

Industrial Development Authority of the County of Pittsylvania, Virginia



MASTER LEASE FINANCING PROGRAM

**REQUEST FOR PROPOSAL #20171109
DUE DATE & TIME: November 30, 2017, 3:00 PM**

**CONTACT:
Connie Gibson
connie.gibson@pittgov.org
(434) 432-7744**

Industrial Development Authority of the County of Pittsylvania, Virginia
RFP # 20171109

Issue date: November 9, 2017

Request for Proposal for a Master Lease Financing Program for Economic Development Projects

General Instructions to Offers

DUE DATE: Sealed Proposals will be received until **November 30, 2017**, no later than **3:00P.M.** Proposals not so marked or sealed shall be returned to the offeror and will not be considered. Proposals shall clearly indicate the legal name, address and telephone number of the offeror (company, firm, and partnership, individual). The offeror has the sole responsibility to have the proposal received by the Pittsylvania County Purchasing Department at the below address and by the above stated time and date.

One (1) copy of proposals shall be submitted to:

Pittsylvania County Purchasing Department
ATT: Connie Gibson
1 Center Street, Chatham, VA 24531.

Reference the Due Date and Hour, and RFP number in the lower left corner of the return envelope or package.

In addition to the hard copy, please also submit one electronic copy to Connie Gibson.

All questions regarding this RFP must be made in writing. The written questions must be received by the County no later than **2:00 p.m., Friday, November 17, 2017.**

All questions shall be directed to:

Connie Gibson
Procurement Manager
Pittsylvania County
P.O. Box 426
Chatham, VA 24531

Tel: (434) 432-7744
Email: connie.gibson@pittgov.org

The County will address all questions and will post the responses on the County's website at <https://pittsylvaniacountyva.gov/143/Bids-RFPs> by November 20, 2017 at 3:00 p.m. It is the bank's responsibility to retrieve these responses from the County's website. The County will not issue an addendum.

This procurement shall be conducted in accordance with the competitive negotiation procedures of the Virginia Public Procurement Act – Section 2.2- 4302.2

This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia of 1950, § 2.2-4343.1, as amended, 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.

I. Project Overview

The Industrial Development Authority of the County of Pittsylvania, Virginia (the “IDA”) is tasked with creating a diverse economic base by the aggressive recruitment, expansion and retention of businesses, industries and tourism, thus expanding the tax base and capital investment in Pittsylvania County (the “County”) and providing new employment opportunities for its citizens. To further this mission, the IDA is now seeking a financing arrangement to provide funding for certain economic development related initiatives. The IDA is seeking capacity for up to \$5 million; however, all of the funds would not be drawn initially. The IDA is seeking a draw period for up to three to five years or the \$5 million limit. The IDA expects the first draw to be for \$2.025 million at closing. The projected uses of the money include the purchase of an existing building to serve as a library in the Mt. Hermon area (\$475,000). In addition, a 12,000 sq. ft. industrial facility will be purchased and up-fitted in Ringgold, Virginia for a manufacturing company locating operations in Pittsylvania County (\$1,050,000). Lastly, funds will be used for Landfill Equipment (\$500,000).

Due to the uncertainty of timing and costs, the IDA is looking for a financing arrangement with considerable flexibility as to funding draws and repayment. The County and the IDA have tentatively determined to enter a master lease financing arrangement providing for the issuance of a lease revenue bond by the IDA (the “Bond”), which will be payable from certain rental payments received from the County and further secured by a leasehold interest in certain County real property. The Bond will be issued pursuant to the terms of a master trust agreement and a supplemental trust agreement entered into by the IDA and a corporate trustee. The IDA will loan the proceeds of the Bond to the County pursuant to the terms of a lease/lease-back financing arrangement, as evidenced by a prime lease and a financing lease between the County and the IDA. The County’s lease payments will be structured to match the debt service on the Bond. The IDA will assign to the trustee (for the benefit of the bondholder) certain of the IDA’s interest in the prime lease and financing lease (including the IDA’s rights to receive lease payments from the County). The County’s undertaking to make the lease payments will be subject to annual appropriation by the County Board of Supervisors and will not constitute a pledge of the full faith and credit of the Commonwealth or of any of its political subdivisions, including the County and the IDA. Pursuant to the master trust agreement, the Bond will be secured by one or more pieces of real property owned by the County.

However, the IDA and the County are willing to consider alternative financing proposals that will meet their needs and serve their best interests. For example, one potential alternative financing arrangement could include payment of a variable interest rate during the draw period and then terming-out the loan at a fixed interest rate once all funds have been drawn.

II. Financing

Borrower: The Industrial Development Authority of the County of Pittsylvania, Virginia (the “IDA”)

Bond Amount: Up to \$5,000,000.00

Purpose: The IDA desires a financing vehicle that will provide funding for a variety of economic development related capital needs.

Security: The Bond will be secured by an assignment to the trustee of certain of the IDA’s rights under (a) a prime lease between the County and the IDA and (b) a financing lease between the IDA and the County. The lease payments will be structured to pay debt service on the Bond, subject to and contingent upon the annual appropriation of funds therefor, by the County Board of Supervisors.

The real property assets comprising the leased collateral will be determined following the issuance of this RFP and with the input of the winning bidder. It is expected that the IDA, at the request of the County, will have the ability under the master trust agreement to issue additional new money bonds and refunding bonds that will be secured on a parity with the Bond. Please specify any additional collateral requirements for the Bond as well as any limitations on the issuance of additional debt secured by the same leased collateral.

In the event an alternative financing structure is agreed upon, the County and the IDA will enter into a support agreement pursuant to which the County will agree, subject to annual appropriation, to make payments sufficient to cover the principal of and interest on the related Bond in a timely manner.

Tax Status: Depending upon the nature of the projects being financed, the loan could be either tax-exempt or taxable.

Interest Rate: The County is interested in fixed rate financing proposals, but will consider various alternatives, including variable rate proposals during the draw period. Please provide both tax-exempt and taxable rates or indices.

Amortization: Desired term of 10 years with approximately level annual payments. Final maturity would be no later than January 1, 2030.

Bond Counsel: The County’s Bond Counsel (Hunton & Williams LLP) will provide an opinion on behalf of the County with respect to the financing.

Conflict Waiver: Hunton & Williams LLP has been engaged to serve as bond counsel to the IDA and the County for purposes of this financing. By submitting its proposal, each bidder represents that it understands the role of Hunton & Williams LLP, and that, if the bidder is selected as the winning bidder, the bidder will have agreed to waive any potential conflict of interest that the involvement of Hunton & Williams LLP might present to such bidder in connection with this financing.

Repayment Provisions: The County desires interest payments on the outstanding principal balance to be calculated based on a 30/360 day-count basis and paid semi-annually on January 1 and July 1.

Prepayment: The County will consider various prepayment options but desires prepayment flexibility at the lowest cost.

Closing: The County expects that closing and the transfer of funds will occur by the end of calendar year 2017.

III. Proposal Submission

All proposals submitted shall be valid for a minimum of thirty (30) days following commencement of vendor questions. All proposals submitted shall become the property of the IDA.

Acceptance or Rejection of Proposal.

The IDA reserves the right to reject any and all proposals received in this request. The IDA is not obligated to award a contract solely on the basis of this request and reserves the right to request clarification of information submitted and to request additional information of all offerors.

Proposal Requirements.

The proposal must be in writing. It is preferred that a bidder's proposal not be subject to further credit or underwriting approval. No response may be modified by the bidder after it has been submitted.

- (a) Proposals should include: the name, address, e-mail address and telephone number of your institution; the primary contact; and identity of legal counsel, if any.
- (b) Proposals must be accompanied with a list of all requirements and conditions associated with its proposal. Please note the value and nature of County collateral your bank will require to lend \$5 million.
- (c) Proposals must indicate the interest rate or rates (or indices) for the term of the financing.
- (d) Proposals must provide full disclosure of all financing costs, including any closing or legal costs.
- (e) Prepayment provisions (including any penalty or other fee requirements) should be set forth in the proposal.

Alternate Structure.

A bidder may also propose an alternate financing structure to achieve the purposes outlined herein including other forms of tax credit or tax-exempt bonds or acquisition, use and security agreements.

IV. Evaluation and Selection

These criteria are to be utilized in the evaluation of qualifications for the development of a short list of those offerors to be considered for interviews and/or potential negotiations. Individual criteria may in all probability be assigned varying weights at the IDA's discretion, to reflect relative importance. Offerors are required to address each evaluation criteria in the order listed, and to be specific in presenting their qualifications.

- Interest Rate proposed (40 points)
- Ability to meet the County and IDA's needs (40 points)
- Fees and closing costs of offeror (5 points)
- Completeness and quality of proposal (15 points)

The IDA may, if deemed necessary, ask for interviews with all or several of the firms submitting proposals.

Selection Procedure and Award

Selection may 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. The IDA staff and Board, in consultation with the County, will determine which bank proposal offers the IDA the financing at the lowest cost to the IDA and County, taking into consideration terms, conditions and costs of issuance to be paid by the IDA. Negotiations shall then be conducted by County staff with each of the offerors so selected. 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 IDA staff will make a recommendation to the County Board of Supervisors and the IDA Board, which shall make the final selection of the offeror that, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the IDA or County Board of Supervisors 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.

Basis for Award

Information and/or factors gathered during interviews, negotiations and any reference checks, in addition to the evaluation criteria stated in the RFP, and other information or factors deemed relevant by the IDA, shall be utilized in the final award.

GENERAL TERMS AND CONDITIONS:

County's General Terms and Conditions are included in all Requests for Proposals. Certain clauses and conditions may not be applicable for this particular Request for Proposal.

A. Acceptance, Invoicing and Payment

Nothing herein, or in the process, shall be construed as having obligated the County to pay for any expenses incurred by respondents to this RFP, or to the selected consultant prior to the Board of Supervisors' approval of a consultant services contract.

Pursuant to § 2.2-4343 of the Code of Virginia of 1950, as amended, the winning bidder (hereafter referred to as "Consultant" as applicable) covenants and agrees to:

1. Within seven (7) days after receipt of any amounts paid to the CONSULTANT under the Agreement, (i) pay any subconsultant for its proportionate share of the total payment received from the COUNTY attributable to the work under the Contract performed by such subconsultant, or (ii) notify the COUNTY and the subconsultant, in writing, of its intention to withhold all or part of the subconsultant's payment and the reason therefore;
2. Provide its federal employer identification number or social security number, as applicable, before any payment is made to the CONSULTANT under the Agreement;
3. Pay interest at the legal rate or such other rate as may be agreed to in writing by the subconsultant and the CONSULTANT on all amounts owed by the CONSULTANT that remain unpaid after seven (7) days following receipt by the CONSULTANT of payment from the COUNTY for work performed by the subconsultant under the Agreement; and
4. Include in its contracts with any and all subconsultants the requirements of 1, 2, and 3 above.

B. Attorney's Fees

In the event of any action brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, each party shall pay their own attorney's fees, costs and expenses, except in a case of default by the Consultant, the Consultant shall be responsible for any resulting additional purchase and administrative costs including, but not limited to fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs.

C. Audit

Consultant shall keep and require each of its subconsultants, if any, to keep, at no additional cost to County, full and detailed accounts of costs chargeable to County, during the project, and for five (5) years following completion. County shall be afforded full access to accounts, records, and supporting documents for review, audit, copy (such copies will be the property of County), and verification of costs. Audit access to Consultant's records in lump sum or unit price areas when applicable shall be sufficient to

satisfy County that all quantities meet the payments to its subconsultant and suppliers, Consultant shall remit promptly to County the amount of any adjustment resulting from audit.

D. Availability of Funds/Non-Appropriation Clause

It is understood and agreed between the parties herein that the County shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of the Financing Lease. Notwithstanding any other provision in the Financing Lease, to the contrary, if the County fails during any fiscal year to appropriate or allocate sufficient funds to pay the amounts to be paid by the County pursuant to the provisions of the Financing Lease, which become due and payable during such fiscal year, then the Financing Lease and all the obligations of the County thereunder shall automatically terminate at the end of the fiscal year in which non-appropriation occurs. The County agrees to use its reasonable efforts to obtain any necessary funding contemplated by the Financing Lease, on an annual basis.

E. Binding Effect

The terms, provisions, covenants and conditions contained in any resulting Financing Lease shall apply to, insure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, legal representatives, successors, and permitted assigns except as otherwise expressly provided.

F. Compliance of Law

The Consultant providing materials and services to the County under any contract resulting from this RFP represents and warrants to the County that it is:

1. 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.
2. Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986 and Virginia Code §2.2-4311.1.
3. Complying with federal, state and local laws and regulation applicable to the performance of the services procured; and
4. In full compliance with the Virginia Conflict of Interest Act.

G. Contract Award

Pittsylvania County has the right to award a contract to more than one Offeror, if it is in the County's best interest to provide adequate services in accordance with the criteria found in the Scope of Services. Should Pittsylvania 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 and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Pittsylvania County reserves the right to award the Financing Lease to the most qualified, responsible, and responsive offeror(s), resulting in a negotiated agreement, which is most advantageous to and in the best interest of Pittsylvania County.

Pittsylvania County shall be the sole judge of the Proposal and the resulting negotiated agreement that is in the public interest, and Pittsylvania County's decision shall be final.

H. Contract Changes

No verbal agreement or conversation with any officer, agent or employee of Pittsylvania County either before or after execution of the Financing Lease resulting from this Request for Proposal (RFP), RFP Addendum or follow-up negotiations, shall effect or modify any of the terms or obligations contained in the contract. No alterations to the terms and conditions of the contract shall be valid or binding upon Pittsylvania County unless made in writing and where Board approval is not required, by the County Administrator or his designee

I. Financing Documents

The contract entered into by Pittsylvania County and the offeror shall consist of this Request For Proposal, any addendum issued, the proposal submitted by the Consultant, Pittsylvania County's Standard Form of Agreement, and any approved change orders issued, all of which shall be referred to collectively as the Financing Documents. Additional documents which the parties agree to include as contract documents may be set forth in the final contract.

J. Definitions:

1. County:

Wherever the word "County" appears, it shall be understood to mean

Pittsylvania County Government.

2. Offeror:

A person who makes an offer in response to a Request for Proposals.

3. Informality:

A minor defect or variation in a bid or proposal from the exact requirements of the Invitation for Bid, or this Request for Proposal, which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.

K. Drug Free Workplace

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

For the purposes of this section, “drug-free workplace” means any site at which the performance of work is done in connection with this contract awarded to the Consultant, 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.

L. Ethics in Public Contracting

The Offeror hereby certifies that it has familiarized itself with Article 6 of Title 2.2 of the Virginia Public Procurement Act, Virginia Code Sections 2.2-4367 through 2.2-4377, and that all amounts received by it, pursuant to a Contract resulting from this RFP, are proper and in accordance therewith. By submitting their proposals, Offerors certify that their proposals are made without collusion or fraud that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subconsultant in connection with their 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.

M. Examination of Records

The Consultant agrees that Pittsylvania County or any duly authorized representative shall have access to and the right to examine any and copy any directly pertinent books, documents, papers and records of the Consultant involving transactions related to any contract resulting from this RFP. The period of access provided in this paragraph for records, books, documents, and papers and software which may be related to any arbitration, litigation, or the settlement of claims arising out of the performance of any subsequent contract or any subsequent contracts with vendors shall continue until disposition of any appeals, arbitration, litigation, or claims. Consultants agrees to keep all records in accordance with the state and local retention laws including but not limited to Virginia Code § 55-525.27.

N. Faith-Based Organizations

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as amended, in all invitations to bid, requests for proposals, contracts, and purchase orders, the COUNTY does not discriminate against faith-based organizations “Faith-based Organization” means a religious organization that is or applies to be a Consultant 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 CONSULTANT is a faith-based organization, then Consultant shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

NOTICE

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

Neither the COUNTY’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 County Administrator.

O. Federal-Aid Provisions

When the U. S. Government pays all or any portion of the cost of a project, the Consultant shall observe all federal laws, rules, and regulations made pursuant to such laws. The work shall be subject to inspection by the appropriate federal agency. Such inspection shall in no sense make the federal government a party of the contract and will in no way interfere with the rights of either party. Consultant shall require all subconsultants to observe all federal laws, rules, and regulations made pursuant to such laws. Reporting requirements that is part of the regulation shall be followed in accordance with the federal law, rules and/or regulation made pursuant to such laws. A Duns number will be provided by the Consultant and registration with the Central Consultant Registration (CCR) shall be followed according to the federal aid provisions.

P. Freedom of Information

All information submitted to the County in response to this RFP will constitute public information and pursuant to the Virginia Freedom of Information Act will be available to the public for inspection upon request. Pursuant to Virginia Code §2.2-4342, a Bidder/Offeror may request an exception to disclosure for trade secrets or proprietary information as such is defined under Virginia Code § 59.1-336, part of the Uniform Trade Secrets Act. In order to claim this exemption, a Bidder/Offeror must: (1) Submit a request in writing referencing their desire to invoke the protections of Virginia Code § 2.2-4342; (2) Specifically identify which data or materials they wish to have protected; and (3) Articulate the rationale for why protection is necessary for the particular data or materials, to the satisfaction of the County. Failure to meet these requirements will result in the data or materials being open for inspection in response to a valid inquiry under the Virginia Freedom of Information Act and serve to waive any right of the Bidder/Offeror to assert a claim against the County for disclosure of trade secrets or proprietary information.

R. Force Majeure

In any contract resulting from this RFP, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations thereunder (except for the payment of money) on account of strikes, industry wide material shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, pandemic flu, acts of God, war, governmental action, and labor conditions. In the case of an industry wide material shortage the Consultants shall provide to the County within 24 hours of Consultant's determination that there exists an industry wide material shortage, the following: 1) a written description of the specific material alleged to be in short supply; 2) a written list of all manufacturers, wholesalers, suppliers and/or retailers from which Consultant has attempted to obtain, and/or contracted to obtain, said material; 3) a written description detailing all actions taken by Consultant to obtain said materials; 4) a written statement, signed by an authorized representative of Consultant, that Consultant has used due diligence to secure said materials in the most expeditious manner; 5) a written

time frame in which Consultant anticipates that it will obtain said materials and; 6) the County, or its authorized representative, concurs that there is an industry wide shortage of the specific material so identified by Consultant.

S. Grant Funds Provision

When a project is funded in part or all by grant funds, the Consultant shall observe all rules and regulations according to the grant fund award documentation. Consultant has the responsibility to comply with all grant fund reporting requirements and any or all award documentation terms and conditions.

T. Governing Law

In any contract resulting from this RFP, the parties agree that the lease is governed by and shall be interpreted in accordance with the Pittsylvania County Procurement Policy and the laws of the Commonwealth of Virginia, the Virginia Public Procurement Act, and that proper venue, in the event of litigation concerning this matter, shall be in the Circuit Court of Pittsylvania County, Virginia. The parties agree that any litigation involving the lease shall be brought only in such court.

U. Headings

Headings in the RFP and any resulting contract are informational only and the substance of each numbered or lettered provision shall prevail in the event of any ambiguity or inconsistency between a heading and its content.

V. Insurance

During the performance of any Contract resulting from this RFP, the Consultant shall have and keep current insurance whichever is greater in scope or amount as follows:

- a. Worker's Compensation Insurance in compliance with all states in which Consultant does business, including coverage B Employer's liabilities in not less than the following amounts:
 - i. Bodily Injury by accident \$100,000 for each accident;
 - ii. Bodily Injury by disease, \$500,000 policy limit;
 - iii. Bodily Injury by disease, \$100,000 for each employee.
- b. General Liability insurance in amount not less than \$1,000,000 for any occurrence involving bodily injury, and not less than \$1,000,000 for any occurrence involving property damage. This coverage shall include contractual liability, broad form property damage, independent Consultants, and personal injury.
- c. Automobile liability insurance in an amount not less than \$500,000 combined single limit bodily injury and property damage. This coverage shall include liability for the use of hired and non-owned apparatus.

- d. Professional Liability Insurance in an amount not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The amount of coverage may increase according to the project value.

The General Liability and Automobile Liability insurance policies specified herein shall name Pittsylvania County as additional insured with regard to work performed under any contract resulting from this IFB. The Consultant shall provide Pittsylvania County with copies of certificates of insurance coverage and proof of payment of all premiums. These certificates shall have provisions for notifying Pittsylvania County if there is any change in liability insurance.

W. Interpretation

Words of any gender used in any Contract resulting from this RFP shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context otherwise requires.

X. Non-Collusion

The party making the foregoing proposal hereby certifies that such proposal is genuine and not collusive or sham; that said offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any offeror or person, to put in a sham proposal or to refrain from offering, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the proposal price or affiant or of any proposal, or to fix any overhead, profit or cost element of said proposal price, or of that of any other offeror, or to secure any advantage against the County or any person interested in the proposed contract; and that all statements in said proposal are true.

Y. Non-Discrimination

Any contract resulting from this RFP and every contract, sub-contract, or purchase order there under shall include the following provisions according to Virginia Code Section 2.2-4311:

During the performance of a contract, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicant for employment, notices setting forth non-discrimination clause.
- b. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that such Consultant 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 requirement.

The Consultant will include the provisions in the foregoing paragraphs a, b, and c in every contract, subcontract, or purchase order of over \$10,000, so that the provisions will be binding upon each subconsultant or vendor associated with Pittsylvania County.

Z. Partial Invalidity

Neither any payment for, nor acceptance of, the whole or any part of the services by Pittsylvania County, nor any extension of time, shall operate as a waiver of any provision of any Contract resulting from this RFP, nor of any power herein reserved to Pittsylvania County, or any right to damages herein provided, nor shall any waiver of any breach of any Contract be held to be a waiver of any other or subsequent breach. Failure of Pittsylvania County to require compliance with any term or condition of any Contract shall not be deemed a waiver of such term or condition or a waiver of the subsequent enforcement thereof.

AA. Proposal Withdrawal

Any Proposal may be withdrawn up until the time set above for the opening of the Proposal. Any Proposals not so withdrawn shall constitute an irrevocable offer for a period of 30 days.

BB. RFP Proposal and Clarification

Pittsylvania County reserves the right to request clarification of information submitted and to request additional information of one or more offerors. Each offeror shall examine the Request for Proposal documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the Request for Proposal shall be made in writing to Pittsylvania County's Purchasing Manager. Pittsylvania County shall not be responsible for oral interpretations given by any employee, representative, or others. The issuance of a written addendum signed by Pittsylvania County's Purchasing Manager is the only official method whereby interpretation, clarification, or additional information can be given. Pittsylvania County will provide electronically or by mail to all official RFP holders any addenda, which are issued to this Request for Proposal. Official RFP holders are those who obtain an RFP from the Pittsylvania County Purchasing Manager.

CC. Release and Ownership of Information

Pittsylvania County shall make a good faith effort to identify and make available to the Consultant all non-confidential technical and administrative data in Pittsylvania County's possession which Pittsylvania County may lawfully release including, but not limited to contract specifications, drawings, correspondence, and other information specified and required by the Consultant and relating to its work under this Contract. Pittsylvania County reserves its rights of ownership to all material given to the Consultant by Pittsylvania County and to all background information, documents, and computer software and documentation developed by the Consultant in performing any Contract resulting from this RFP.

No reports, information or data given to or prepared by the Consultant under the resulting Contract shall be made available to any individual or organization by the Consultant without the prior written approval of Pittsylvania County, which approval Pittsylvania County shall be under no obligation to grant.

As may be allowed by law, any information, ideas, or concepts that the County receives during the procurement process from any offeror's written proposal, any discussion or interview with the offeror or as a result of any portion of the procurement process for the services described in this Request for Proposal shall become the property of Pittsylvania County. Pittsylvania County may use this information for any purpose without compensation to the offeror from whom the information was received.

DD. Rights and Responsibilities of Consultant

The Consultant shall indemnify, defend and hold harmless the County and its representatives from any and all claims, suits and actions for injury or damage sustained by any person or property from any act or omission by Consultant and/or its Consultants or employees, or anyone else for who Consultant is or may be responsible. This section shall survive the termination the Lease.

The Consultant in any contract resulting from this RFP shall pay all royalties and license fees necessary for performance of the contract. The Consultant shall defend all suits or claims for infringement of any patent rights or any other proprietary rights arising from or related to performance of the resulting contract and shall save Pittsylvania County harmless from any and all loss, including reasonable attorneys' fees, on account thereof.

EE. Sub Consultants and Assignments

The Consultant shall not sublet or assign or transfer any interest in this Contract or any portion thereof without the prior written consent of Pittsylvania County of which Pittsylvania County shall be under no obligation to grant. In seeking consent for any subcontract or assignment, the Consultant shall furnish all information required by Pittsylvania County to permit Pittsylvania County to ascertain the qualifications of the proposed subconsultant to perform the work, and the Consultant shall submit a copy of the subconsultant to Pittsylvania County for approval. The subconsultant shall incorporate by reference all provisions and conditions of the Contract resulting from this RFP.

Pittsylvania County's approval of a subconsultant shall not relieve the Consultant of any of its responsibilities, duties or liabilities hereunder. The Consultant shall continue to be responsible to Pittsylvania County for performance of the subconsultant and the subconsultant, for all purposes, shall be deemed to be an agent or employee of the Consultant. Nothing in the Contract resulting from this RFP or any subcontract shall create any contractual relationship between any subconsultant and Pittsylvania County.

FF. Tax Exemption

The County of Pittsylvania as a public body of the Commonwealth of Virginia, is exempt from any Federal excise tax and Virginia sales and use tax for purchases made by the County.

Termination

Pittsylvania County shall have the right to terminate at Pittsylvania County's convenience, with or without cause, any Contract resulting from this RFP by specifying the date of termination in a written notice. In this event, the Consultant shall be entitled to just and equitable compensation for any

satisfactory work completed. All work produced, and data collected shall become the property of Pittsylvania County.