure such property against any such risk.
- E. SALES TAXES:** The City is exempt from payment of State sales and use tax on all tangible personal property purchased or leased for its use or consumption. Certificate of Exemption will be furnished upon request.
- F. QUOTATION FORM:** The Offeror must sign and properly fill out all forms in this proposal or be subject to being declared unresponsive. If unable to submit a proposal, please sign and return this solicitation form, advising reason for no proposal.
- G. CONTRACTOR'S DEFAULT:** In case of default of the contractor, the City may procure the articles of service from other sources and hold the contractor responsible for any excess costs incurred thereafter.
- H. COMPUTATION OF TIME FOR DISCOUNTS:** Time in connection with discount offered, will be computed from date of delivery of the supplies or materials to carrier when final inspection and acceptance are at those points or from date correct invoice is received if latter is later than the date of delivery.
- I. ETHICS IN PUBLIC CONTRACTING:** By submitting the bids, the bidders certify that the bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with the bid, 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.
- J. GOVERNMENTAL RESTRICTIONS:** In the event any governmental restrictions may be imposed which would necessitate alteration of the materials, quality, workmanship, or
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performance of the items offered in this proposal prior to their delivery, it shall be the responsibility of the successful Offeror to notify this office at once, indicating in his letter the specific regulation which requires such alterations. The City reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

- K. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting the bids, the bidder certifies that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- L. DEBARMENT STATUS:** By submitting the bids, the bidder certifies that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- M. ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Hopewell, Virginia, all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Hopewell, Virginia, under said contract.
- N. PAYMENT:** Payment by the City is due thirty days after delivery is made to the City of Hopewell and inspection unless otherwise specifically provided; subject to any discounts allowed.

To Prime Contractor:

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 contract number and/or purchase order number, social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

All goods or services provided under this contract or purchase order, that are to be paid with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.

The following shall be deemed to be the date of payment; the date of postmark in all cases where payment is made by mail; or the date of offset when offset proceedings have been instituted as authorized.

Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges, which appear to be unreasonable, will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City shall promptly notify the

contractor, in writing, as to those charges, which it considers unreasonable, and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification.

To Subcontractors:

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

1. To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
2. To notify the City and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
3. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-contractor performing under the primary contract.

O. PRECEDENCE OF TERMS: Paragraphs A-G of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

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

Q. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.

R. CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agent may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing

Agent a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agent's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agent with all vouchers and records of expenses incurred and savings realized. The Purchasing Agent shall have the right to audit the records of the contractor, as deemed 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 Agent within thirty (30) days from the date of receipt of the written order from the Purchasing Agent. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Virginia Public Procurement Act. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agent or with the performance of the contract generally.

S. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies, which the City may have.

T. INSURANCE: The contractor shall secure and maintain in force, at his/her own expense all required forms of insurance and payment bonds to insure the completion for the work under contract to the satisfaction of the City and without damage to, or claims against the City. The contractor shall provide satisfactory evidence of bonds and insurance on behalf of the sub-contractor's, before entering into an agreement to sublet any part of the work to be done under this contract.

The following performance and payment bonds and forms of insurance shall be secured by the contractor to cover all work under the contract and to protect the contractor, the City, and general public against any damage of claims in connection with the performance of the contract. The bonds and insurance shall be by companies duly

authorized to do business in the Commonwealth of Virginia. Certificates of Insurance, naming the City as an additional insured for each type of coverage shall be required.

At the discretion of the Purchasing Agent, bidders may be required to submit with their bid a bid bond, or a certified check, in an amount to be determined by the Purchasing Agent, which shall be forfeited to the City as liquidated damage upon the Offeror's failure to execute a contract awarded to him/her or upon the Offeror's failure to furnish any required performance or payment bonds in connection with a contract awarded to him/her.

At the discretion of the Purchasing Agent, the winning contractor(s) may be required to submit a performance and payment bond to the City which shall be evoked upon contractor's failure to execute a contract awarded or the failure to satisfactorily complete work for which a contract or purchase order was awarded. Performance bond and payment bond in the amount of one hundred (100) percent of contract price is required as security of contract, or security for payment of all persons performing labor and furnishing materials in connection with the contract, and protecting the City from all damages or claims resulting from, or in connection with the performance of the contract or purchase order.

The performance bond and payment bond shall and does bind the surety company to protect the City from damages, claims or costs by failure of the contractor to make corrective action due to his financial solvency or for any other cause whatever.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Worker's Compensation - Statutory requirements and benefit; require that the City of Hopewell, Virginia be added as an additional named insured on contractor's policy.
2. Employers Liability - \$100,000.
3. Comprehensive general liability for bodily injury liability and property damage liability shall be provided as to limits specified.
4. Contractor's protective liability shall be provided for bodily injury liability and property damage liability.
5. Fire and extended coverage shall be provided on the completed builder risk form if specified in bid specifications.
6. The contractor shall require each of his subcontractors to carry Workmen's Compensation Insurance and public liability and property damage liability.
7. Commercial General Liability - \$500,000 combined single limit. The City of Hopewell, Virginia is to be named as an additional named insured with respect to the services being procured. These coverages are to include Products and Completed Operations Coverage.
8. Automobile Liability – bodily injury and property damage shall be provided as to limits set forth in the bid specifications.

The contractor shall have executed and delivered to the City copies of all insurance certificates.

Executed copies of the performance bond shall become a part of all copies of the contract.

APPENDIX E – SPECIAL TERMS AND CONDITIONS

- A. ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this bid/proposal, no indication of such sales or services to the City of Hopewell, Virginia will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the City of Hopewell, Virginia or any department or institution of the City has purchased or uses its products or services.
- B. AUDIT:** The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City of Hopewell, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- C. AWARD OF CONTRACT:** Contract is based on evaluation and negotiations with contractors that remain on short-list, pursuant to § 2A-14 of the Hopewell City Code.
- D. PROPOSAL ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for 120 days. At the end of the 120 days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- E. CANCELLATION OF CONTRACT:** The Purchasing Agent reserves the right to cancel and terminate any resulting contract, in part or in whole, without liability for damages beyond payment for goods and services ordered, performed, delivery and accepted, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- F. DRUG FREE WORKPLACE:** The contractor acknowledges and certifies that it understands that the following acts by the contractor, its employees, and/or agents performing services on state property are prohibited:
1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
 2. Any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes).
 3. The contractor further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of contract and may result in default action being taken by the City in addition to any criminal penalties that may result from such conduct.
- G. EXTRA CHARGES NOT ALLOWED:** The bid price shall be for complete installation ready for the City's use, and shall include all applicable freight and installation charges; extra charges will not be allowed.
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H. MINORITY/WOMEN OWNED BUSINESSES SUBCONTRACTING AND REPORTING: Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Division of Purchases and Supply. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

I. PREPARATION AND SUBMISSION OF BIDS: Bids must give the full business address of the bidder and be signed by him/her with his/her usual signature. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or any authorized representative, followed by the designation of the person signing. Bids by corporations must be signed with the legal name of the corporation followed by the name of the State in which it is incorporated and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. A bid by a person who affixes to the signature the word “President,” “Secretary,” “Agent” or other designation without disclosing the principal, may be held to be the bid of the individual signing. When requested by the City, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished.

J. WITHDRAWAL OR MODIFICATION OF BIDS: Bids may be withdrawn or modified by written notice received from bidders prior to the deadline fixed for bid receipt. The withdrawal or modification may be made by the person signing the bid or by an individual(s) who is authorized by him on the face of the bid. Written modifications may be made on the bid form itself, on the envelope in which the bid is enclosed, or on a separate document. Written modifications, whether the original is delivered, or transmitted by facsimile, must be signed by the person making the modification or withdrawal.

K. RECEIPT AND OPENING OF BIDS: It is the responsibility of the bidder to assure that his bid is delivered to the place designated for receipt of bids and prior to the time set for receipt of bids. Bids received after the time designated for receipt of bids will not be considered.

Bids will be opened at the time and place stated in the advertisement, and their contents made public for the information of bidders and others interested who may be present either in person or by representative. The officer or agent of the City, whose duty it is to open them, will decide when the specified time has arrived. No responsibility will be attached to any officer or agent for the premature opening of a bid not properly addressed and identified.

L. NEGOTIATION WITH THE LOWEST OFFEROR (IF APPLICABLE): Unless all

proposals are cancelled or rejected, the City of Hopewell reserves the right granted by § 2.2-4318 of the *Code of Virginia* to negotiate with the lowest responsive, responsible offeror to obtain a contract price within the funds available to the agency whenever such low proposal exceeds the City's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the agency for this contract prior to the issuance of the written Request for Proposal. Negotiations with the low offeror may include both modifications of the proposal price and the Scope of Work/Specifications to be performed. The City shall initiate such negotiations by written notice to the lowest responsive, responsible offeror that its proposal exceeds the available funds and that the agency wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by the City and the lowest responsive, responsible offeror.

M. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: Every bidder organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must 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 of the Code of Virginia, as amended, or as otherwise required by law. Any bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 must include in its bid the identification number issued to it by the State Corporation Commission. Any bidder 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. A bidder required to be authorized to transact business in Virginia that fails to provide the required information shall not receive an award unless a waiver of this requirement and of any administrative policies and procedures established to implement Section 2.2-4311.2 of the Code of Virginia, as amended, is granted by the City of Hopewell.

If awarded the Contract, the bidder 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. Doing so shall be deemed to be a violation of Section 2.2-4311.2 and the bidder understands and agrees that the City may void the Contract if the bidder fails to comply with this provision.