



COMMONWEALTH OF VIRGINIA

County of Henrico

RFP No. 20-2008-5JOK

DEPARTMENT OF FINANCE
Oscar Knott, CPP, CPPO, VCO
Purchasing Director

May 13, 2020
Request for Proposal ("RFP")
Health Diagnostic Testing Services

Your firm is invited to submit a proposal to provide health diagnostic testing services in accordance with the enclosed Specifications and General Terms and Conditions. Pursuant to Section 2.2-4304 of the Code of Virginia, this procurement is a cooperative procurement being conducted on behalf of Henrico County and other public bodies.

Your firm's proposal submittal, **consisting of one (1) complete electronic copy and one (1) redacted electronic copy (if applicable) in a "pdf" format**, will be received no later than **June 10, 2020 at 2:00 P.M.** by submission through the Commonwealth of Virginia's electronic procurement platform [eVA](#).

Time is of the essence, and any offeror that attempts to submit a proposal after the appointed hour for submission, will be unable to, because eVA automatically closes the solicitation at the appointed time. The time of receipt shall be determined by the time clock in eVA. Offerors are responsible for ensuring that their proposals are submitted in eVA by the deadline indicated.

Nothing herein is intended to exclude any responsible offeror or in any way restrain or restrict competition. On the contrary, all responsible offerors are encouraged to submit proposals. The County of Henrico reserves the right to accept or reject any or all proposals submitted.

Pursuant to Henrico County Code Section 16-43, the award will be made by the Purchasing Director.

This RFP and any addenda are available on both eVA and the County of Henrico website at: <http://henrico.us/finance/divisions/purchasing>.

Should you have any questions concerning this RFP, please contact Oscar Knott at kno008@henrico.us by no later than June 1, 2020.

Henrico County declared a state of emergency on March 13, 2020 due to the COVID-19 pandemic. The County is operating under a plan of reduced operations and implementing measures to limit the spread of COVID-19. The County is no longer accepting sealed proposals physically and all Offerors must submit sealed proposals eVA.

Very truly yours,

Oscar Knott, CPP, CPPO, VCO
Purchasing Director

I. INTRODUCTION

A. Purpose.

The County of Henrico, Virginia (the “County”) is seeking proposals from qualified and experienced offerors to establish contract(s) for health diagnostic testing services on an if and when needed basis as described in Section II – Scope of Services.

B. Background.

The County is located within the greater Richmond, Virginia metropolitan area and covers approximately 245 square miles. The County is geographically diverse, having highly developed urban and suburban areas, as well as undeveloped agricultural and forest land. The County has a culturally diverse population of approximately 335,000, consisting of a 132,400 households.

On March 13, 2020, the County declared a state of emergency due to the COVID-19 pandemic. Although government and private entities in the Commonwealth have administered thousands of screening and diagnostic tests to respond to the pandemic, the County seeks proposals for additional testing.

II. SCOPE OF SERVICES

A. General Requirements.

Each Successful Offeror must provide, on an if and when-needed basis, screening and diagnostic testing services for the detection of COVID-19 antibodies, antigens, and/or genetic material. Each Successful Offeror must obtain and use test kits and supplies necessary to administer tests that have either been approved for SARS-CoV-2 virus (the virus that causes COVID-19) and/or antibody detection by the Food and Drug Administration (“FDA”) or have received Emergency Use Authorization from the FDA. Prior to beginning testing services, each Successful Offeror must provide written certification from each external lab and entity that will analyze test samples and report the results. The certification shall minimally state that the external lab or entity has the supplies, equipment, personnel, and experience to perform the necessary analysis and reporting for each test in accordance with the manufacturer’s specifications, FDA requirements, and requirements of the Commonwealth of Virginia in effect at the time of the test analysis and reporting services.

B. Testing Situations.

Each Successful Offeror must provide a turn-key setup for COVID-19 testing in one, two, or three different situations, depending on the contract:

1. Individual testing of persons referred by the County, health care providers authorized by the County, and other governmental entities to the Successful Offeror’s facility for testing on an as-needed basis throughout the contract period;
2. Onsite group testing to deal with outbreaks at a specific location (e.g., nursing home or assisted living facility); and
3. Drive-through or similar mass testing of (a) persons referred by the County, health care providers authorized by the County, and other governmental entities

authorized by the County, and (b) members of the general public if there is widespread contagion of large numbers of the public.
Offerors may propose to provide services in one, two or all three testing situations.

C. Testing Methods.

Each Successful Offeror must administer tests and obtain laboratory analysis of samples in accordance with current manufacturer specifications, Center for Disease Control (“CDC”), FDA, Occupational Safety and Health Administration (“OSHA”), and other federal, state and local requirements at the time of the test. Tests may include, but are not limited to, virus detection tests, antigen detection tests, antibody blood tests, and other molecular assays. The County and Successful Offeror must agree on the tests to be administered. Only testing supplies, technologies, and platforms that have received FDA Emergency Use Authorization or full FDA approval may be used.

D. Registration of Patients.

Each Successful Offeror must provide procedures for testing of County employees that require advance registration and approval by the County for testing of the employee. During registration, in addition to the standard identifying registration information, the Successful Offeror must collect patient demographics, symptoms, and any other information that may be requested or required for reporting by the Virginia Department of Health (“VDH”), CDC, etc. The information must also include the patient’s consent, HIPAA consent, insurance coverage, and where pertinent, travel history and health history.

E. Reporting of Results.

When a test provides rapid results, each Successful Offeror must provide rapid notification of test results to the patient, both orally and by text or email, and printed results if requested by the patient. Each Successful Offeror must provide up to date information for the patient to better understand the test results, including access or referral to a medical professional for consultation about the test results. Additionally, each Successful Offeror must provide daily reports to the County providing individual and group data, analytics, and trends, and shall provide timely and appropriate notification to VDH in an appropriate format.

F. Coordination with Henrico County Employee Health Services (“EHS”).

Each Successful Offeror must coordinate with EHS for the sharing of data and continuity of patient care for County employees regardless of whether the test results indicate the need for follow-up services or not.

G. Billing and Medical Records Requirements.

Each Successful Offeror’s proposal must address billing of medical insurance providers, Medicare, or Medicaid for persons with coverage who are tested. All billing, testing, and other records or documents of the Successful Offeror for its services shall be the property of the Successful Offeror which shall be treated as confidential.

III. COUNTY RESPONSIBILITIES

The County will designate an individual to act as the County’s representative with respect to the work to be performed under this contract. Such individual shall have the authority to transmit instructions, receive information, and interpret and define the County’s policies and decisions with respect to the contract.

IV. ANTICIPATED PROCUREMENT SCHEDULE

The following represents the timeline of the process currently anticipated by the County:

Request for Proposal Distributed	May 13, 2020
Submit Questions By	June 1, 2020
Receive Written Proposals	June 10, 2020
Conduct Interviews and Negotiations	Week of June 22, 2020
Award Contract	July 2020

V. GENERAL CONTRACT TERMS AND CONDITIONS

A. Annual Appropriations

The contract resulting from this procurement (“Contract”) shall be subject to annual appropriations by the Henrico County Board of Supervisors. Should the Board fail to appropriate funds for this Contract, the Contract shall be terminated when existing funds are exhausted. The Successful Offeror (“Successful Offeror” or “Contractor”) shall not be entitled to seek redress from the County or its elected officials, officers, agents, employees, or volunteers should the Board of Supervisors fail to make annual appropriations for the Contract.

B. Award of the Contract

1. The County reserves the right to reject any or all proposals and to waive any informalities.
2. Each Successful Offeror must, within fifteen (15) calendar days after Contract documents are presented for signature, execute and deliver to the Purchasing office the Contract documents and any other forms or bonds required by the RFP.
3. The Contract resulting from this RFP is not assignable
4. Notice of award or intent to award may also appear on the Purchasing Office website: <http://henrico.us/finance/divisions/purchasing/>.

C. Collusion

By submitting a proposal in response to this Request for Proposal, each Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, Offeror 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. § 1 et seq.) or Section 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.

D. Compensation

The Successful Offeror must submit a complete itemized invoice for s that are performed under the Contract. The County shall pay the Successful Offeror for satisfactory compliance with the Contract within forty-five (45) days after receipt of a proper invoice.

E. Controlling Law and Venue

The Contract will be made, entered into, and shall be performed in the County and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to its conflicts of law principles. Any dispute arising out of the Contract, its interpretations, or its performance shall be litigated only in the Henrico County General District Court or the Circuit Court of the County of Henrico, Virginia.

F. Debarment Status

Contractor certifies that it is 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 the contract, nor is it an agent of any person or entity that is currently so debarred. If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

G. Default

1. If the Successful Offeror is wholly responsible for a failure to perform the Contract (including, but not limited to, failure to deliver services, failure to complete implementation, or if the services fail to perform as specified herein), the County may consider the Successful Offeror to be in default. In the event of default, the County will provide the Successful Offeror with written notice of default, and the Successful Offeror shall provide a plan to correct the default within 20 calendar days of the County's notice of default.
2. If the Successful Offeror fails to cure the default within 20 days, the County, among other actions, may complete the Contract work through a third party, and the Successful Offeror shall be responsible for any amount in excess of the Contract price incurred by the County in completing the work to a capability equal to that specified in the Contract.

H. Drug-Free Workplace to be Maintained by the Contractor (VA. Code §2.2-4312)

1. During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Successful Offeror'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.

2. 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 in accordance with the Virginia Public Procurement Act, 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.

I. Employment Discrimination by Contractor Prohibited

1. Contractor certifies to the County of Henrico, Virginia that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E). During the performance of this Contract, the Contractor agrees as follows (Va. Code § 2.2-4311):
 - a) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The Contractor will include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

J. Employment of Unauthorized Aliens Prohibited

As required by Virginia Code §2.2-4311.1, the Contactor does not, and shall not during the performance of this agreement, in the County of Henrico, Virginia

knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

K. Ethics in Public Contracting

Contractor certifies that its proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with its 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.

L. Antitrust

By entering into a contract, the Successful Offeror conveys, sells, assigns, and transfers to the County of Henrico, 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 services purchased or acquired by the County under the contract.

M. Testing and Inspection

The County reserves the right to conduct any test/inspection it may deem advisable to assure services conform to the specifications.

N. Assignment of Contract

A contract shall not be assignable by the Successful Offeror in whole or in part without the written consent of the County.

O. Indemnification

The Successful Offeror agrees to indemnify, defend and hold harmless the County(including Henrico County Public Schools), and the County's officers, agents and employees from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any services, the failure to provide any services or the use of any services or materials furnished (or made available) by the Successful Offeror, provided that such liability is not attributable to the County's sole negligence.

P. Insurance Requirements

The Successful Offeror shall maintain insurance to protect itself and the County and the County's elected officials, officers, agents, volunteers and employees from claims under the Workers' Compensation Act, and from any other claim for damages for personal injury, including death, and for damages to property which may arise from the provision of services under the Contract, whether such services are provided by the Successful Offeror or by any subcontractor or anyone directly employed by either of them. Such insurance shall conform to the Insurance Specifications. **(Attachment E).**

Q. No Discrimination against Faith-Based Organizations

The County does not discriminate against faith-based organizations as that term is defined in Va. Code § 2.2-4343.1.

R. Offeror's Performance

1. The Successful Offeror agrees and covenants that its agents and employees shall comply with all County, state and federal laws, rules and regulations applicable to the business to be conducted under the Contract.
2. The Successful Offeror shall ensure that its employees shall observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.
3. The Successful Offeror shall cooperate with County officials in performing the Contract work so that interference with the County's normal operations will be minimized.
4. The Successful Offeror shall be an independent contractor and shall not be an employee of the County.

S. Reserved.

T. Record Retention and Audits

1. The Successful Offeror shall retain, during the performance of the Contract and for a period of five years from the completion of the Contract, all records pertaining to the Successful Offeror's proposal and any Contract awarded pursuant to this Request for Proposal. Such records shall include but not be limited to all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices, including the Successful Offeror's copies of periodic estimates for partial payment; ledgers, cancelled checks; deposit slips; bank statements; journals; Contract amendments and change orders; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Such records shall be available to the County on demand and without advance notice during the Successful Offeror's normal working hours.
2. County personnel may perform in-progress and post-audits of the Successful Offeror's records as a result of a Contract awarded pursuant to this Request for Proposals. Files would be available on demand and without notice during normal working hours.

U. Severability

Each paragraph and provision of the Contract is severable from the entire agreement and if any provision is declared invalid the remaining provisions shall nevertheless remain in effect.

V. Minority-, Woman-, Service Disabled Veteran-Owned, Small Businesses and Employment Services Organizations

It is the policy of the County to actively seek out and provide contracting opportunities to minority-, woman-, service disabled veteran-owned, small businesses and employment services organizations in procurement transactions made by the County.

The County strongly encourages all suppliers to respond to Invitations for Bids and Request for Proposals and supports the use of minority, woman-, service disabled veteran-owned, small businesses and employment services organizations for sub-contracting opportunities.

All formal solicitations are posted on the Commonwealth of Virginia eVA and the County's internet site at <http://henrico.us/finance/divisions/purchasing/> and may be viewed under the Bids and Proposals link.

W. Subcontracts

No portion of the work shall be subcontracted without prior written consent of the County. In the event that the Successful Offeror desires to subcontract some part of the work specified in the contract, the Successful Offeror shall furnish the County the names, qualifications, and experience of the proposed subcontractors. The Successful Offeror shall, however, remain fully liable and responsible for the work to be done by his/her subcontractor(s) and shall assure compliance with all the requirements of the Contract.

X. Taxes

1. The Successful Offeror shall pay all County, state, and federal taxes required by law and resulting from the work or traceable thereto, under whatever name levied. Such taxes shall not be in addition to the Contract price between the County and the Successful Offeror because the taxes are solely an obligation of the Successful Offeror and not of the County, and the County shall be held harmless for same by the Successful Offeror.
2. The County is exempt from the payment of federal excise taxes and the payment of state sales and use tax on all tangible, personal property for its use or consumption. Tax exemption certificates will be furnished upon request.

Y. Termination of Contract

1. The County reserves the right to terminate the Contract immediately in the event that the Successful Offeror discontinues or abandons operations; is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.
2. Failure of the Successful Offeror to comply with any section or part of the Contract will be considered grounds for immediate termination of the Contract by the County.
3. Notwithstanding anything to the contrary contained in the Contract between the County and the Successful Offeror, the County may, without prejudice to any other rights it may have, terminate the Contract for convenience and without cause, by giving 30 days' written notice to the Successful Offeror.
4. If the County terminates the Contract, the Successful Offeror will be paid by the County for all scheduled work completed satisfactorily by the Successful Offeror up to the termination date.

Z. County License Requirement

If a business is located in the County, it is unlawful to conduct or engage in the business without obtaining a business license. If your business is located in the

County, include a copy of your current business license with your proposal submission. If your business is not located in the County, include a copy of your current business license with your proposal submission. If you have any questions, contact the Business Section, Department of Finance, County of Henrico, telephone (804) 501-4310.

AA. Environmental Management

The Successful Offeror must shall comply with all applicable federal, state, and local environmental regulations. The Successful Offeror is required to abide by the County's Environmental Policy Statement: http://henrico.us/pdfs/risk/env_policy.pdf which emphasizes environmental compliance, pollution prevention, continual improvement, and conservation. Employees of the Successful Offeror must be properly trained and have any necessary certifications to carry out environmental responsibilities. The Successful Offeror must immediately communicate any environmental concerns or incidents to the assigned County Project Manager and the County Risk Manager.

BB. Safety

1. The Successful Offeror shall comply with and ensure that the Successful Offeror's personnel comply with all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health Administration for the industry. The provisions of all rules and regulations governing safety as adopted by the Safety and Health Codes Board of the Commonwealth of Virginia and issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia shall apply to all work under the Contract. The Successful Offeror shall provide or cause to be provided all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the work specified and performed by the Successful Offeror.
2. Each job site must have a supervisor who is competent, qualified, or authorized on the worksite, who is familiar with policies, regulations and standards applicable to the work being performed. The supervisor must be capable of identifying existing and predictable hazards in the surroundings or working conditions which are hazardous or dangerous to employees or the public, and is capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Successful Offeror's personnel from the work site.
3. In the event the County determines any operations of the Successful Offeror to be hazardous, the Successful Offeror must immediately discontinue such operations upon receipt of either written or oral notice by the County to discontinue such practice.

CC. Authorization to Transact Business in the Commonwealth

1. 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 or other business form 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 or as otherwise required by law.

2. An Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia must include in its proposal the identification number issued to it by the State Corporation Commission (Attachment C). Any 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 of the Code of Virginia or as otherwise required by law must include in its proposal a statement describing why the Offeror is not required to be so authorized.
3. An Offeror described in subsection 2 that fails to provide the required information shall not receive an award unless a written waiver is granted by the Purchasing Director, his designee, or the County Manager.
4. Any falsification or misrepresentation contained in the statement submitted by the Offeror pursuant to Title 13.1 or Title 50 of the Code of Virginia may be cause for debarment by the County.
5. Any business entity described in subsection 1 that enters into a contract with a public body must not allow its existence to lapse or allow its certificate of authority or registration to transact business in the Commonwealth if so required by Title 13.1 or Title 50 of the Code of Virginia to be revoked or cancelled at any time during the term of the contract.

DD. Payment Clauses Required by Va. Code §2.2-4354

Pursuant to Virginia Code § 2.2-4354:

1. The Successful Offeror shall take one of the two following actions within seven days after receipt of amounts paid to the Successful Offeror by the County for all or portions of the goods and/or services provided by a subcontractor: (a) pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under that contract; or (b) notify the County and subcontractor, in writing, of the Successful Offeror's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. The Successful Offeror that is a proprietor, partnership, or corporation shall provide its federal employer identification number to the County. Pursuant to Virginia Code § 2.2-4354, the Successful Offeror who is an individual contractor shall provide his/her social security numbers to the County.
3. The Successful Offeror shall pay interest to its subcontractors on all amounts owed by the Successful Offeror that remain unpaid after seven days following receipt by the Successful Offeror of payment from the County for all or portions of goods and/or services performed by the subcontractors, except for amounts withheld as allowed in Subparagraph 1. above.
4. Unless otherwise provided under the terms of the Contract interest shall accrue at the rate of one percent per month.
5. The Successful Offeror 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 with respect to each lower-tier subcontractor.

6. The Successful Offeror's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in Virginia Code § 2.2-4354 shall not be construed to be an obligation of the County. A Contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

EE. Contact Period

1. The contract period shall be one year from the Commencement Date. Contract prices shall remain firm for the contract period.
2. The contract may be renewed for 4 additional one-year periods upon the sole discretion of the County at a price not to exceed 3% above the previous year's prices.
3. The resulting contract should require the Successful Offeror to give at least a ninety (90) day written notice if it does not intend to renew the contract at any annual renewal.
4. The contract shall not exceed a maximum of five (5) years.

FF. Occupational Safety & Health Policy Statement

The Successful Offeror must comply with all applicable federal, state, and local occupational safety and health standards. The Successful Offeror is required to abide by the County's Occupational Safety & Health Policy Statement: https://henrico.us/pdfs/risk/h_safety_policy.pdf which emphasizes maintaining a safe and healthy work environment for all employees, volunteers, and contractors who access County property and locations. The Successful Offeror must be properly trained and have any necessary certifications to carry out occupational safety and health policy responsibilities. The Successful Offeror must immediately communicate any concerns or incidents to the assigned County Project Manager and the County Risk Manager.

GG. Confidentiality of Personally Identifiable Information (State Contracts)

The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

HH. Certification of Internal Controls (Contracts with Commonwealth of Virginia)

The contractor shall have clearly delineated processes and procedures for the internal control of sensitive data and processes, which are any data and processes of which the compromising of confidentiality, integrity, and/or availability could have a material adverse effect on Commonwealth of Virginia interests, the conduct of agency programs, or to the privacy of which individuals are entitled, when such sensitive data or processes are related to the goods and/or services provided pursuant to this agreement.

The contractor shall provide evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of compliance shall be contained in a report describing the effectiveness of the contractor's internal controls. The most recent version of the report shall be provided to the purchasing office upon request. Trade secrets or proprietary information contained within the report shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the contractor must invoke the protection of Code of Virginia, § 2.2-4342F, in writing, prior to or upon submission of the report, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

If deficiencies in the contractor's internal control processes and procedures are described in the most recent version of the report, the contractor shall automatically submit the report to the purchasing office within a timely manner and shall describe the corrective actions to be put into place by the contractor to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the Commonwealth to make a determination of breach of contract.

The contractor's obligations for certification of internal controls shall survive and continue after completion of this agreement unless the contractor certifies the destruction of the sensitive data at the end of the contract term.

II. Cooperative Procurement

This procurement is being conducted by the County in accordance with the provisions of Section 2.2-4304 of the Code of Virginia. Except for contracts for architectural and engineering services, if agreed to by the contractor, other public bodies may utilize this Contract. The Contractor shall deal directly with any public body it authorizes to use the Contract. The County, its officials, and its employees are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between the Contractor and any other public body, and in no event shall the County, its officials, or its employees be responsible for any costs, damages or injury resulting to any party from another public body's cooperative use of a County contract. The County assumes no responsibility for any notification of the availability of the Contract for use by other public bodies, but the Contractor may conduct such notification.

JJ. Virginia General Terms and Conditions
The Virginia General Terms and Conditions (Attachment F) will apply to testing services for Commonwealth of Virginia agencies.

KK. Federal Contract Provisions
This procurement is subject to Federal Contract Provisions (Attachment G).

VI. **PROPOSAL SUBMISSION REQUIREMENTS**

- A. The Purchasing Division will not accept oral proposals, nor proposals received by telephone, FAX machine, email or hard copy submissions. Proposals will only be accepted through eVA.
- B. All erasures, interpolations, and other changes in the proposal shall be signed or initialed by the Offeror.
- C. The Proposal Signature Sheet (**Attachment A**) must accompany any proposal(s) submitted and be signed by an authorized representative of the Offeror. If the Offeror is a firm or corporation, the Offeror must print the name and title of the individual executing the proposal. All information requested should be submitted. Failure to submit all information requested may result in the Purchasing Division requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal.
- D. Reserved.
- E. The time proposals are received shall be determined by the time clock in eVA. Offerors are responsible for insuring that their proposals are submitted in eVA by the deadline indicated.
- F. By submitting a proposal in response to this Request for Proposal, the Offeror represents it has read and understands the Scope of Services and has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations that in any manner may affect the cost, progress, or performance of the Contract work.
- G. The failure or omission of any Offeror to receive or examine any form, instrument, addendum, or other documents or to acquaint itself with conditions existing at the site, shall in no way relieve any Offeror from any obligations with respect to its proposal or to the Contract.
- H. Subject to the limitations of Va. Code § 2.2-4342(F), trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials, and must identify the data or other materials to be

protected and state the reasons why protection is necessary (Va. Code § 2.2-4342(F)). (Attachment D)

- I. Reserved.
- J. The County welcomes comments regarding how the proposal documents and scope of services may be improved. **Offerors requesting clarification, interpretation of, or improvements to the Request for Proposal's general terms, conditions, and scope of services shall submit technical questions concerning the Request for Proposal no later than June 1, 2020 in writing.** Any changes to this Request for Proposals shall be in the form of a written addendum issued by the Purchasing Division and it shall be signed by the Purchasing Director or a duly authorized representative. **Each Offeror is responsible for determining that it has received all addenda issued by the Purchasing Division before submitting a proposal.**
- K. All proposals received on time shall be accepted for consideration. Proposals shall be open to public inspection only after award of the Contract.

VII. **PROPOSAL RESPONSE FORMAT**

- A. Offerors shall submit an electronic written proposal that presents the Offeror's qualifications and understanding of the work to be performed. Offerors must address each evaluation criterion and be specific in presenting their qualifications. The proposal should provide all the information considered pertinent to the Offeror's qualifications for this project.
- B. The Offeror should include in its proposal the following:
 - 1. Table of Contents
All pages are to be numbered.
 - 2. Tab 1 – Introduction
In this tab, the following items should be provided:
 - a. Cover Letter – On company letterhead, signed by a person with the corporate authority to enter into contracts in the amount of the proposal.
 - b. Proposal Signature Sheet – **Attachment A**
 - c. Business Classification Form – **Attachment B**
 - d. Virginia State Corporation Commission Registration Information – **Attachment C**
 - e. Proprietary/Confidential Information – **Attachment D**
 - f. Anti-Lobbying Certification – **Attachment H**
 - 3. Tab 2 – Statement of the Scope.
In concise terms, Offerors shall state their understanding of the Scope of Services requested by this RFP in Section II.

4. Tab 3 – Offeror Qualifications, Experience and Resumes
In this tab, Offerors shall demonstrate their, and their staff's, qualifications and experience in providing the services as requested in this Request for Proposal, including training and licensing of persons administering tests, in particular competency regarding appropriate specimen collection and proper use of PPE to avoid transmission of disease to themselves or to other individuals being tested. Offerors shall demonstrate their experience in administering each test offered. Submit a Business Health Summary, including years in business, years in business under the Offeror's present name and information documenting the Offeror's financial stability including its latest audited financial statement. Offerors shall submit extensive detail in the experience of administering health diagnostic testing services, the number of tests performed for each type of testing method, and the number of people tested. Offerors shall provide, at a minimum, documentation demonstrating that they are regularly engaged in health diagnostic testing for no less than three (3) years. If subconsultants are to be utilized, provide similar documentation to what has been requested of the Offeror in this section.
5. Tab 4 – References
In this tab, Offerors shall include a minimum of three (3) references where the Offeror has provided services similar to the services being solicited in this Request for Proposals. The information provided should include a contact person's name, position, up-to-date telephone number and email address, the company for which the contact person worked, and the time period of the services performed.
6. Tab 5 – Service Approach / Implementation of Services
In this tab, Offerors shall provide, in detail, their approach to fulfilling the scope of services being solicited by this Request for Proposal and demonstrate their compliance with the requirements of the Scope of Services. If subconsultants are to be utilized, specify the services that they will be providing.
 - A. Offerors may propose screening tests, diagnostic tests, or both. Offerors may propose antibody tests, antigen tests, polymerase chain reaction tests, or all of these types of tests, and any other test that may assist in COVID-19 screening and diagnosis. Offerors shall minimally identify:
 1. The name and description of each specific test to be administered;
 2. Evidence of FDA approval EUA and information regarding the reliability, sensitivity, and specificity of testing to include related positive and negative predictive values, along with supporting documentation about sample sizes, experimental methods, and details regarding any internal or external validation of experimental results;
 3. The methods by which test samples are collected and subsequently handled and analyzed, including the materials for preserving test samples until analysis in a laboratory;

4. The number of each test and test type that the Offeror will have the capacity to administer each day and evidence to support this reported testing rate;
 5. The sources and number of test kits that will be available for each test on a monthly basis;
 6. The manufacturer's specifications and instructions for administration of each test, and how the Offeror will ensure that it will at all times meet any specifications and instructions as those may change over time, including assurance of competency in obtaining appropriate specimen types;
 7. The name and address of entity that will analyze test samples and report the results, its daily analysis and reporting capacity, its experience in analyzing COVID-19 test samples, and anticipated turnaround time;
 8. The methods and equipment used for obtaining rapid test results and laboratory analysis of test samples; and
 9. Evidence about the availability of the proposed number of test kits.
- B. Because each testing situation requires different types of equipment, personnel, and procedures, Offerors may submit proposals to provide testing in one, two, or all three of these situations described in Section II(B). Offerors shall provide full details about the Offeror's procedures for testing services in each (one of the three) situations for which the Offeror proposes to provide testing services. The details shall minimally include:
1. Each test to be administered;
 2. Locations for administration of each test;
 3. Operational details, such as space needs, registration and screening procedures, security for test equipment and personnel, collection and protection of test samples, necessary personal protective equipment (PPE), signage, traffic control and parking needs;
 4. Testing capacity per day at each location; and
 5. Educational materials to be given to test subjects which should reflect current CDC guidance and include up to date information for the patient to better understand the test results, including access or referral to a medical professional for consultation about the test results.
- C. Offerors shall identify and describe registration processes for either advance registration or on-site registration, or both, depending on the type of testing center and testing event. Offerors shall identify all of the information that the Offeror will collect during the registration process.
- D. Offerors shall describe its billing capabilities and confirm the ability to bill medical insurance providers, Medicare or Medicaid.
- E. Offerors shall identify any need for County traffic control, logistical support, or assistance in obtaining locations for drive-through or similar mass testing of the general public if there is widespread contagion of large numbers of the public.

7. Tab 6 – Pricing Schedule
In this tab, Offerors shall include information about the County’s payment obligations to the Offeror for its services under the contract. These payment obligations may be different for each of the three testing situations for which proposals are solicited. The County’s payment obligation should not include payment for tests covered by insurance or tests paid for by members of the general public.

8. Tab 7 – Sample Signage, Registration Forms and Educational Materials
In this tab, Offerors shall include copies of signage, registration and screening questions, and educational materials used for each test in previous COVID-19 testing by the Offeror.

9. (If needed) Tab 7 – Exceptions
In this tab, Offerors shall list any exceptions taken to the Scope of Services and General Terms and Conditions of this Request for Proposals. The County intends to make the RFP and the Successful Offeror’s proposal a part of the contract between the parties, so Offerors should list any exceptions for purposes of negotiating the contract.

10. (If needed) Tab 8 – Assumptions
In this tab, offerors shall list any assumptions made when responding to this Request for Proposals.

11. (If needed) Tab 9 – Appendices
In this tab, offerors should submit additional material needed to help clarify their response.

VIII. PROPOSAL EVALUATION/SELECTION PROCESS

- A. Selection of the Successful Offeror will be based upon submission of proposals meeting the selection criteria. The minimum selection criteria will include:

Evaluation Criteria	Weight
Functional Requirements <i>(In accordance with Section VII, Item B(3) and B(6), this criterion considers the extent to which the Offeror’s proposal satisfies the services requested by this RFP and clearly demonstrated understanding of the work to be performed as specified in Section II.)</i>	30
Implementation Services <i>(In accordance with Section VII, Item B(6) and B(8), this criterion considers the Offeror’s service approach and implementation of services requested by this RFP as specified in Section II.)</i>	25
Experience and Qualifications <i>(In accordance with Section VII, Item B(4) and B(5), this criterion considers the Offeror’s qualifications, experience, resumes and references of the overall Offeror and staff assigned relative to the</i>	25

<i>services solicited by this RFP as specified in Section II and the Offeror's financial stability.)</i>	
Price <i>(In accordance with Section VII, Item B(7), this criterion considers the Offeror's proposed fees for completing the services requested by this RFP as specified in Section II.)</i>	15
Quality of Proposal Submission / Oral Presentations <i>(This criterion considers the overall quality of the Offeror's proposal submitted and any oral presentations required.)</i>	5
Total	100

- B. For goods, nonprofessional services, and insurance, selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. In the case of a proposal for information technology, as defined in Va. Code § 2.2-2006, the County shall not require an Offeror to state in a proposal any exception to any liability provisions contained in the Request for Proposal. Negotiations shall then be conducted with each of the Offerors so selected. The Offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each Offeror so selected, the County shall select the Offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that Offeror. Should the County determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

ATTACHMENT A PROPOSAL SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all requirements specified in this Request for Proposal (“RFP”) No. 20-2008-5JOK – Health Diagnostic Testing Services.

My signature also certifies that by submitting a proposal in response to this RFP, the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining 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.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

LEGAL NAME OF OFFEROR (DO <u>NOT</u> USE TRADE NAME):
ADDRESS:
FEDERAL ID NO:
SIGNATURE:
NAME OF PERSON SIGNING (PRINT):
TITLE:
TELEPHONE:
FAX:
EMAIL ADDRESS:
DATE:

ATTACHMENT B BUSINESS CATEGORY CLASSIFICATION FORM

Company Legal Name: _____

This form completed by: Signature: _____ Title: _____

Date: _____

PLEASE SPECIFY YOUR **BUSINESS CATEGORY** BY CHECKING THE APPROPRIATE BOX(ES) BELOW.

(Check all that apply.)

- SMALL BUSINESS
- WOMEN-OWNED BUSINESS
- MINORITY-OWNED BUSINESS
- SERVICE-DISABLED VETERAN
- EMPLOYMENT SERVICES ORGANIZATION
- NON-SWaM (Not Small, Women-owned or Minority-owned)

SUPPLIER REGISTRATION – The County of Henrico encourages all suppliers interested in doing business with the County to register with eVA, the Commonwealth of Virginia’s electronic procurement portal, <http://eva.virginia.gov>.

eVA Registered? Yes No

If certified by the Virginia Minority Business Enterprises (DMBE), provide DMBE certification number and expiration date.
 _____ NUMBER _____ DATE

DEFINITIONS

For the purpose of determining the appropriate business category, the following definitions apply:

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.
2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.
3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.
4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department of Aging and Rehabilitative Services.

ATTACHMENT C
Virginia State Corporation Commission (SCC)
Registration Information

The 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 Bidder 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/proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder's current contracts with Virginia and describes why those contracts 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.

Please check the following box if you have not checked 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 bids:

ATTACHMENT E
COUNTY OF HENRICO
INSURANCE SPECIFICATIONS

The following insurance coverages and limits are required in order to provide goods, services, construction, professional and non-professional services to Henrico County general government agencies and Henrico County Public Schools. These requirements are specific to this procurement and may or may not be the same for future requests.

Please be sure and review the Additional Requirements Section

The Successful Bidder/Offeror shall carry Public Liability Insurance in the amount specified below, including contractual liability assumed by the Successful Bidder/Offeror, and shall deliver a Certificate of Insurance from carriers licensed to do business in the Commonwealth of Virginia and that is representative of the insurance policies. The Certificate shall show that the policy has been endorsed to add the County of Henrico and Henrico County Public Schools named as an additional insured for the Commercial General Liability coverage. **The certificate must not show in the description of operations section that it is issued specific to any bid, job, or contract.** The coverage shall be provided by a carrier(s) rated not less than "A-" with a financial rating of at least VII by A.M. Best or a rating acceptable to the County. In addition, the Successful Bidder/Offeror shall agree to give the County a minimum of 30 days prior notice of any cancellation or material reduction in coverage.

Workers' Compensation

Statutory Virginia Limits

Employers' Liability Insurance - \$100,000 for each Accident by employee
\$100,000 for each Disease by employee
\$500,000 policy limit by Disease

Commercial General Liability

\$1,000,000 each occurrence including contractual liability for specified agreement
\$2,000,000 General Aggregate (other than Products/Completed Operations)
\$2,000,000 General Liability-Products/Completed Operations
\$1,000,000 Personal and Advertising injury
\$ 100,000 Fire Damage Legal Liability

Business Automobile Liability – including owned, non-owned and hired car coverage

Combined Single Limit - \$1,000,000 each accident

Umbrella Liability

\$2,000,000 Per Occurrence and in the aggregate

Additional Requirements

In addition to the requirements above, the Successful Bidder/Offeror shall thoroughly review the scope of work that is included and if any of the following are included in the services that will be provided, the following additional insurance will be required, if required:

- Professional Liability - \$2,000,000 Per Occurrence (or limit in accordance with Statute for Medical Professional)**
Required if the Scope includes providing advice or consultation including but not limited to; lawyers, bankers, physicians, programming, design (including construction design), architects & engineers and others who require extensive education and/or licensing to perform their duties.
- Cyber Liability - \$2,000,000 Per Occurrence**
Required if the Scope includes the collection and electronic transmittal of Personal Health Insurance (PHI), or any other demographic data on individuals including but not limited to Name, Address, Social Security Numbers or any other sort of personally identifying information.
- Abuse and Molestation Coverage - \$1,000,000 Per Occurrence**
Required if the scope of work includes the offering of professional or non-professional services to any child or student where one on one contact or consultation is to be provided.
- Pollution Liability - \$1,000,000 Per Occurrence**
Required if the scope of work involves the use (other than in a motor vehicle) or removal of a substance or energy introduced into the environment that potentially has an undesired effect or affects the usefulness of a resource. These include, but are not limited to Asbestos, PCB's, Lead, Mold, and Fuels.
- Explosion, Collapse & Underground Coverage (XCU)**
Required of a Contractor in limits equal to the General Liability Limit when the Scope includes any operations involving Blasting, any work underground level including but not limited to wires, conduit, pipes, mains, sewers, tanks, tunnels, or any excavation, drilling, or similar work.
- Builders Risk Coverage**
Required if the scope of work includes the ground up construction of a structure. Limit of insurance shall be 100% of the completed value of the structure. For projects for the renovation of an existing structure, The County shall insure the Builder's Risk with the Contractor being responsible for the first \$10,000 of any claim.
- Other as Specified Below**

Medical Malpractice Liability in accordance with Statute for Medical Professionals in the Commonwealth of Virginia
For the protection of the patient in the event of bodily or personal injury because of an error or omission on the part of the provider.

NOTE 1: The commercial general liability insurance shall include contractual liability. The contract documents include an indemnification provision(s). The County makes no representation or warranty as to how the Bidder/Offeror's insurance coverage responds or does not respond. Insurance coverages that are unresponsive to the indemnification provision(s) do not limit the Bidder/Offeror's responsibilities outlined in the contract documents.

NOTE 2: The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. This insurance shall apply as primary insurance and non-contributory with respect to any other insurance or self-insurance programs afforded the County of Henrico and Henrico County Public Schools. This policy shall be endorsed to be primary with respect to the additional insured.

NOTE 3: Title 65.2 of the Code of Virginia requires every employer who regularly employs three or more full-time or part-time employees to purchase and maintain workers' compensation insurance. If you do not purchase a workers' compensation policy, a signed statement is required documenting that you are in compliance with Title 65.2 of the Code of Virginia.

NOTE 4: The Certificate Holder Box shall read as follows:
County of Henrico
Risk Management
PO Box 90775
Henrico, VA 23273

ATTACHMENT F
VIRGINIA GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** The Addendum, Cooperative Contract, and every related purchase order by a Purchasing Agency (all of the foregoing being referred to collectively and individually in this Addendum as the “**contract**”) are subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under “Vendors Manual” on the vendors tab.
- B. **APPLICABLE LAWS AND COURTS:** The contract shall be governed solely and in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

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

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

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 2. The Contractor will include the provisions of 1 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** The Contractor certifies that its proposal underlying the contract was made without collusion or fraud and that it did not offer or receive any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with such bid or proposal, and it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** The Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** Contractor certifies that it is 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 the contract, nor is it an agent of any person or entity that is currently so debarred.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

- G. **ANTITRUST:** By acceptance of the Purchasing Agency's payment for a purchase order under the contract, the Contractor conveys, sells, assigns, and transfers to the Purchasing Agency 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 Purchasing Agency under that purchase order.
- H. **PAYMENT:**
 1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered, and accepted shall be billed to the Purchasing Agency and submitted by the Contractor directly to the payment address shown on the purchase order. All invoices shall show the state contract number and/or purchase order number, social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations). Any payment

or other obligation for orders or purchases shall be solely the responsibility of the Purchasing Agency that placed the order and shall not be an obligation of the Department of General Services.

- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under the contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, which shall be the same regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth 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 an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. For purchase orders issued by any Purchasing Agency, the Contractor is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Purchasing Agency for the proportionate share of the payment received for work performed by the subcontractor(s) under the purchase order; or
 - (2) To notify the Purchasing Agency 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 Purchasing Agency, 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 Commonwealth or Purchasing Agency.

3 The Commonwealth of Virginia encourages Contractors and subcontractors to accept electronic and credit card payments.

I. **DRUG-FREE WORKPLACE:** During the performance of the 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 purchase order issued by a Purchasing Agency to the 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.

J. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet procurement solution by completing the free eVA Vendor Registration. All contractors must register in eVA and pay the Vendor Transaction Fees specified below.

Vendor transaction fees are determined by the date the original purchase order is issued and are as follows:

- a. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
 - (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

For order issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- K. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Purchasing Agency shall be bound under the contract only to the extent of the funds legally available or which may hereafter become legally available for the purpose of the contract.
- L. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** If the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor 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 of the *Code of Virginia* or as otherwise required by law. If the Contractor is described above, it 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. The Purchasing Agency may void any purchase order if the Contractor is described above and fails to remain in compliance with the provisions of this section.
- M. **UNAUTHORIZED TERMS:** Any provision of the contract that purports to do the following shall be of no effect and shall not be deemed a part of the contract even if specifically agreed to by the Purchasing Agency: (1) requiring the Commonwealth or Purchasing Agency to indemnify or hold the Contractor, its subcontractors, suppliers, or any of their officers, agents, or employees harmless; (2) imposing interest charges contrary to that specified by the Code of Virginia, § 2.2-4347 through 2.2-4354; binding the Commonwealth or Purchasing Agency to any arbitration process; (3) obligating the Commonwealth or Purchasing Agency to pay costs of collection or attorney's fees; (4) granting the Contractor a security interest in property of the Commonwealth or Purchasing Agency; (5) prohibiting the Commonwealth or Purchasing Agency from disclosing prices; (6) prohibiting the Commonwealth or Purchasing Agency from complying with any law applicable to them; or (7) bestowing any right or incurring any obligation that is beyond the legal authority of the Purchasing Agency's representative to bestow or incur on behalf of the Commonwealth or Purchasing Agency.
- N. **PRECEDENCE OF TERMS; COOPERATIVE SPECIAL TERMS AND CONDITIONS:** If there is any inconsistency within this Addendum, such inconsistency shall be resolved in the following order of precedence: (1) Pages 1 and 2 of this Addendum; (2) Virginia General Terms and Conditions "A" through "N"; (3) the attached Cooperative Special Terms and Conditions; and (4) Virginia General Terms and Conditions "O" through "W."
- O. **QUALIFICATIONS OF CONTRACTOR:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services/furnish the goods, and the Contractor shall furnish to the Commonwealth all such information and data for this purpose as may be requested.
- P. **TESTING AND INSPECTION:** The Commonwealth 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 Commonwealth.

R. **CHANGES TO THE PURCHASE ORDER:** Changes can be made in connection with a purchase order from a Purchasing Agency in any of the following ways:

1. The parties (Purchasing Agency and Contractor) may agree in writing to modify the scope of the purchase order. An increase or decrease in the price of the purchase order resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the purchase order.
2. The Purchasing Agency may order changes within the general scope of the purchase order at any time by written notice to the Contractor. Changes within the scope of the purchase order 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 Purchasing Agency shall compensate the Contractor for any additional costs incurred as the result of such order and shall give the Purchasing Agency 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 Agency'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 Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency 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 Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. 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 provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the Purchasing Agency 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 Purchasing Agency, 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 Commonwealth may have.

T. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against the contract to any Purchasing Agency shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

U. **TRANSPORTATION AND PACKAGING:** Contractor certifies and warrants 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.

V. **INSURANCE:** Contractor certifies that it will have the following insurance coverage at the time the cooperative contract addendum is awarded for goods when installation is required, services, and construction. The Contractor further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. 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 Commonwealth 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.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured to the policy by an endorsement.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

W. **CURRENCY:** The Contractor shall state prices in US dollars.

ATTACHMENT G

FEDERAL CONTRACT PROVISIONS

1. Debarment and Suspension Clause (2 C.F.R. PART 200 APPENDIX II(h))

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

2. Procurement of Recovered Materials Clause (2 C.F.R. § 200.322)

- (1) In the performance of this contract, the contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - (a) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (b) Meeting contract performance requirements; or
 - (c) At a reasonable price.
- (2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

3. Byrd Anti-Lobbying Clause (2 C.F.R. PART 200 APPENDIX II(l))

- (1) Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other

award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(2) Required Certification. If applicable, contractors must sign and submit to the agency the following certification (Attachment H).

(3) The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3 The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

4. Termination of Cause and Convenience (2 C.F.R. PART 200 APPENDIX II(B))

The County reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, 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 also be terminated by the contractor, 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.

5. Contract Work Hours and Safety Standards Act (29 C.F.R. 5.5(b))

Required in all contracts over \$100K utilizing mechanics or laborers (as defined in 40 U.S.C §§ 3701)

- (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) *Violation, liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) *Withholding for unpaid wages and liquidated damages.* The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

6. Clean Air Act and the Federal Water Pollution Control Act Clauses (2. C.F.R. PART 200 APPENDIX ii(G))

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency ("FEMA"), and the appropriate Environmental Protection Agency Regional Office.

- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- (4) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (5) The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.
- (6) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

7. Legal/Contractual/Administrative Remedies for Breach (2 C.F.R. Part 200, APPENDIX II(A))

DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the 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 any other remedies which the County may have.

8. Equal Employment Opportunity Clause (2 C.F.R. PAR 200 APPENDIX II(C))

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, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

9. Davis-Bacon Act Clause (2C.F.R. PART 200 APPENDIX II(D))

Required for certain construction contracts over \$2K

- (1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- (2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

10. Copeland Anti-Kickback Act (40 U.S.C. 3145)

Required in all construction contracts over \$2K (does not apply to PA grants)

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

11. Rights to Inventions Made Under a Contract or Agreement Clause (2 C.F.R. PART 200 APPENDIX II(F))

The contractor will comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA.

12. Access to Records

The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

13. DHS Seal, Logo, and Flags

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

14. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

15. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

16. Program Fraud and False or Fraudulent Statements or Related Acts

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

ATTACHMENT H

ANTI-LOBBYING CERTIFICATION

Byrd Anti-Lobbying Clause (2 C.F.R. PART 200 APPENDIX II(I))

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, contractors must sign and submit to the agency the following certification.

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

*Printed Name of Offeror
(if different than Representative)*