

**VIRGINIA PENINSULA REGIONAL JAIL**

**WILLIAMSBURG, VIRGINIA**

**757-820-3915**

**DATE: January 28, 2025**



**Request for Proposal VPRJ 2025-002**

**PERIMETER SECURITY FENCING & INSTALLATION**

Receipt Location: Virginia Peninsula Regional Jail  
9320 Merrimac Trail  
Williamsburg, Virginia 23185

**Pre-Proposal Conference – Mandatory**

**Date: February 20, 2025**

**Time: 10:00:00am, EST**

**Location: Virginia Peninsula Regional Jail**

**Question Deadline Submission Due Date:**

**March 6, 2025**

**Time: 1:00:00pm, EST**

**Answers to Question Due Date:**

**March 13, 2025**

**DUE DATE: March 27, 2025**

**Time 4:00:00 pm, EST**

**All questions pertaining to this RFP are to be submitted in writing to the email address below.**

Major Robert L. Nester  
Director of Support Services  
Virginia Peninsula Regional Jail  
9320 Merrimac Trail  
Williamsburg, Virginia 23185  
Office: 757-820-3903 Fax: 757-887-1849  
Email: [rnester@vprj.org](mailto:rnester@vprj.org)

**TABLE OF CONTENTS FOR  
RFP VPRJ 2025-002**

**Perimeter Security Fencing for Virginia Peninsula Regional Jail**

	<u><b>PAGE</b></u>
I. RFP INFORMATION	2
II. IMPORTANT DATES	3
III. STATEMENT OF NEEDS-PROPOSAL CONTENTS	4
IV. INSTRUCTIONS TO OFFERORS	9
V. GENERAL TERMS AND CONDITIONS	19

**VIRGINIA PENINSULA REGIONAL JAIL**

9320 Merrimac Trail  
Williamsburg, Virginia 23185  
757-820-3915

**I. RFP INFORMATION**

**REQUEST FOR PROPOSAL**

**SEALED**

**Issue Date: January 28, 2025**

**RFP VPRJ 2025-002**

**Title:** **PERIMETER SECURITY FENCE INSTALLATION:**  
The Virginia Peninsula Regional Jail (VPRJ) solicits interested Offerors to submit proposals (RFP) to provide perimeter security fence installation for Virginia Peninsula Regional Jail.

**Issuing:** Virginia Peninsula Regional Jail  
Attention: Major Robert Nester 9320 Merrimac Trail  
Williamsburg, Virginia 23185

**Receipt of Proposals:** Sealed proposals will be received until **03/27/2025, 4:00:00 pm, EST**, for Furnishing the goods/services described herein.  
Please submit four (4) copies marked  
**RFP VPRJ 2025-002 PERIMETER SECURITY FENCE INSTALLATION**  
**for Virginia Peninsula Regional Jail Facility**

If proposals are mailed or hand carried, send directly to issuing above. Proposals will **not** be accepted via Fax.

**Information:** All inquiries should be directed to Major Robert Nester at 757-820-3903 or email [rnester@vprj.org](mailto:rnester@vprj.org).

**II. IMPORTANT DATES**

RFP Issued.....	01/28/2025
Mandatory Pre-Proposal Conference at VPRJ .....	02/20/2025
Last Day to submit written questions.....	03/06/2025
VPRJ responds to written questions through RFP Addendum to be sent to all prospective proposers.....	03/13/2025
Deadline to receive SEALED proposals.....	03/27/2025

### **III. STATEMENT OF NEEDS-PROPOSAL CONTENTS**

**A. Purpose.** The purpose of this Request for Proposals (RFP) is to solicit proposals to purchase and install perimeter security fencing, specified herein, at the Virginia Peninsula Regional Jail (VPRJ), located at 9320 Merrimac Trail, Williamsburg, Virginia 23185.

**B. Background.** VPRJ is operated by the Virginia Peninsula Regional Jail Board Authority pursuant to the Code of Virginia section 53.1-95.2 and is operated pursuant to the Code of Virginia section 53.1-95.17 and all other applicable laws and statutes. VPRJ services the counties of James City and York and the cities of Williamsburg and Poquoson in the Commonwealth of Virginia.

VPRJ was constructed in 1997, is approximately 166,000 square feet, and has a rated capacity of 290 inmates. All inmates are housed on the ground floor of the building, while visitation booths and additional offices are on the second floor. The facility has three (3) floors in total, with the third floor being the communications room. VPRJ is both a direct and indirect supervision facility.

**C. Definitions.** Unless the context clearly indicates that another meaning is intended, the following terms, when used in this solicitation, have the meaning ascribed to them in this section:

1. **Accreditation and Standards Office.** “Accreditation and Standards Office” means the office within the Virginia Peninsula Regional Jail responsible for accreditation and training.
2. **Contract.** “Contract” means the Goods and Services Contract, together with all Contract Documents referred to therein, awarded to the Contractor as a result of this solicitation.
3. **Contractor.** “Contractor” means the Offeror to whom VPRJ awards the Contract
4. **Inmates.** “Inmates” means all males and females residing at VPRJ or admitted or committed to the care and custody of VPRJ for any purpose. The term shall include prisoners, persons serving a state, county, or federal sentence, and person admitted to VPRJ awaiting trial in any jurisdiction.
5. **Jail Administrator.** “Jail Administrator” means the Superintendent of VPRJ.
6. **Offeror.** “Offeror” means any firm that may choose to submit a proposal in response to this solicitation.
7. **The Jail.** “The Jail” means Virginia Peninsula Regional Jail, located at 9320 Merrimac Trail, Williamsburg, Virginia 23185
8. **VPRJ.** “VPRJ” means Virginia Peninsula Regional Jail, acting through its duly authorized representatives and serving the jurisdictions of the cities of Poquoson and Williamsburg and the counties of James City and York.

**D. Pre-Proposal Conference.** There will be a mandatory pre-proposal conference on February 20, 2025, at 10:00 am Est, at Virginia Peninsula Regional Jail located at 9320 Merrimac Trail, Williamsburg, Virginia 23185.

**E. Requirements and Deliverables**

1. The requirements of this Section shall conform to the general provisions of the Contract, including General and Supplementary Conditions, Conditions of the Contract, and Contract Drawings.

2. Material shall be stored and handled by Manufacturer's instructions.
3. Installation of Silt Fence as specified by the Virginia Department of Environmental Quality (C-PCM-04)
4. A laydown yard will be designated by the POC.
5. All deliveries will be accompanied by the winning bidder.

#### **F. Scope of Work**

1. Tree Service Work:
  - a. Trees within ten (10) feet of the proposed work area are to be removed, haul away and/or chipped and blown outside the proposed work area.
  - b. Stumps are to be removed.
  - c. Trees from the east of the proposed area across the rear of the parking lot will be removed (including stumps) trimmed and/or pruned as designated by the POC.
  - d. Rough grading prior to fence installation is to be complete.
  - e. Final grading, seeding and straw to be completed at the conclusion of fence installation.
2. Fencing Removal & Installation:
  - a. Remove existing posts, poles, chain-link fence, and gates and dispose, off-site.
  - b. Install 12' high x 6 gauge galvanized with openings of 2½" x 2½" twisted (barb) selvage chain-link fence on the perimeter of the facility.
  - c. Install 10' high x 6 gauge galvanized with openings of 2½" x 2½" twisted (barb) selvage chain-link fence between the housing units.
  - d. All vertical poles to be schedule 40 x 3" galvanized and installed in the earth with 3000 psi concrete a minimum of 36". Poles to be 8' c/c.
  - e. Structure to be reinforced with 1 5/8" galvanized rails at top, center, and bottom.
  - f. Chain-link to be attached to structure with heavy duty twist ties.
  - g. Galvanized angle's to be installed at top of poles to take barbed wire and one row of razor wire.
  - h. Razor wire to be 30" double spiral concertina and barbed wire attached to angled cap with

stainless steel wire.

3. Walk through gates:

- a. Six (6) gates with heavy duty galvanized hinges to be installed designated by COR
- b. Walk through gates openings must measure 7' x 4' made of schedule 40 x 2" galvanized.
- c. Locations of the swing gates shall be determined by the COR and annotated on the copies of the contract drawings used by the Contractor and the COR.
- d. The contractor shall provide, furnish, and install, and align all necessary and appropriate commercial gate assembly components:
- e. Heavy duty, commercial grade, adjustable hinges, gate latches that are capable of being locked with a pad lock.
- f. The Contractor shall install gate plumb and level in a closed position, according to the manufacturer's written instructions and allow for full opening without interference.
- g. Direction of gate swing to be coordinated with and approved by the COR.
- h. Adjust hardware for smooth operation and lubricate where necessary.

4. High Security Cantilever GATE CONSTRUCTION DETAILS:

- a. Top Track: The frame(s) and track(s) are to be fabricated from aluminum extrusions (6061-T6). Single track applications provide an upper track that weighs 5.15 / foot. Double track applications provide an upper track that weighs 11.916 / ft. The primary members shall be "P" shaped in a cross section with no less than 2".
- b. A single extrusion track member is to be located on each side of the overall box gate frame. The track member is a single extrusion combined with a 2" square structural member. No keying required.
- c. The single extrusion track and adjoining 2"x2" square structural member are joined with its corresponding track extrusion by means of perpendicular 2"x2" square members at each vertical upright. 1"x1" square diagonal supports will be placed in between the perpendicular supports as shown
- d. When the gate frame is manufactured in two horizontal pieces or sections, they shall be spliced in the field (the gate frame shall be fabricated in one or multiple sections depending on size requirements or project constraints).
- e. End and Intermediate Vertical Uprights: The vertical uprights shall be a minimum of 2" x 2" x 1.12#/ foot (6063-T6) aluminum extrusions.
- f. Interior vertical members shall alternate between 2"x2" and 1"x2" running parallel to the face of the gate.

- g. Diagonal Bracing. Diagonal "X" bracing of 3/16" or 1/4" diameter stainless or galvanized steel cable shall be installed throughout the entire gate frame.
- h. Bottom Track: The bottom track shall be a minimum of 2" x 2" x 1.12#/ foot (6063-T6) aluminum extrusions. For openings greater than 25', the bottom track shall be a minimum of 2" x 5" x 3.12# / foot.
- i. The gate shall be constructed in "box" form with the width between the frames measuring 24" from outside to outside. Between these frames there shall be a continuous series of 1"x1" diagonal and horizontal bracing with the diagonals welded at approximately 45 degrees to the frames.
- j. Chain Link: The chain link fabric shall be identical in gauge, mesh, coating, and salvage as that used on the balance of the fence project. If the gate stands alone then the fabric shall be specified.
- k. All welds on the gate frame shall conform to Welding Procedure Specification and Procedure Qualification Record to ensure conformance to the AWS D1.2 Structural Welding Code. All individual welders shall be certified to AWS D1.2 welding code. See 1.02 D.
- l. Gate Mounting: The gate frame is to be supported from the track by two (2) swivel type, self-aligning, 4-wheeled, sealed lubricant, ball-bearing truck assemblies.
- m. The bottom of each support post shall have a bracket equipped with a pair of 3" (76mm) UHMW guide wheels. Wheel cover protectors shall be included with bottom guides to comply with UL325.
- n. Gap protectors shall be provided and installed, compliant with ASTM F 2200-05.

**G . Subcontracting.**

This should identify any of the required services that the Offeror intends to subcontract, if any, providing the following information for each such service:

- 1. Reasons for subcontracting.
- 2. Proposed subcontractor responsibilities; and,
- 3. Identity of proposed subcontractors including location, relevant personnel and experience, previous use as a subcontractor, and any other relevant information.



**H. Evaluation Criteria.** The Evaluation Committee will use the following evaluation criteria in ranking and selecting Offerors for negotiation pursuant to this Request for Proposals

1. **Capital Cost – 20 Points.** The score will be determined by the proposals Cost of Capital.
2. **Scheduled Maintenance Cost – 15 Points.** Score will be determined on proposals' maintenance costs and anticipated projections for on-going maintenance.
3. **Delivery Date – 10 Points.** The score will be determined by reasonable dates in the timeline for the project.
4. **Extended Warranty – 20 Points.** The score will be determined by proposals Extended Warranty Cost and inclusions.
5. **Equipment Reliability – 25 Points.** Score will be determined based equipment references. Evaluations will not be limited to references provided in the proposal.
6. **Service References/Experience – 10 Points** Score will be determined based service references. Evaluations will not be limited to references provided in the proposal.
7. **References:** Each proposal shall include equipment and service organization references. A minimum of three (3) equipment references and three (3) service organization references shall be provided. Equipment and service organization references will be scored (0 to 100 based upon the quantity of the references, applicability of the references (similarity of the equipment operated by the reference to the proposed equipment), and the quality of the reference (satisfaction level of the individual contact). In addition, the Owner may contact up to two (2) other Institutional Peers for their experiences with similar equipment.

#### **IV. INSTRUCTIONS FOR OFFERORS**

- A. Proposals must be submitted in a sealed package marked "RFP VPRJ 2025-002, Perimeter Security Fence" **and** sent to the previously indicated email address with the RFP number and name in the subject line. Proposals should address all items listed in the evaluation criteria.
- B. Offerors shall be responsible for the **actual delivery** of **proposals** during business hours to 9320 Merrimac Trail Williamsburg, VA 23185, the physical address, and the email address previously indicated.
- C. Four complete "hard copy" sets of all required documents shall be submitted.
- D. The Superintendent reserves the right to reject all proposals, to cancel this request for proposals, and to waive "informalities."
- E. The Superintendent will **not** reimburse offerors for any costs associated with the preparation and submittal of any proposal or for any travel and per diem costs that are incurred.
- F. The Superintendent shall make the final decision as to the merits and qualifications submitted by offerors. The decision of the Superintendent shall be final, and only those offerors considered to be qualified shall be considered for negotiations.
- G. The evaluation team will short-list the offerors whose proposals best demonstrate that they are able to perform the required services. Interviews will be conducted with the top two responsible offerors. The evaluation team will then select the offeror who has best demonstrated that it can meet the needs of the Superintendent and seek to negotiate a contract with that offeror. If a contract cannot be negotiated, then negotiations will continue with the offeror ranked second. After all negotiations have been completed, and a contract has been negotiated, the evaluation team will recommend Award to the VPRJ Board of Directors. Pending the award decision of the Board of Directors, the selected offeror shall agree to enter a contract for the agreed-upon services.
- H. The VPRJ *General Terms, Conditions and Instructions to Bidders & Offerors* is included herein to provide general vendor requirements related to insurance, licensure, and state procurement law.
- I. All respondents must complete and return the enclosed required bid forms with their proposal

**SIGNATURE PAGE**  
*(to be completed and returned with your RFP response)*

**COMPANY NAME:** \_\_\_\_\_  
\_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TELEPHONE NUMBER:** (     ) \_\_\_\_\_ **FAX NUMBER:** (     ) \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

**PRINTED NAME AND TITLE OF PERSON AUTHORIZED TO SIGN FOR ENTITY:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURE:**

**By signing this form, bidder or offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in this RFP and the General Terms, Conditions, and Instructions to Offerors herein.**

**\*\*\*\*\* TO BE COMPLETED ONLY IF AN ADDENDUM IS ISSUED\*\*\*\*\***

**ADDENDUM #1** \_\_\_\_\_  
**Signature Certifying Receipt**

**ADDENDUM #2** \_\_\_\_\_  
**Signature Certifying Receipt**

***VENDOR ELIGIBILITY CERTIFICATION***

***(to be completed and returned with your RFP response)***

This is to certify that this person/firm/corporation has neither been barred from bidding on contracts by any agency of the Commonwealth of Virginia, nor is this person/firm/corporation a part of any firm/corporation that has been barred from bidding on contracts by any agency of the Commonwealth of Virginia.

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Name of Official

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Title

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Firm or Corporation

*Please return this page.*

It is the intention of the VPRJ to comply fully with relevant federal and state laws, orders, and regulations and to promote the interests of the Virginia Department of Small Business and Supplier Diversity and like agencies. The procurement practices of the VPRJ are non-discriminatory and promote equality of opportunity for all qualified businesses.

**PLEASE INDICATE THE FOLLOWING INFORMATION RELEVANT TO YOUR FIRM, IF ANY:**

**DESIGNATIONS:** (Please refer to the definitions provided by the Virginia Department of Small Business and Supplier Diversity.)

- **Micro Business**                       Yes               No
- **Small Business**                       Yes               No
- **Women-Owned Business**               Yes               No
- **Minority Business**                       Yes               No
- **Service-Disabled Veteran**               Yes               No

The above information is requested for statistical purposes only.

**CONTACT FOR ADMINISTRATION**

Name: \_\_\_\_\_

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

Office Phone Number: \_\_\_\_\_

*Please return this page.*

PROPOSAL REQUIREMENTS AND NON-COLLUSION STATEMENT

**Terms and Conditions:** ALL enclosed General and Special Terms and Conditions shall apply to this Request for Proposal. Offerors are reminded to read and comply with all requirements of this solicitation.

My signature certifies that the accompanying proposal is not the result of, or affected by, any unlawful act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under Title 18.2, Chapter 12, Article 1.1 of the Code of Virginia, 1950 as amended. Furthermore, I understand that fraud and unlawful collusion are crimes under the Virginia Governmental Frauds Act, the Virginia Government Bid Rigging Act, and Virginia Antitrust Act, and Federal Law, and can result in fines, prison sentences, and civil damage awards.

I hereby certify that I am authorized to sign, personally or as a Representative for the Firm:

Name of Firm or Individual: \_\_\_\_\_

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

\_\_\_\_\_

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

Name (type/print): \_\_\_\_\_

Title: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

Federal I.D.: \_\_\_\_\_

VA State Corporation Commission I.D.: \_\_\_\_\_

*Please return this page.*

**PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA**

THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL/BID. FAILURE TO INCLUDE THIS FORM MAY RESULT IN REJECTION OF YOUR PROPOSAL/BID.

Pursuant to Virginia Code §2.2-4311.2, an Offeror/Bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the code of Virginia shall include in its proposal/bid the identification number issued to it by the State Corporation Commission (“SCC”). Any Offeror/ Bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the code of Virginia or as otherwise required by law shall include in its proposal/bid a statement describing why the Offeror/ Bidder is not required to be so authorized. Any Offeror/ Bidder described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the VPRJ Superintendent as applicable.

If this quote for goods or services is accepted by the VPRJ, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information.

A. \_\_\_\_\_ Offeror/ Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such vendor’s Identification Number issued to it by the SCC is \_\_\_\_\_.

B. \_\_\_\_\_ Offeror/ Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such vendor’s Identification Number issued to it by the SCC is \_\_\_\_\_.

C. \_\_\_\_\_ Offeror/ Bidder does not have an Identification Number issued to it by the SCC and such vendor is not required to be authorized to transact business in Virginia by the SCC for the following reasons(s):

Please attach additional sheets if you need to explain why such Offeror/ Bidder is not required to be authorized to transact business in Virginia.

Legal Name of Company (as listed on W-9) \_\_\_\_\_

Legal Name of Offeror/ Bidder \_\_\_\_\_

Date \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Print or Type Name and Title \_\_\_\_\_

*Please return this page.*

## **Contract Terms**

### **(FOR OFFEROR INFORMATIONAL PURPOSES)**

#### **1. TERMINATION OF AGREEMENT**

The AUTHORITY reserves the right to terminate or suspend this Agreement at any time, with or without cause, by giving thirty (30) days' notice to the firm in writing. In the event of termination, the firm providing goods or services pursuant to this procurement ("Firm") shall not be paid for any goods or service rendered or expense incurred after receipt of such notice except such fees and expenses incurred prior to the effective date of termination that are necessary for curtailment of the Firm's work under this contract.

#### **2. OWNERSHIP OF WORK PRODUCT**

Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this agreement, whether or not completed, shall be vested in the AUTHORITY. Any reuse of these materials by the AUTHORITY for projects or purposes other than those which fall within the scope of this agreement or the project to which it relates, without written concurrence by the Firm will be at the sole risk of the AUTHORITY.

#### **3. NONDISCRIMINATION**

The Firm shall, in all hiring or employment made possible or resulting from this agreement, take affirmative action to ensure that there shall be no unlawful discrimination against any employee or applicant for employment because of sex, race, age, color, creed, religion, national origin, marital status or disability, unless based upon a bona fide occupational qualification, and this requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

No person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, religion, national origin, age, or disability.

#### **4. HOLD HARMLESS/INDEMNIFICATION**

The Firm agrees to indemnify, defend, and hold harmless the AUTHORITY and its officers, agents, and employees, from any and all claims, demands, actions or causes of action against the AUTHORITY or its officers, agents, or employees, alleging damage or injury arising out of the subject matter of this Agreement; provided, however, that such provision shall not apply to the extent that the damage or injury is attributable to the sole negligence of the AUTHORITY or its officers, agents, or employees.

#### **5. COMPLIANCE WITH LAWS**

Any purchase order or contract resulting from this solicitation shall be governed in all respects whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia. The Firm providing goods or services to the AUTHORITY under



this contract assures the AUTHORITY that it is:

- a. Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable.
- b. Not employing undocumented immigrant workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986.
- c. Complying with federal, state, and local laws and regulations applicable to the performance of the services procured; and
- d. Submitting the bid or proposal in full compliance with the Virginia Conflict of Interest Act.

#### 6. NO WAIVER

Any failure of the AUTHORITY to demand rigid adherence to one or more of this Agreement's provisions, on one or more occasions, shall not be construed as a waiver nor deprive the AUTHORITY of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

#### 7. CHOICE OF LAW

To ensure uniformity of the enforcement of this Contract, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to her principles of conflicts of law.

#### 8. FORUM SELECTION

The parties hereby submit to the personal jurisdiction and venue of any state or federal court located within the Commonwealth of Virginia for resolution of all claims, causes of action or disputes arising out of or related to this Contract. The parties further agree that any claims, causes of action or disputes arising out of, relating to, or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Pulaski County, Virginia or in the U.S. District Court, Western District of Virginia.

#### 9. SEVERABILITY

If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

#### 10. NOTICES

All requests, notices, and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or (b) transmitted by hand delivery, telegram, telex, telecopier or facsimile transmission, to the

party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the AUTHORITY shall be sent to:

Maj. Robert Nester, Director of Support Services  
Virginia Peninsula Regional Jail  
9320 Merrimac Trail  
Williamsburg, Virginia 23185  
Office: 757-820-3903 Fax: 757-887-1849  
Email: rnester@vprj.org

## 11. CONTRACTUAL CLAIMS PROCEDURE

- A. Contractual claims by the Firm, whether for money or other relief, except for disputes exempted by law from the procedure set forth herein, shall be submitted to the AUTHORITY in writing no later than sixty (60) days after final payment. Any written notice of Firm's intention to file such a claim need not detail the amount of the claim but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Firm files such written notice, Firm shall proceed with the work as directed.
- B. The Board of the Authority, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within ninety (90) days of final payment. Each such decision rendered shall be forwarded to the Firm by written notice.
- C. If the Firm disagrees with the decision of the Board of the Authority concerning any pending claim, the Firm shall promptly notify the AUTHORITY by written notice that the Firm is proceeding with the work under protest. Any claim not resolved whether by failure of the Firm to accept the decision of the Board of the Authority or under a written notice of Firm's intention to file a claim or a detailed claim not acted upon by the governing body of the AUTHORITY, shall be specifically exempt by the Firm from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- D. The decision on contractual claims by the Board of the Authority shall be final and conclusive unless the Firm appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court, however, no legal action may be commenced by Firm concerning any such contractual claim prior to rendering of a decision by the governing body of the Authority, unless no decision has been rendered within ninety (90) days of final payment or submission of the claim, in which case Firm's claim shall be deemed denied.

## 12. FAITH BASED ORGANIZATIONS

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, in all invitations to bid, requests for proposals, contracts, and purchase orders, the AUTHORITY does not discriminate against faith-based organizations.

"Faith-based Organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

If Firm is a faith-based organization, then Firm shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as an applicant for or recipient of goods, services, or disbursements provided pursuant to contract between the AUTHORITY and a faith-based organization, you are

hereby notified as follows:

*Neither the AUTHORITY's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the AUTHORITY Administrator.*

### 13. EXTENT OF AGREEMENT/MODIFICATION

This Agreement, together with all Attachments and addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties hereto.

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## **V. GENERAL TERMS, CONDITIONS, AND INSTRUCTIONS TO BIDDERS AND OFFERORS**

### **Application:**

These General Terms and Conditions and Instructions to Bidders and Offerors (“Terms and Conditions”) apply to all Invitations for Bids (IFBs) and Requests for Proposals (RFPs) and to all contracts, agreements, purchase order, memoranda of understanding, and any change order, modification or addenda thereto (“Contract”), entered by and between the VPRJ and an individual or entity for goods and/or services. These Terms and Conditions do not apply to Contracts by and between VPRJ and any public body or public agency except to the extent that the parties agree to incorporate these Terms and Conditions, in whole or in part, into said Contract.

Where professional services are procured, as defined in Virginia Code Section 2.2-4301, VPRJ’s General Terms and Conditions for Professional Services shall also apply. In the event of conflict between these Terms and Conditions and those contained in the General Terms and Conditions for Professional Services, the more stringent requirement shall apply, unless otherwise required by law.

### **Definitions:**

For purposes of these Terms and Conditions, the following terms are defined generally as follows:

“**Bidder**” shall mean any individual or entity responding to an Invitation for Bids issued by the VPRJ.

“**Offeror**” shall mean any individual or entity responding to a Request for Proposals issued by the VPRJ.

“**Contract**” shall mean any contract, agreement, purchase order, or memorandum of understanding, and any change order, modification, or addendum thereto.

“**Contractor**” shall mean any individual or entity that has entered into a Contract to provide goods or services to the Virginia Peninsula Regional Jail.

### **Tax Exemption:**

The Virginia Peninsula Regional Jail is exempt from and will not pay Federal Excise Tax, Transportation Tax or the Commonwealth of Virginia Sales and Use Tax. The VPRJ is also exempt from the local 911 tax. A signed certificate to document the VPRJ’s tax-exempt status is available upon request **by the Contractor** to the Finance office.

### **Ethics in Public Contracting (§2.2-4367 et seq., Code of Virginia):**

**The Contractor shall not offer or receive any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with this project. The A/E shall not confer on any public employee having official responsibility for this project 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.**

1. **Authorization to Conduct Business in the Commonwealth.** Any Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law.

A business that enters a Contract, including purchase orders, with the VPRJ shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the Contract. VPRJ may void any Contract with a business entity that fails to remain in compliance with the provisions of this paragraph.

2. **Contractor's License: Bidders and Offerors (as required) must be licensed as a Contractor in the Commonwealth of Virginia and/or shall possess any professional license or certification required by state law. Bidders and Offerors are directed to Subtitle II of Title 54.1, Code of Virginia as amended. Bidder or Offeror shall include a copy of its license or certification with the completed bid form.**
3. **Business License:** All businesses who wish to engage in business in James City County must possess a valid James County Business License or must document why they are exempt from licensure. Some businesses who have obtained business licenses from other county jurisdictions are exempt from James County licensure requirements; however, rules differ for building contractors and tradesmen who may be required to possess multiple business licenses. Businesses should contact the Commissioner of Revenue for specific guidance on this issue. This office may be reached at 757-253-6695.
4. **Insurance:** Any Contractor doing business with VPRJ shall maintain insurance to protect VPRJ from claims under the Worker's Compensation Act, and from any other claim for damages for personal injury, including death, and for damage to property which may arise from operation under a contract, whether such operations by the contractor or subcontractor, or anyone directly or indirectly employed by either, such insurance to conform to the amounts as prescribed by law. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia during the entire term of the contract.

Whenever work is to be performed on VPRJ-owned or -leased property or facilities, the contractor shall be required to have the insurance specified with an insurance company acceptable to the VPRJ and licensed to do business in the state of Virginia. All insurance must be obtained before any work is commenced and kept in effect until its completion.

Minimum insurance requirements for the Virginia Peninsula Regional Jail are as follows:

- A. Commercial General Liability: \$1,000,000 per occurrence /\$2,000,000 aggregate and is to include:
  - i. Premises/Operations' Liability,
  - ii. Products and Completed Operations Coverage, and
  - iii. Independent Contractor's Liability or Owner's and Contractor's Protective Liability.

***The Virginia Peninsula Regional Jail must be named and endorsed as an "additional insured" when a Contractor is required to obtain Commercial General Liability coverage.***
- B. Automotive Liability: \$1,000,000 combined single limit and only if motor vehicle is to be used in the contract.
- C. Worker's Compensation Liability: Virginia statutory requirements and benefits (if the contractor has three or more employees).

- D. Employer's Liability: \$100,000 (if employees are paid a wage or salary).
- E. In addition, various Professional Liability/Errors and Omissions insurance coverages are required when providing those services as follows:

Profession/Service	Occurrence Limit	Aggregate Limit
Accounting	\$1,000,000	\$3,000,000
Architecture	\$2,000,000	\$6,000,000
Asbestos Design, Inspection, or Abatement Contractors	\$1,000,000	\$3,000,000
Health Care Practitioner	\$1,650,000	\$3,000,000
Insurance/Risk Management	\$1,000,000	\$3,000,000
Landscape/Architecture	\$500,000	\$1,000,000
Legal	\$1,000,000	\$5,000,000
Professional Engineer	\$2,000,000	\$6,000,000
Surveying	\$100,000	\$300,000

The minimum amount of professional liability insurance required to be carried by the A/E shall be calculated as not less than an amount equal to 5% of the estimated cost of construction of all VPRJ-owned projects designed by the A/E which are currently under construction, but in no event shall the amount of professional liability insurance be less than \$100,000 per claim. As an alternative to the calculated amount indicated above, the Architect and/or Engineer (A/E) may work with the VPRJ to procure a 'Project Insurance' package for that project which is satisfactory to the VPRJ; or the A/E may provide a Certificate of Insurance indicating coverage in the amount of \$2,000,000 per claim and \$6,000,000 in the aggregate.

- 5. **Non Discrimination:** The Virginia Peninsula Regional Jail does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4310 and 2.2-4343.1 or against a Bidder or Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

For Contracts, including purchase orders, over \$10,000, Contractor agree 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 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.
- b. The Contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts of over \$10,000
- c. The Contractor, shall in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that such contractor is an equal-opportunity employer. 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 provision.
- d. If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human

- Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.
- e. The Contractor shall include the provisions of paragraphs A – D above in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
6. **Compliance with Federal Immigration Law:** The Contractor does not and shall not during the performance of the Contract for goods and services in the Commonwealth, knowingly employs an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
7. **Drug-Free Workplace:** During the performance of Contracts, including purchase orders, in excess of \$10,000, Contractors shall agree 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 on the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract 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 conjunction with a specific contract awarded to a Contractor in accordance with this section, 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.
8. **Qualifications of Bidder/Offeror:** Each Bidder or Offeror shall be prepared to supply evidence of qualifications and capacity to perform work as proposed. Items which may be considered evidence are as follows:
- A. Current financial statement
  - B. List of current and past similar contracts
  - C. Explanation of methods to be used in fulfilling this contract
  - D. Statement of current workload and/or capacity

Additional particular items may be requested as needed by VPRJ. All qualifications shall be received within ten (10) days of request by VPRJ.

9. **Competency of Bidder/Offeror:**
- A. The Bidder or Offeror, if requested, shall present evidence of performance ability and possession of necessary facilities, pecuniary resources, and adequate insurance to comply with the terms of these specifications and contract documents. Such evidence shall be presented within a specified time and to the satisfaction of the VPRJ.
  - B. Bidders certify that their bid is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a bid for the same project; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.
  - C. Bidders or their authorized agents are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids. Failure to do so will be at the bidder's own risk.

- D. Bids and Contracts issued by the Virginia Peninsula Regional Jail shall bind Bidders to applicable conditions and requirements set forth in the bid boilerplate, unless otherwise specified in the bid documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.

**10. Completing Bid Forms:**

- A. Use only the bid form(s) supplied by the VPRJ.
- B. One original signed bid shall be submitted.
- C. All blanks on the bid form(s) shall be filled in completely in ink.
- D. Any interlineation, alteration, or erasure on the bid form shall be initialed by the signer of the bid.
- E. Each bid shall be signed by the person or persons legally authorized to bind the bidder to a Contract, using the legal name of the signer.
- F. A bid submitted by an agent shall have a current Power of Attorney attached certifying the agent's authority to bind the Bidder.
- G. Bidders shall supply all information and submittals required by the bid documents to constitute a proper and responsive bid. Any ambiguity in any bid as a result of omission, error, lack of clarity or noncompliance by the bidder with specifications, instructions, and/or all conditions of bidding shall be construed in the light most favorable to the VPRJ.
- H. When an error is made in extending total prices, the unit bid price will govern.
- I. Erasures in bids must be initialed by the Bidder. Carelessness in quoting prices or in preparation of bid otherwise will not relieve the Bidder.
- J. Bidders are cautioned to recheck their bids for possible error.

11. **Descriptive Literature:** Bidder may be required to submit with a bid complete pertinent descriptive literature and specifications fully describing the materials proposed to be furnished.

12. **Specifications Exceptions:** Exceptions to the specifications or general instructions must be in writing and submitted with the bid form. Exceptions to the specifications contained in bids are specifically discouraged. Bidders should attempt to submit a bid fully conforming to the specifications. Failure to clearly identify any exception may result in disqualification of the bid.

13. **Use of Brand Names:** The name of a certain brand, make, manufacturer, or definite specification is to set forth to convey to prospective bidders the general style, type, character, and quality of the article desired. Any article that the VPRJ in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose, shall be acceptable.

14. **Eligible Vendors:** Vendors responding to a request for supplies must be the manufacturer or authorized distributor of all products bid.

15. **Delivery Terms:** Bid prices must be net, based on delivery to the VPRJ. Prices shall include all applicable freight charges; extra charges will not be allowed.

Comments/Questions: Any information relative to interpretation of specifications and drawings shall be requested of the VPRJ, in writing, in ample time before the opening of bids. No inquiries, if received the VPRJ within five (5) business days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the VPRJ Procurement Agent, will be expressed in the form of an addendum to the specification which will be posted to the websites indicated in the RFP no later than three (3) business days before the date set for receipt of bids. Oral answers will not be authoritative. Comments concerning specifications or other provisions of the bid documents may be directed to Major Robert Nester, Director of Support Services, VPRJ, via email to [rnester@vprj.org](mailto:rnester@vprj.org).



16. **Bid/Proposal Delivery:** Bids/proposals may be mailed or delivered as directed in the Invitation for Bids or in the Request for Proposals. Please see the specific instructions given in each individual IFB or RFP.
17. **Bid/Proposal Preparation:** The bid/proposal and any other document required to be submitted with the bid shall be enclosed in a sealed, opaque envelope. **The envelope must clearly reference the project title and the project number on its face.**
18. **Bid/Proposal Receipt:** Bids/proposals shall be received before the due date and time stated in the Invitation for Bids or the Request for Proposals. The Bidder/Offeror shall assume full responsibility for taking whatever measures are necessary to ensure that the bid/proposal reaches the location indicated in the solicitation prior to the due date and time set forth in the solicitation. The VPRJ will not be responsible for any bid/proposal delayed in the postal service or any other delivery service nor any late bid/proposal or amendment thereto received after the due date and time set forth in the solicitation. Bids received after the due date and time set for receipt of bids will be returned to the bidder unopened.
19. **Opening of Bids:** Bids received on time will be opened publicly and read aloud at the time and location specified in the Invitation for Bids. The device or mechanism for establishing the opening time shall be established by the VPRJ.
20. **Acceptance or Rejection of Proposals:**
  - A. Requests for Proposals shall be awarded to the Offeror whose proposal most closely meets the evaluation criteria set forth in the Request for Proposals with price as one of the determining factors, but not the sole determining factor. The VPRJ reserves the right to reject the proposal of any Contractor who has failed to perform properly in any way or to complete on time contracts previously awarded, or a proposal from any Offeror whose investigation shows is unqualified to perform the Contract.
  - B. The VPRJ reserves the right to reject all proposals.
  - C. The VPRJ reserves the right to waive any irregularities to the extent permitted by law.
21. **Pricing:** Prices quoted in the Proposals shall be considered but shall not be the sole determining factor in selecting a provider for the required services.
22. **Notice of Consideration:** Successful offeror(s) will be notified if their proposal has received the highest score(s).
23. **Binding Bids/Proposals:** Bids/proposals are to be binding for sixty (60) calendar days following the opening date, unless extended by mutual consent of all parties or unless otherwise specified in the terms contained in the Invitation for Bids or Request for Proposals.
24. **Bid Bond:** Bidders shall be required to provide a Bid Bond in an amount equal to 5% of the bid amount.
25. **Withdrawal of Bids:**
  - A. A Bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic

error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. If a bid contains *both* clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. The Bidder shall give notice in writing to the Procurement Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid-opening procedure and shall submit original work papers with such notice.

B. A Bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:

- 1) Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the VPRJ Procurement Agent in writing.
- 2) Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the VPRJ Superintendent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor worksheets, and similar documents. If bid bonds were tendered with the bid, the VPRJ may exercise its right of collection.
- 3) No bid may be withdrawn under this section when the result would be the awarding of the Contract on another bid of the same Bidder or of another bidder in which the ownership of the withdrawing Bidder is more than five percent.

## 26. Contract Award:

**Bid (IFB)** -- Award will be made based on information submitted with the bid and based on what is determined to be in VPRJ's best interest, taking into consideration pricing and qualifications of bidders. A written award in the form of a purchase order, acceptance agreement, or formal contract shall result in a binding contract without further action by either party. If a contract or acceptance agreement is used, the same shall be executed by the successful Bidder within ten (10) working days of receipt of notice of award. The bid award shall be approved by the VPRJ's Board of Directors prior to the award of same.

**Proposal (RFP)** – A Selection Committee will review and evaluate all proposals submitted in response to a Request for Proposals. The Committee shall conduct a preliminary evaluation of all proposals based on the information provided with the proposal and the evaluation criteria listed herein. The Committee shall make a recommendation to the VPRJ Board of Directors, and the Board of Directors shall make the final decision. VPRJ shall be the sole judge as to the merits of qualifications submitted by Offerors. The decision of the VPRJ shall be final. In the event VPRJ determines, in writing and in its sole discretion, that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

The following documents, which are included in the Request for Proposals, shall, unless otherwise provided, be incorporated by reference in the resulting Contract and become a part of said Contract:

- a. Virginia Peninsula Regional Jail Solicitation Form/Acceptance Agreement (Cover Sheet),

- b. General Terms, Conditions and Instructions to Bidders and Offerors,
  - c. General Terms and Conditions for Professional Services, if applicable,
  - d. Special Provisions and Specifications,
  - e. Pricing Schedule,
  - f. Any addenda/amendments/Memoranda of Negotiations,
  - g. Other documents which may be incorporated by reference, if applicable.
27. **Notification of Award:** Successful Bidders/Offerors will be notified immediately upon acceptance of their bid/proposal.
28. **Guarantees & Warranties:** All guarantees and warranties required shall be furnished by the successful Bidder/Offeror and shall be delivered to the VPRJ Finance Department before final payment on the Contract is made. Unless otherwise stated, the manufacturer's standard warranty applies.
29. **Permits:** Any and all required permits shall be obtained by the successful Bidder/Offeror.
30. **Performance Bond and Payment Bond:** The successful bidder/ offeror shall be required to provide to the VPRJ a Performance Bond and Payment Bond in an amount equal to the amount of the Contract.
31. **Termination for Convenience:** A Contract may be terminated in whole or in part by VPRJ in accordance with this clause whenever the VPRJ Superintendent shall determine that such a termination is in the best interest of VPRJ. Any such termination shall be affected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the Contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
32. **Termination of Contract for Cause**
- a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under the Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of the Contract, VPRJ shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the Contract shall, at the option of VPRJ, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
  - b. Notwithstanding the above, the Contractor shall not be relieved of liability to VPRJ for damages sustained by VPRJ by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the VPRJ from the Contractor is determined.
33. **Contract Alterations:** No alterations in the terms of a Contract shall be valid or binding upon the Virginia Peninsula Regional Jail unless made in writing and signed by the Procurement Agent or his or her authorized agent.
34. **Subletting of Contract or Assignment of Contract Funds:** It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of his or her contractual duties to any other person, firm, or corporation without the previous written consent of the Procurement Agent. If the Contractor desires to assign his or her right to payment of the Contract, Contractor shall notify the Procurement Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from his or her obligations or change the terms of the contract.

35. **Funding:** A Contract shall be deemed binding only to the extent of appropriations available to each Department or Office for the purchase of goods and services.
36. **Delivery/Service Failures:** Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the VPRJ Superintendent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the VPRJ Superintendent, shall constitute authority for the VPRJ Superintendent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse VPRJ, within a reasonable time specified by the VPRJ Superintendent, for any expense incurred in excess of contract prices. VPRJ shall be entitled to withhold such reimbursement from payments due the Contractor under the Contract. Such purchases shall be deducted from the Contract quantities if applicable. Should public necessity demand it, VPRJ reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the VPRJ Superintendent.
37. **Non-Liability:** The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy, or by any other circumstances which, in the Procurement Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Procurement Agent may, at his or her discretion, cancel the contract.
38. **Responsibility for Supplies Tendered:** Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the Contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after the date of notification, VPRJ may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.
39. **Replacement:** Materials or components that have been rejected by the VPRJ Superintendent, in accordance with the terms of a Contract, shall be replaced by the Contractor at no cost to VPRJ.

40. **General Guaranty:**

Contractor agrees to:

- a. Save the VPRJ, its agents, and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee, or owner.
- b. Protect the VPRJ against latent defective material or workmanship and to repair or replace any damage or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damage of any kind to the building or equipment, to his or her own work, or to the work of other contractors, for which his or her workers are responsible.
- d. Pay for all permits, licenses, and fees and give all notices and comply with all laws, ordinances, rules, and regulations of James City County.
- e. Protect the VPRJ from loss or damage to VPRJ-owned property while it is in the custody of the Contractor.

**41. Service Contract Guaranty:**

Contractor agrees to:

- a. Furnish services described in the solicitation and resultant Contract at the times and places and in the manner and subject to conditions therein set forth, provided that the VPRJ may reduce the said services at any time.
- b. Meet all industry and professional standards and enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- c. All work and services rendered in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods, and procedures of all government boards, bureaus, offices, and other agents.
- d. Allow services and products to be inspected or reviewed by an employee of VPRJ at any reasonable time and place selected by VPRJ.
- e. The Virginia Peninsula Regional Jail shall be under no obligation to compensate the Contractor for any services not rendered in strict conformity with the Contract.

**42. Indemnification:** The Contractor shall indemnify, keep and save harmless the VPRJ, its agents, officials, employees, and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost, and expenses which may otherwise accrue against the VPRJ in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and, the Contractor shall, at his or her own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgment shall be rendered against VPRJ in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend VPRJ as herein provided. **This indemnity shall be construed in accordance with Virginia law.**

**43. Virginia Freedom of Information Act:** All proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen or any interested person, firm, or corporation in accordance with the Virginia Freedom of Information Act, except as provided below:

- a. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the VPRJ decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the Contract. Any competitive negotiation Offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the VPRJ decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the Contract except as provided in paragraph "C" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- c. Trade secrets or proprietary information submitted by a Bidder, Offeror, or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the

Virginia Freedom of Information Act; however, the Bidder, Offeror, or Contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. Any Offeror shall not identify as trade secret or proprietary information their entire completed proposal.

- d. Nothing contained in this section shall be construed to require the VPRJ, when procuring by RFP to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the VPRJ.

**44. Applicable Law and Courts:** The Contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and exclusive jurisdiction for the resolution of any dispute arising out of this contract shall be in the Circuit Court of Williamsburg/James City County, Virginia.

**45. Payment of Subcontractors:** Any contract awarded in accordance with Section 2.2-4352 of the Code of Virginia shall include the following provisions:

Within seven days after receipt of amounts paid to a Contractor by the VPRJ for work performed by a subcontractor under the Contract, the Contractor shall take one of the two following actions:

1. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor under that Contract; or
  2. Notify the agency and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- a. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.
  - b. An interest clause that obligates the Contractor to pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the VPRJ for work performed by the subcontractor under the contract, except for amounts withheld as allowed in subdivision 1.
  - c. An interest rate clause stating, "Unless otherwise provided under the terms of the Contract, interest shall accrue at the rate of one percent per month."
  - d. Any such Contract awarded shall further require the Contractor to 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.
  - e. Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the VPRJ. 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. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

**46. General Terms and Conditions Controlling:** These General Terms and Conditions are controlling, and unless expressly provided to the contrary, any variance or inconsistency with terms elsewhere in the Contract documents shall be resolved in favor of these General Terms and Conditions and if applicable, the VPRJ's General Terms and Conditions for Professional Services.

**\*End - Revised January 27, 2025**