

PROCUREMENT POLICY

NORTHAMPTON COUNTY, VIRGINIA

Adopted June 13, 1983
in accordance with the
Virginia Procurement Act of 1982

Amended August 13, 1991; Amended April 26, 1999; Amended June 27, 2005
Amended July 11, 2005; Amended: March 10, 2020; Amended January 23, 2024
Amended March 26, 2024

SECTION 1 PURPOSE AND APPLICABILITY

These regulations are for the use of all Departments of Northampton County. They were prepared to assist all employees with the purchasing function and its activities. Authority for these regulations is Virginia Public Procurement Act (VPPA or Act), of the *Code of Virginia*, Chapter 43, Title 2.2, as amended. These regulations are adopted to obtain high quality goods and services at a reasonable cost, to conduct all procurement procedures in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety and to provide access to public business for all qualified vendors, and that no offeror be arbitrarily or capriciously excluded. Rules governing contract awards will be made clear in advance of the competition, specifications will reflect the procurement needs of the County rather than being drawn to favor a particular vendor, and the County and the vendor will freely exchange information concerning what is sought to be procured and what is offered, and will cooperate with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public and private agencies. In addition, surplus property is to be disposed of on a competitive basis.

Procurement of goods and services and disposal of surplus property will be conducted in accordance with the Virginia Public Procurement Act, as amended, hereinafter referred to as the Procurement Act or VPPA, except as amended by alternative policies adopted by the Board of Supervisors. The provisions of the VPPA are incorporated herein by reference, except as amended by alternative policies, and reference is made to that Act in the event further information or clarification is required. In the event of conflict between this Policy and the VPPA, the requirements of the VPPA shall control.

SECTION 2 GENERAL REQUIREMENTS

A. With the exception of information technology needs, it is the responsibility of each

Department Head to obtain necessary goods or services according to County procedures. Department Heads should select a vendor for all estimated expenditures in accordance with approved operational procedures and the Procurement Act. For purchases less than \$5,000, competitive telephone or written price quotations from more than one vendor are suggested, but not required. For purchases between \$5,000 and \$199,999.99, Requests for Quotations from at least three vendors will be required, although purchase orders are not required for purchases under \$10,000. All quotes and bid information should be documented in departmental files.

B. For information technology needs, the Department Head should coordinate all purchases with the Information Technology department in order to ensure compatibility throughout the County. Generally, all information technology needs will be included in the Information Technology budget.

C. No obligation will be made for any purchase in excess of the amount appropriated for that purpose as reflected in the line item budgetary accounts of the County of Northampton.

D. The Procuring Agent shall give preference to foods, services and construction produced in the County or provided by persons, firms or corporations having principal places of business in the County in the case of a tie bid, in Competitive Sealed Bidding, if such choice is available. The County shall adhere where applicable to preferences listed in the VPPA, *Virginia Code* § 2.2-4300 et. seq.).

E. The County Administrator's office will conduct necessary advertising for the procurement of budgeted items. The cost of advertising will be charged to the department requiring the goods or services unless the County Administrator approves an alternative.

F. Department Heads should submit a purchase order requisition for all necessary purchases over \$10,000. The requisition should include a summary of the quotes or bids obtained as required in compliance with this policy and the Procurement Act. After verifying the availability of funds, the Finance Director will approve purchase orders for requisitions between \$10,000 and \$25,000. The County Administrator will approve purchase orders for requisitions between \$25,000 and \$50,000.

G. The Board of Supervisors will approve all purchases in excess of \$50,000 prior to the issuance of a purchase order, or Notice of Award.

H. A vendor list will be maintained in the Accounts Payable Office. Any vendor may be placed on or removed from the list by written request. Any vendor on the list that ceases to meet the minimum standards as set forth by a particular Department shall be removed from the list. Department Heads may mail notices of invitation to bid, requests for proposals, or quotations to all vendors listed in the appropriate category. The list shall be reviewed and updated annually.

I. Any purchase not made in accordance with these Regulations will be deemed an unauthorized

purchase, for which the County will not be obligated.

J. Any employee who engages in purchasing goods or services in a manner inconsistent with these Regulations shall be subject to disciplinary measures, up to and including **financial responsibility for his actions**.

K. Purchases may not be arbitrarily “split” in order to qualify for a lower level purchasing procedure.

SECTION 3 METHODS OF PROCUREMENT

A. Petty Cash Procedures - Accounts may be used for small purchases such as postage, tolls, and reimbursements. Because it is limited, such purchase account use may not be feasible depending on the available balance at the time of the request. Receipts for proper documentation are required and must be submitted for reimbursements.

B. Direct Purchase – The user department may purchase goods or services not expected to cost more than \$5,000 when the vendor charges the County “on account” (the vendor will invoice the County). The department should seek competitive quotes whenever practicable. If more than one quote is obtained, all quote material should be retained in the departmental files. If more than one quote is obtained, the purchase must be made from the lowest responsive and responsible bidder. Purchase orders will not be issued unless the department or vendor requests it. See attached Procurement Matrix.

C. Informal Quotes – Informal quotes for non-professional services are required for purchases between \$5,000 and \$199,999.99. Informal quotes may be obtained by telephone, facsimile, e-mail or other means. A minimum of three vendors must be contacted for each purchase, if available. A summary of the quotes will be recorded on a requisition for purchase order and forwarded with any supporting documentation to the accounts payable office. Upon review of the requisition and verification of available funds, a purchase order will be issued and forwarded to the requesting department. Only after the purchase order is approved may the requesting department place the order for goods or services. The Director of Finance will approve the issuance of purchase orders for goods and services between \$10,000 and \$25,000. The County Administrator will approve the issuance of purchase orders for goods and services between \$25,000 and \$50,000. See attached-Procurement Matrix.

D. Formal Quotes and Proposals. Formal Invitations to Bid and Requests for Proposals are required for Goods, Non-Professional Services, and Non-Transportation Construction Projects expected to cost greater than \$200,000.00. Purchase Orders, Contracts, Public Notices and Approvals by the Board of Supervisors are required for requisitions of this value. See attached Procurement Matrix.

E. Professional Services. Professional services means work performed by an independent contractor within the scope of the practice of services including accounting, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

At least one documented proposal is required for professional services costing **up to \$9,999.99** and it must include the vendor name, representative, date, phone number and detailed description of services to be provided and price. Obtaining more than one proposal is encouraged, but not required.

For professional service costing from **\$10,000.00-\$79,999.99**, Department Heads shall submit to the Finance Department a completed Purchase Requisition detailing the services needed and including the County's General Terms and Conditions. RFPs shall be posted on eVA and/or the County website and may be sent to local vendors that provide the service. Proposals shall be solicited from a minimum of three (3) vendors. Department Heads and the County Administrator together shall evaluate all proposals based on criteria as set out in the RFP and then shall enter into negotiations with the offeror who, in their opinion, submitted the best proposal. Upon satisfactory negotiations, the County shall extend an offer of contract award. The Procurement Office shall prepare a Contract which shall be approved as to form by the County Attorney and signed by the vendor, the Department Head, and the County Administrator.

The Finance Department shall also issue a Purchase Order. Contracts of \$50,000 and over must be approved by the Northampton County Board of Supervisors prior to execution.

For professional services **where the sum of all phases and contract periods are expected to exceed \$80,000** a request for proposal with competitive negotiation is required. The RFP shall be approved by the County Attorney prior to issuance. Proposals shall be due to the County at a specified date and time. Non-binding estimates of total project costs (including man-hours) and/or price for services may be discussed beginning with the "negotiation stage". The contract must be approved by the Board of Supervisors and the County Attorney and signed by the Offeror, the Department Head, and the County Administrator. The Finance Department shall issue a Purchase Order. See Procurement Matrix.

F. Large Purchase Procurement: Good, Nonprofessional Services and /or Non-Transportation Related Construction Where the Sum of All Phases/Contract Periods is Expected to Exceed \$200,000.

i. Competitive Sealed Bidding: Invitation for Bids ("IFB") – The sealed bidding method of purchasing includes the following elements:

1. Distribution of written invitations to bid (ITB) to potential bidders. The ITB must contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement. Unless bidders have been

prequalified, the invitation to bid will include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. No ITB for construction services shall condition a successful bidder's eligibility on having a specified experience modification factor, as defined by Va. Code § 2.2-4302.1

2. Public notice of the invitation to bid at least ten (10) days prior to the date set for receipt of bids by posting in a designated public area, publication in a newspaper of general circulation in Northampton County, or other appropriate area or trade publications, and at the County's discretion, by posting on the Department of General Services central electronic procurement website, known as eVA. In addition, bids may be solicited directly from potential contractors. The designated public area for posting shall be the public notice bulletin board in the County Administration Building, 16404 Courthouse Road, Eastville, Virginia.

3. Public opening and announcement of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder by the Board of Supervisors. When the terms and conditions of multiple bids are so provided in the invitation to bid, awards may be made to more than one bidder.

6. Goods or nonprofessional services, except construction services and bulk quantities of materials used in road and highway construction and maintenance, may be procured by reverse auction, as defined by Va. Code § 2.2-4301.

7. Construction services must be procured by competitive sealed bidding, unless bidding is not practicable or fiscally advantageous to the public and this fact is documented in writing.

8. Competitive sealed bidding will not be required for procurement of professional services.

ii. Competitive Negotiation: Request for Proposals ("RFP") – Competitive negotiation is

a method of contractor selection which is used in cases where sealed bidding would be impractical because of the difficulty in specifying exactly what is to be purchased, or where price is only one of a number of important factors bearing on contractor selection.

It is the required procedure for professional services but may also be used for non-professional services (ex. systems integration, software development) or goods. Professional services are defined as work performed by an independent contractor within the scope of the practice of accounting, architecture, land surveying, landscape architecture, medicine, optometry, or professional engineering. If competitive negotiation is used for other than professional services, the Board of Supervisors must find in writing that competitive sealed bidding is not in the public's best interest. The following elements will be included in competitive negotiation:

1. Issuance of a written Request for Proposal (RFP) indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal (experience, qualifications, etc.) and the relative weight given to each; and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. The RFP shall also indicate whether or not a numerical system will be used in the evaluation of a proposal. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals. No Request for Proposal for construction authorized by this chapter shall condition a successful offeror's eligibility on having a specified experience modification factor as defined by Va. Code § 2.2-4302.2. The Code specifies that the RFP shall not, however, request that offerors furnish estimates of man-hours or costs for services.
2. Public notice of the Request for Proposal at least ten (10) days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices or by publication in a newspaper of general circulation in Northampton County or other appropriate areas, or trade publications, and, at the County's discretion, by posting on the Department of General Services central electronic procurement website, known as eVA. In addition, proposals may be solicited directly from potential contractors. The designated public area for posting shall be the public notice bulletin board at the entrance to the Northampton County Courthouse.
3. Selection will be made of two (2) 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. At this stage, nonbinding estimates of project costs may be discussed. Negotiations will then be conducted,

beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award will be made to that offeror by the County Administrator, if authorized, or the Board of Supervisors. Otherwise, negotiations with the offeror ranked first will be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Board of Supervisors or the County Administrator determine in writing and in their sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

4. Notwithstanding any of the above provisions, the provisions of Va. Code § 2.2-4302.2 are hereby incorporated by reference.

iii. Professional Services Where the Sum Of All Phases /Contract Periods is Expected to Exceed \$80,000. Competitive Negotiation: Request for Proposals. Department Heads shall provide information on services needed, the Procuring Agent shall prepare a Request for Proposals, and the County Attorney shall approve prior to issuance.

iv. Transportation-Related Construction Where the Sum of All Phases/Contract Periods Is Expected to Exceed \$25,000. Follow procedures set forth in F(ii) above.

See attached Procurement Matrix.

SECTION 4 CLASSIFICATION OF PURCHASES

Purchases of goods and services will be classified using the Procurement Matrix (attached)

High risk contract: A high risk contract is one in which the initial cost is greater than One Million Dollars (\$1,000,000.00) OR one in which the initial cost is greater than Five Hundred Thousand Dollars (\$500,000.00) AND includes one of the following caveats:

- a. The anticipated term of the contract is greater than five (5) years;
- b. The items or services are to be purchased by two (2) or more departments; or
- c. The items or services procured, or similar items or services, have not been procured within the previous five (5) years.

i. Prior to issuing a solicitation for a high-risk contract, the Board of Supervisors shall submit such solicitation for review by (i) the Office of the County Attorney, (ii) the County Financial Director for solicitations for goods

and nonprofessional and professional services that are not for information technology or road construction or design, and (iii) the Department Head for Information Technology for solicitations for goods and services related to information technology. Such reviews shall be completed within 30 business days and include an evaluation of the extent to which the solicitation complies with applicable state law and policy, as well as an evaluation of the appropriateness of the solicitation's terms and conditions. In addition, the review shall ensure that such solicitations for high-risk contracts contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives, to be used in the event that contract performance metrics or other provisions are not met.

ii. Prior to awarding a high-risk contract, the Northampton County Board of Supervisors shall submit such contract for review by (i) the Office of the County Attorney, (ii) the County Administrator and Financial Director for contracts for goods and nonprofessional and professional services that are not for information technology or road construction or design, and (iii) the County Administrator, Financial Director, and Department Head for Information Technology for contracts for goods and services related to information technology. Such reviews shall be completed within 30 business days and include an evaluation of the extent to which the contract complies with applicable state law and policy, as well as an evaluation of the legality and appropriateness of the contract's terms and conditions. In addition, the review shall ensure that such high-risk contracts contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives, to be used in the event that contract performance metrics or other provisions are not met.

SECTION 5 APPLICABLE EXCEPTIONS AND EXEMPTIONS

Exceptions.

A. The procurement of construction, goods and services (professional and nonprofessional) and the contracting for these services and projects are excluded from the duties of the County Procuring Agent for the organization(s) as specified below:

1. Northampton County Public Schools. Procurement activities shall be the responsibility of the school system in accordance with the VPPA and rules and regulations established by the Northampton County School Board.
2. Agencies, organizations, and departments as may be specifically delegated

procurement authority by the County of Northampton Board of Supervisors; provided that the procurement activity is conducted in accordance with the VPPA and this Policy.

B. The County of Northampton may enter into contracts **without competition** in the following transactions:

1. For the purchase of goods and services that are produced or performed by persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Visually Impaired. (VPPA *Code of Virginia*, §2.2-4344(A)(1)(a)).

2. For the purchase of goods and services that are produced or performed by employment services organizations that offer transitional or supported employment services serving individuals with disabilities (VPPA *Code of Virginia*, §2.2-4344(A)(1)(b)).

3. For legal services, expert witnesses and other services associated with litigation or regulatory proceedings (VPPA *Code of Virginia*, §2.2-4344(A)(2)).

4. For the acquisition of motor vehicles by the Northampton Department of Social Services for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients (VPPA *Code of Virginia*, §2.2-4343(A)(4)).

5. For the acquisition of real estate or any interest in real property (see *R.I.S.E., Inc. v. Kay*, 768 F. Supp. 1141 (E.D. Va. 1992)).

6. For the donation of goods or services, without consideration. (see Opinion of the Attorney General 06-068 (11/30/2006)).

7. For contracts, agreements and memoranda of understanding between the County and one or more public bodies or governmental entities (VPPA *Code of Virginia*, §2.2-4301, Definition of “Public Contract”).

8. For acquisition of goods or services exempt from procurement under the Public-Private Transportation Act (*Code of Virginia*, §33.2-1819) or under the Public-Private Education Facilities and Infrastructure Act (*Code of Virginia*, §56-575.16).

C. The County of Northampton may enter into contracts **without competitive sealed bidding or competitive negotiation** in accordance with applicable exemptions as specified in the VPPA *Code of Virginia*, §2.2-4345 for public bodies.

SECTION 6
COOPERATIVE PROCUREMENT

The County or any other agency or board of the County of Northampton may participate in a cooperative procurement effort with one or more public bodies, or agencies of the United States, for the purpose of combining requirements to increase efficiency or reduce administrative expenses associated with the procurement of goods and services subject to the provisions of the VPPA Code of Virginia, § 2.2-4304. No Cooperative Procurement shall be permitted unless the RFP or IFB specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. Any public body that enters into Cooperative Procurement with a locality whose governing body has adopted alternative procurement policies and procedures in accordance with state law shall comply with the alternative procurement policies and procedures adopted by the governing body of such locality.

Cooperative procurement shall not apply to contracts for (1) architectural or engineering services, or (2) construction contracts, except construction contracts for (a) the installation of artificial turf and track surfaces, (b) stream restoration, (c) stormwater management practices, including all associated and necessary construction and maintenance, or (d) any other exceptions enacted by the General Assembly.

SECTION 7
EMERGENCY PURCHASES

- A. An emergency will be deemed to exist when goods or services are needed to restore or continue an essential service or where the time required to follow normal purchasing procedures may endanger the safety, health or welfare of the public or of the County's employees or facilities.
- B. For purchases under \$10,000, the following procedures will be used in emergency circumstances:

1. Procedures during office hours

The user department will immediately notify the County Administrator, who will either purchase directly or authorize the purchase of the needed supplies or services. A "Request for Payment" form should be submitted with the invoice when received documenting the approval for emergency purchasing procedures and describing the circumstances.

2. Procedures during other than office hours

The user department will purchase directly any supplies or services needed to meet an existing emergency. Whenever possible, the County Administrator should be notified orally of the emergency but, in any event, a written determination of the basis for the

emergency and for the selection of the particular vendor or contractor if selected by the using department and a written determination clearly marked "emergency purchase confirmation" will be delivered to the County Administrator within twelve (12) working hours after the identification of the emergency. A "Request for Payment" form should be submitted with the invoice when received documenting the emergency circumstances.

C. For purchases over \$10,000, the following procedures will be used in emergency circumstances:

In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Board of Supervisors shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the Board of Supervisors awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public Notice may also be published on the Department of General Services' central electronic procurement web site, known as eVA, and other appropriate web sites.

SECTION 8 SOLE SOURCE PROCUREMENT

The Board of Supervisors must approve all instances of sole source procurement. Upon a determination in writing by the Board that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The Board of Supervisors shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area and published in a newspaper of general circulation on the day the Board of Supervisors awards or announces its decision to award the contract, whichever comes first. Public Notice should also be published on the Department of General Services' central electronic procurement web site and other appropriate web sites.

SECTION 9 PREQUALIFICATION OF BIDDERS

A. The County Administrator, upon consultation with Department Head, is authorized to prequalify

bidders prior to any solicitation of bids, whether for goods or services, by requiring prospective bidders to submit such information as the County Administrator and Department Head deem appropriate, including samples, financial reports, and references; provided, however, that opportunity to prequalify will be given to any prospective bidder, and a determination of failure to qualify will be documented by the Department Head.

B. In considering any request for prequalification, the County Administrator and Department Head will determine whether there is reason to believe that the bidder possesses the management resources, financial soundness, and history of performance which indicate apparent ability to successfully complete the plans and specifications of the invitation to bid. The County Administrator and Department Head may employ standard forms designed to elicit necessary information.

C. Prequalification of a bidder will not constitute a determination that the bidder is responsible, and such bidder may be rejected as nonresponsible on the basis of subsequently discovered information. Failure of a bidder to prequalify with respect to a given procurement will not bar the bidder from seeking prequalification as to future procurements, or from bidding on procurements which do not require prequalification.

SECTION 10 WITHDRAWAL OF BID DUE TO ERROR

A. A bidder for a public construction contract may withdraw his 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.

B. The procedure for bid withdrawal must be stated in the advertisement for bids and in the invitation. The County Administrator will select one of these procedures for withdrawal of bids:

1. The bidder will give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure; or
2. The bidder will submit to the County Administrator his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers will be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. The bids will be opened one day following the time fixed by the County for the submission of bids. Thereafter, the

bidder will have two hours after the opening of the bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract will not be awarded by the County until the two-hour period has elapsed. Such mistake will be proved only from the original work papers, documents and materials delivered as required herein.

C. 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. If a bid is withdrawn under the authority of this section, the lowest remaining bid will be deemed to be the low bid. No bidder who is permitted to withdraw a bid will, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted. If the County Administrator desires the withdrawal of a bid under the provisions of this section, the bidder will be notified in writing stating the reasons for the decision.

SECTION 11 REJECTION AND AWARD OF BIDS AND COMMENTS ON SPECIFICATIONS

The County of Northampton reserves the right to accept or reject any or all bids or parts of bids, to waive irregularities, and to request rebids. The County also reserves the right to award the contract as it deems will best serve its interest. It further reserves the right to award the contract on a split order basis, lump sum, or individual item basis, or such combination as will best serve the interest of the County unless otherwise specified.

Any vendor wishing to make comments concerning specifications or other provisions of County Invitations to Bid or Requests for Proposals, may do so by submitting such comments in writing to the County Administrator no later than seven (7) working days prior to the specific date of opening.

SECTION 12 ARCHITECTURAL AND ENGINEERING TERM CONTRACTS; LIMITATION

A. A contract for architectural or professional engineering services relating to multiple projects may be awarded, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. Such contracts may be renewable for three additional terms at the option of the public body. Any unused amounts from one contract term shall not be carried forward to any additional term. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed. The sum of all projects performed in a contract term shall not exceed \$10 million, and the fee for any single project shall not exceed \$2.5 million.

B. Competitive negotiations for such architectural or professional engineering services contracts may result in awards to more than one offeror, provided (i) the Request for Proposal so states and (ii) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

SECTION 13
SURPLUS PERSONAL PROPERTY

The following procedures will be used in declaring County personal property surplus and disposing of same:

A. Any item or group of items of personal property of the County which are declared surplus by the department head or agency to which such items are assigned and further by the Board of Supervisors will be sold by the County Administrator, unless the Board approves the donation of such items to another local entity, non-profit or charitable organization that provides services to the citizens of the County.

B. Sales will be conducted whenever feasible by competitive bids.

C. Sales will be made subject to the following:

1. An item or group of items having a fair market value of Five Thousand Dollars (\$5,000) or more will be advertised at least once in a newspaper having general circulation within the County at least ten (10) days prior to sale. Sale will be to the highest bidder by sealed bids opened publicly, or at public auction, or as advertised.

2. An item or group of items having a fair market value less than Five Thousand Dollars (\$5,000) will be sold by the County Administrator through competitive practices wherever practicable.

3. The County Administrator may withdraw the offer of sale on any personal property at such time as in his opinion, it is in the best interest of the County to do so.

SECTION 14
DISCRIMINATION PROHIBITED

In the solicitation or awarding of contracts, Northampton County, nor any of its Departments, shall discriminate against a bidder or offeror because of race, religion, color, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, businesses selected from a list made available by the Department of Small

Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department, must be included. Micro-Businesses are encouraged to apply and requested to self-identify as part of the Competitive Bidding and Competitive Negotiation Process.

The Board shall establish programs to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to Virginia Code § 2.2-4310(C) or, where applicable, by the County Administrator pursuant to Virginia Code § 15.2-965.1, and shall include specific plans to achieve any goals established therein.

The Purchasing Agent shall ensure that procurement activities are conducted in accordance with County, state, and federal procurement laws. In procuring goods or services, or in making disbursements, the County shall not discriminate against a faith-based organization on the basis of the organization's religious character or impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in *Code of Virginia*, § 2.2-4343.1(F), or (b) impair, diminish or discourage the exercise of religious freedom by the recipients of goods, services or disbursements.

SECTION 15
CONTRACTS OVER \$10,000.00

In any contract for services or goods over \$10,000.00, the contractor must agree to the following:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free

workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, 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.

SECTION 16 PROCUREMENT OF FEDERALLY FUNDED CONTRACTS

All contracts for goods and services that are funded in whole or part by the United States shall comply with applicable federal laws, regulations and conditions, subject to approval of the Board of Supervisors in the event such law, regulation or condition is in conflict with the VPPA. See Code of Virginia, § 2.2-4343(B) Also, to the extent permitted by the laws and regulations of the Commonwealth of Virginia, the following shall apply:

1. The County shall strive to include value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. As used in this article, "value engineering" shall mean a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at an overall lower cost.

2. The County shall negotiate profit as a separate element of the price for each contract in which there is no competition and all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the amount of the contractor's investment, the amount of subcontracting involved, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

3. In order to eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, IFBs, RFPs, must be excluded from competing for such procurements. Additionally, restrictive conditions that may hinder fair competition shall not be permitted. Restrictive conditions include without limitation: (1) placing unreasonable requirements and qualifications on Businesses, (2) requiring unnecessary experience and excessive bonding, (3) allowing noncompetitive pricing practices between Businesses, (4) awarding noncompetitive contracts to consultants that are on retainer contracts, (5) allowing or promoting organizational conflicts of interest, (6) specifying only "brand name: products instead of allowing an equal product to be offered, and (7) acting in an arbitrary manner.

SECTION 17 DEBARRMENT

Prospective contractors may be debarred for unsatisfactory performance from contracting with the County for particular types of supplies, services, insurance of construction, for a period of time specified by the Board of Supervisors. "Unsatisfactory performance" includes, without limitation, i) early termination of a contract due to breach, default, or other cause; ii) failure of a public body, including the County, to renew a contract due to dissatisfaction with the quality of work performed by the contractor; iii) conviction of the contractor, or any principal thereof, of a crime of moral turpitude; iii) a finding of unethical behavior by the contractor, or any principal thereof, by a court of law, administrative agency, hearing officer, or quasi-judicial body; and/or iv) a statement or finding from a public body, including the County, that work performed by the contractor pursuant to a contract was of poor quality or was otherwise unsatisfactory.

Upon a decision by the Board of Supervisors to debar a contractor for unsatisfactory performance, the contractor may not enter into negotiations to contract with the County or make an offer, proposal or bid in response to a RFP, IFB, or other form of solicitation by the County, for supplies, services insurance or construction. The County shall give the contractor written notice of the date, time and location of the meeting at which the Board will consider debarment, and the contractor shall have the right to object either in writing or by appearance during the public comment portion of the Board of Supervisor's meeting. If the Board of Supervisors votes to debar the contractor, it shall establish the period of time during which such debarment shall remain in effect. The decision of the Board of Supervisors shall be final. (VPPA Code of Virginia, § 2.2-4321)

SECTION 18 APPROVAL AUTHORITY

The type of approval needed to award contracts shall be based on the total contract amount, which shall include the estimated aggregate or sum of all phases of a contract. All awards for goods and services that are estimated to exceed **\$50,000** shall first be presented to the Board of Supervisors for approval of the award before the purchase order or Notice of Award is issued.

The County Administrator/Procuring Agent shall have the authority to approve the award of contracts competitively solicited where the contract amount is not estimated to exceed **\$50,000**. Department heads shall have the delegated authority to procure goods and services and authorize purchases where the contract amount is not estimated to exceed **\$50,000** provided that competition is sought in accordance with the provisions contained herein.

A requisition or purchase request shall be prepared by the using department and forwarded to the Finance Department in accordance with the provisions described herein when the contract amount is expected to exceed **\$5,000**. However, **all** purchases and purchase requests for computers and computer related equipment, to include monitors, printers, digital cameras and scanners, shall be submitted to the Information Technology (IT) Department for prior approval.

All Purchase Orders resulting from competitive procurement shall incorporate by reference

the County's General Terms and Conditions and shall be executed by the County and the Vendor.

The County Attorney shall review and approve all contracts and Purchase Orders estimated to exceed \$50,000. The County Attorney shall also approve as to form all contracts referenced in *Code of Virginia*, § 15.2-1237.

SECTION 19
ETHICS IN PUBLIC CONTRACTING

The provisions of Sections 2.2-4367 through -4377, relating to ethics in public procurement, shall apply to all Northampton County procurement procedures.

Adopted March 26, 2024

**NORTHAMPTON COUNTY BOARD
OF SUPERVISORS**

By: _____
County Administrator

Northampton County

Procurement Matrix

Amount \$ Lower Limit	Amount \$ Upper Limit	Type	Process For Quotes	# of Vendors Solicited	Decision Criteria	PO Required *	Contract Required	BOS Approval	Public Notice	Notes
\$ 0.01 -	\$ 4,999.99	Goods Non-Professional Services Non-Transportation Construction	Written	1	Lowest Responsive & Responsible Vendor Or Best Value					Section 3B
\$ 5,000.00 -	\$ 9,999.99	Goods Non-Professional Services Non-Transportation Construction	RFQ	3	Lowest Responsive & Responsible Vendor Or Best Value		Construction Projects Only			Section 3C
\$ 10,000.00 -	\$ 199,999.99	Goods Non-Professional Services Non-Transportation Construction	RFQ	3	Lowest Responsive & Responsible Vendor Or Best Value	X	Construction Projects Only	Over \$50k		Section 3C
\$ 200,000 +		Goods Non-Professional Services Non-Transportation Construction	IFB or RFP	N/A	Lowest Responsive & Responsible Bidder Or Best Value	X	X	X	X	Section 3D
\$ 0.01 -	\$ 9,999.99	Professional Services	Written	1	Competitive Negotiation Based on Criteria					Section 3E
\$ 10,000.00 -	\$ 79,999.99	Professional Services	RFP	3	Competitive Negotiation Based on Criteria	X	X	Over \$50K		Use A/E Term Contracts See Section 12
\$ 80,000 +		Professional Services	RFP	N/A	Competitive Negotiation Based on Criteria	X	X	Over \$50K		Use A/E Term Contracts See Section 12
Alternative Procurement Procedures Authorized										
Purchase off existing State Contract; Purchase off another public body's existing contract. RFP or ITB for the "source" contract must expressly specify that pricing/terms will be extended to other public bodies. Not authorized for architectural, engineering, or other professional services, or for certain construction services.										
Purchase off existing U.S. General Services Administration (GSA) contract, if authorized.										
Requires advance written determination of the basis for finding that a particular vendor is the "sole source practicably available," or of an emergency.										
Cooperative Procurement										
Sole Source/Emergency								X	X	

* Attach Northampton County Terms & Conditions (T&C's)

APPENDIX I
COUNTY OF NORTHAMPTON, VIRGINIA
PROCUREMENT POLICY
GENERAL TERMS AND CONDITIONS

1. **Laws, Regulations, and Courts.**

- A. This procurement is governed by the applicable statutes in the Virginia Public Procurement Act (*Code of Virginia*, § 2.2-4300 through § 2.2-4377), the County of Northampton (County) Code of Ordinances and policies set forth by the County Finance Department.
- B. The Contractor shall comply with all federal, state, and local laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work and shall give all notices required thereby.
- C. All solicitations or contracts issued by County of Northampton shall be governed by the laws of the Commonwealth of Virginia. Jurisdiction and venue for any litigation arising out of or involving this agreement shall lie in the Circuit Court of the County of Northampton and such litigation shall be brought only in such courts. The County and the Contractor are encouraged to resolve any issues in controversy arising from contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366).

2. **Taxes.** Pursuant to *Code of Virginia* § 58.1-609.1(4), the County is exempt from the payment of Virginia state sales and use taxes. Vendors should not include such taxes in invoices presented to the County for payment. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request.

3. **Anti-Discrimination Statement by County.** The County certifies that it shall not discriminate against any bidder, offeror or contractor because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the County has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If Contractor is a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1 and 2.2-4310)

4. **Anti-Discrimination Statement by Contractor.**

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

2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 3. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 - B. The Contractor also agrees to include the provisions in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor. (*Code of Virginia, § 2.2-4310*)
5. **Immigration Reform and Control Act of 1986.** In executing a contract with the County, the Contractor certifies that it does not and will not during the performance of the contract knowingly employ unauthorized alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986. (*Code of Virginia, § 2.2-4311.1*)
 6. **Drug-Free Workplace.** During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract. (*Code of Virginia, § 2.2-4312*)
 7. **Authorization to Transact Business in the Commonwealth.** In order to contract with County of Northampton, contractors organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Code of Virginia, Title 13.1 or Title 50 or as otherwise required by law. Pursuant to competitive sealed bidding or competitive negotiation, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 shall include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information shall not be awarded a contract unless a waiver of this requirement is granted by the County Manager. Any business entity as described above that enters a contract with a public body pursuant to the Virginia Public Procurement Act 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 contract. County of Northampton may void any contract with a business entity if that entity fails to remain in compliance with the provisions of this section. (*Code of Virginia, § 2.2-4311.2*)

8. **Indemnification.** Contractor agrees to indemnify, defend and hold harmless the County of Northampton, Virginia and their officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor or any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the County or to failure of the County to use the materials, goods, infrastructure or equipment in the manner already and permanently described by the Contractor on the materials, goods, infrastructure or equipment delivered.
9. **Insurance.** Contractor certifies that it will have the following insurance coverage at the time the contract is awarded. Contractor further certifies that the Contractor and any subcontractors will maintain this insurance coverage during the entire term of the contract and three (3) years beyond the expiration date of the policy for liability insurance. All insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia. The County Manager at his discretion can modify these requirements in writing.

Minimum Insurance Coverage and Limits Required:

- a. **Workers' Compensation** - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the County of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the contract shall be in noncompliance with the contract. § 2.2-4332 and 65.2-800 et seq. *Code of Virginia*
 - b. **Employer's Liability** - \$1,000,000 bodily injury by accident/\$1,000,000 bodily injury by disease policy limit/\$1,000,000 bodily injury by disease each employee.
 - c. **Automobile Liability Insurance** with limits of \$1,000,000. Coverage symbol 1, Best Rating of A-.
 - d. **Commercial General Liability** - \$1,000,000 combined single limits. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The "County of Northampton, Virginia, its Officers, agents, and employees" shall be added as additional insured on a primary basis and so endorsed on the policy. Such additional insured status shall be primary without participation by County's insurers.
 - e. **Professional Liability** – limit of \$1,000,000.
 - f. **Builders Risk Coverage.** Replacement cost basis for the duration of the contract.
10. **Debarment Status.** In submitting a proposal, the contractor certifies that it is not currently debarred from submitting proposals or bids on contracts by any department, agency, or political subdivision of (i) the Commonwealth of Virginia, (ii) any other state, or (iii) the federal government, nor is it an agent of any person or entity that is currently debarred from submitting bids or proposals on contracts by the same.
 11. **Payment.**
 - A. Contractor shall provide the County with a complete and accurate IRS Form W-9.
 - B. Invoices for products/services ordered, delivered, and accepted shall be submitted to the attention of the Project Manager for the project, County of Northampton, P.O. Box 66, Eastville, VA 243347.

- C. Unless otherwise specified, any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after correct invoice or delivery, whichever occurs last.
 - D. Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent (1%) per month.
 - E. Date of payment is deemed to be (1) the date of postmark in all cases where payment is made by mail, or (2) the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - F. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the County shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve the County of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).
 - G. The Contractor is obligated to: (1) pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or (2) notify the County and the subcontractor(s) within seven days, in writing of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment. (*Code of Virginia § 2.2-4354*)
 - H. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent (1%) per month on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the contractor of payments from the County, except for amounts withheld as states in Section g above.
 - I. These provisions apply to each sub-tier Contractor performing under the primary contractor. A contractor's obligation to pay an interest charge to a subcontractor shall not be construed to be an obligation of the County. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.
12. **Availability of Funds.** It is understood and agreed between the parties that the County shall be bound hereunder only to the extent of the funds available, or which may hereafter become available. The contract will be contingent upon annual appropriations by the County Council. Failure of the County Council to appropriate adequate funds for the terms of the contract shall result in the immediate cancellation of the contract. There shall be no penalty should the County Council fail to make annual appropriations for the contract.
13. **Assignment of Contract.** A contact shall not be assignable by the Contractor in whole or in part without the written consent of the County.
14. **Default.** It shall be the Contractor's responsibility to make sure that all work is completed as required. In case of failure to deliver goods or services in accordance with the contract terms and conditions, the County, after five (5) days have passed from the date of delivery of written notice,

may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the County may have.

15. **Changes to the Contract.** All contract modifications must be approved by the County Manager or his designee. The County will not assume responsibility for the cost of any changes made without proper consent.

Changes can be made to the contract in any of the following ways:

- A. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
- B. The County may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt, unless the Contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the Contractor shall, in writing, promptly notify the County of the adjustment to be sought, and before proceeding to comply with the notice, shall await the County's written decision affirming, modifying, or revoking the prior written notice. If the County decides to issue a notice that requires an adjustment to compensation, the Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the County a credit for any savings. Said compensation shall be determined by one of the following methods:
1. By mutual agreement between the parties in writing; or
 2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the County's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 3. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the County with all vouchers and records of expenses incurred and savings realized. The County shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the County within thirty (30) days from the date of receipt of the written order from the County. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the County or with the performance of the contract.

16. **Fixed Price Contract.** A fixed price contract cannot be increased by more than 25% of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the

17. Termination of Contract.

A. Termination for Cause.

1. If the Contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, the County may terminate the contract. If Contractor violates any provision of the Virginia Governmental Fraud Act, the County may terminate the contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors or suppliers of material or labor, or persistently disregards laws, ordinances, or the written instructions of the County, or otherwise be guilty of a substantial violation of any provision of the contract, then the County may terminate the contract. The County retains the sole discretion to determine any violation of this section.
2. Prior to termination of the contract, the County shall give the Contractor and his surety (when applicable) ten (10) calendar days written notice, during which the Contractor and/or his surety may rectify the cause of the termination. If rectified to the satisfaction of the County within said ten (10) days, the County may rescind its notice of termination. If it does not, the termination for cause shall become effective at the end of the ten-day (10) notice period. In the alternative, the County may postpone the effective date of the termination notice, at its sole discretion, if it should receive reassurances from the Contractor and/or its surety that the causes of termination will be remedied in a time and manner which the County finds acceptable. If at any time more than ten (10) days after the notice of termination, the County determines that Contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the County may immediately terminate the contract for cause by giving written notice to the Contractor and its surety. This decision shall be final and not subject to an appeal to any court of law or equity. In no event shall termination for cause terminate the obligations of the Contractor's surety on its payment and performance bonds.
3. Notice of terminations, whether initial or given after a period of postponement, may be served upon the Contractor and the surety by mail or any other means at their last known places of business in Virginia or elsewhere, by delivery to any officer or management/supervisory employee of either wherever they may be found, or, if no such officer, employee or place of business is known or can be found by reasonable inquiry within three (3) days, by posting the notice at the job site. Failure to accept or pick up registered or certified mail addressed to the last known address shall be deemed to be delivery.
4. Upon termination of the contract, the County shall take possession of its property and of all materials, tools, and appliances thereon and finish the work by whatever method the County may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment. If the expense of finishing the work, including compensation for additional managerial and administrative services shall exceed the unpaid balance of the

contract price, the Contractor shall pay the difference to the County, together with any other expenses of terminating the contract and having it completed by others.

5. Termination of the contract is without prejudice to any other right/remedy of the County.

B. Termination for Convenience

1. County may terminate this contract at any time without cause, in whole or in part, upon giving the Contractor notice of such termination. Upon such termination, the Contractor shall immediately cease work and remove from the project site all labor forces and materials as the County elects not to purchase or to assume in the manner hereinafter provided. Upon such termination, the Contractor shall take such steps as the County may require to assign to the County the Contractor's interest in all subcontracts and purchase orders designated by the County. After all such steps have been taken to the County's satisfaction, the Contractor shall receive full compensation for termination and assignment the following:
 - All amounts then otherwise due under the terms of this contract as of the latest request for payment,
 - Amounts due for work performed after the latest request for payment through the date of termination, and
 - Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination. The Contractor shall not be entitled to any compensation for lost profits or for any other type of contractual compensation or damage other than those provided by the preceding sentence. Upon payment of the forgoing, the County shall have no further obligations to the Contractor of any nature.
2. In no event shall termination for the convenience of the County terminate the obligations of the Contractor's surety on its payment and performance bonds.

18. **Debarment Process.** The County policy on debarment is defined in the Northampton County Procurement Policy, Amended January 23, 2024. Enabled under Code of Virginia § 2.2-4321)

19. **Contractual Disputes.** Disputes and claims arising under this agreement shall be processed pursuant to the *Code of Virginia §2.2-4363*.

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

21. **Patents, Copyright and Trademark.** The Contractor shall obtain all licenses necessary to use any invention, article, appliance, process, or technique of whatever kind and shall pay all royalties and license fees. The Contractor shall indemnify, defend, hold, and save harmless the County, its officers, agents, and employees, from any loss or liability for or on account of such infringement.

22. **Conflict of Interest Policy and Ethics in Public Contracting.** The County maintains a Conflict of

Interest Policy in accordance with *Code of Virginia* §2.2-4367 through §2.2-4377. A contractor certifies by signing their bid/proposal to the County, that no conflict of interest or collusion exists between any person representing the County and the offeror/contractor.

23. **Business and Contractors License.** Where required, contractor's and businesses are required to obtain licenses and permits prior to working in the County. Information regarding the County of Northampton Business License requirement is available at the Commissioner of Revenue's office.

24. **COVID-19.**

The Contractor is required to adhere in all respects to all federal, state, and local COVID-19 regulations, including, but not limited to, Executive Orders issued by the Governor of Virginia, the rules promulgated by the Virginia Department of Labor and Industry ("DOLI Rules"), and the County of Northampton (COVID-19) Preparedness and Response Plan (the "Required Local Plan"). In the event of conflict between COVID-19 provisions, the strictest provision shall govern. Without limiting the foregoing, the Contractor shall abide by the following:

- A. Sick and Exposed Persons to Stay at Home. Sick and exposed contractors to the Covid-19 virus shall stay at home and isolate for five (5) days and shall stay home until all signs of fever and/or illness is not present prior to returning to work. Isolation and quarantine guidelines are subject to change at the direction of local, state, and federal mandates. Any questions regarding exposure, illness, isolation, and quarantine guidelines can be directed to Human Resources Department at 276-223-3321.
- B. Notice to County Required of Positive COVID-19 Tests at County Work Sites. Pursuant to the DOLI Rules and the Required Local Plan, the Contractor is required by law to advise the County within 24 hours if an employee of the Contractor or someone associated with the Contractor who was present at a place of employment owned or operated by the County tests positive for COVID-19. All such reports of positive COVID-19 tests shall be directed to Human Resources Department at (276) 223-3321
- C. Subcontractors. The Contractor is responsible for ensuring that its subcontractors comply with all the foregoing requirements.

**APPENDIX II: COUNTY OF NORTHAMPTON, VIRGINIA
SPECIAL TERMS AND CONDITIONS
FOR FEDERALLY FUNDED CONTRACTS**

1. Compliance with Federal Policy. When listed in the procurement document and/or contract that federal funds will be used, the contractor and the County must comply with any applicable Federal policies, procedures and directives for procurement and contracting. The purpose of this document is to ensure that both the County and the Contractor are informed of any applicable federal procurement and contract provisions which may apply based on the procurement type.
2. Non-federal entities, including subrecipients of a State, such as the County of Northampton, must follow the procurement standards in 2 *CFR* §200.318 – §200.327 and *Appendix II of this part*, when using federal funds.
 - 2.1 Procurement Process. The County of Northampton (County) shall maintain procurement procedures consistent with local, state, and federal laws and provide oversight to ensure that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders. *CFR §200.318(a)(b)* The County of Northampton maintains a Procurement Conflict of Interest policy in accordance with *CFR §200.318(c)* and will report any potential conflict of interest in writing to the pass-through entity, as appropriate in accordance with *CFR §200.112*. The County is committed to the wise use of public funds, including measures such as; conducting economic purchasing when possible, promoting efficiency, using strategic sourcing, shared services and intergovernmental agreements when possible, ensuring that unnecessary spending is prohibited, avoiding the acquisition of duplicate or unnecessary items, considering lease instead of purchase, using economic analysis in purchasing and closely managing contracts with providers of goods and services. *CFR §200-318(d) and (e)*.
 - 2.2 Excess and Surplus Property. The County of Northampton will use surplus property, when feasible, in lieu of purchasing new equipment and property, to reduce project costs. *CFR §200-318(f)*
 - 2.3 Value Engineering Clauses for Construction Projects. The County will consider using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. *CFR §200-318(g)*
 - 2.4 Responsible Contractors. The County will award contracts to responsible contractors with the ability to perform successfully under the terms and conditions of the procurement. Contractor integrity, compliance with public-policy, past performance, and the contractor's ability to show the required technical and financial resources to conduct the work will be evaluated prior to the award of the contact. *CFR §200-318(h)*
 - 2.5 Records. The County will maintain sufficient records to detail the history of procurement. To include, but not limited to, rationale for method of procurement, selection of contract type, contractor selection or rejection, basis for contract price and adherence to local state, federal guidelines in the procurement process. *CFR §200-318(i)*

2.6 Time & Material Contracts. Time and Material contracts do not provide cost incentives for a contractor to reduce costs and shall not be used for federal funded projects unless it can be shown that no other contract is suitable and that a ceiling price is set, by which the contractor will be responsible for exceeding at their own risk. Should a time and material contract be used the County must assert a high degree of oversight to ensure efficient methods and effective cost controls are in place. *CFR §200-318(j)*

2.7 Contractual & Administrative Issues. The County will use good administrative practice and sound business judgement in response to contractual and administrative issues associated with the procurement. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. A federal awarding agency will not substitute judgement for that of a non-federal entity unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having jurisdiction. *CFR §200-318 (k)*

2.8 Competition. The County is committed to full and open competition by managing procurement policies that; *CFR §200-319*

- a. Eliminate unfair advantages from procurement and exclude from the procurement process any firms that are involved in the drafting of the procurement documents.
- b. Refrain from placing unreasonable requirements on firms which may prevent them from procurement.
- c. Will not require unnecessary experience and excessive bonding requirements.
- d. Ensure that the procurement process does not encourage non-competitive pricing between firms and does not unfairly give advantage to consultants on retainer contracts.
- e. Prohibits organizational conflicts of interest and other actions that create arbitrary actions in the procurement process.
- f. Will not specify “brand name only” products and will allow equal products to be offered if the performance is relevant and adequate for the purpose.
- g. Will not unfairly base awards on the geographic location of the offeror.
- h. Ensure written procedures and procurement transactions are followed.
- i. Incorporate clear and accurate description of the technical requirements for the material, product, or service to be procured.
- j. Clearly list all of the requirements, of which the offeror must fulfill and list all factors that will be used in evaluating bids or proposals.
- k. Use pre-qualified lists of persons, firms, and products appropriately, including making sure that services are current and include enough qualified sources to ensure open and free competition while not restricting any bidders from qualifying during the solicitation period.

2.9 Procurement Procedures. The County has established procurement types and procedures consistent with *CFR §200.317*, *CFR §200-318*, *CFR §200-319* and *CFR §200-320*, as defined in the document Northampton Procurement Guide 2020. In relationship to federal guidelines the County procurement thresholds are listed below.

- a. **Informal Procurement Methods.** The County uses a Small Purchase Procedure threshold of \$200,000 or less for goods and non-professional services, \$25,000 for transportation related construction and \$80,000 or less for Professional Services. The amounts shown are for the aggregate of all purchases and phases. These thresholds are below the Federal Simplified Acquisition Threshold of \$250,000 as listed in *Title 48, Chapter 1, Subpart A*,

Part 2, Subpart 2.1 of the Code of Federal Regulations (CFR). The County obtains price or rate quotations for small purchases and attempts to receive at least three quotes when possible. Micro-purchasing is not used by the County. The informal procurement methods are in accordance with *CFR §200.320(a)*.

- b. Formal Procurement Methods. The County requires a formal competitive negotiation process (RFP) for professional services over \$80,000 and formal competitive sealed bidding (ITB) for procurement of goods and non-professional services over \$200,000 in value (including transportation related construction over \$25,000). Policy regarding the required components of the formal solicitation documents and process are in accordance with *CFR §200.320(b)*.

Noncompetitive Procurement. Noncompetitive procurement can only occur if one or more of the following circumstances apply: *§CFR 200.320(c)*

- a. A micro-purchase threshold has been set in accordance with *CFR §200.320. a.1* and the aggregate dollar amount does not exceed the micro-purchase threshold; (The County does not use micro-purchase)
- b. The item is available only from a single source.
- c. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.
- d. A written request has been sent to the Federal awarding agency or pass-through entity requesting such and the Federal agency authorizes noncompetitive procurement.
- e. After solicitation of number of sources, competition is determined inadequate.

2.10 Affirmative Socioeconomic Steps. The County is committed to ensuring that minority businesses, women’s business enterprises and labor surplus area firms are used when possible. *CFR §200-321*. If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in *CFR§ 200.321(b)(1)-(6)* to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

2.11 Domestic Preference for Procurement. The County maintains a favorable policy towards procurement that encourages domestic preference. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured projects. The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this clause:

- a. *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. *Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based projects such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber. *CFR §200-322*

2.12 Procurement of Recovered Materials. The County maintains a favorable policy toward procurement that encourages the use of recycled and recovered materials. In the performance of

this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designed items unless the product cannot be acquired:

- Competitively within a timeframe providing for compliance with the contract performance schedule.
- Meeting contract performance requirements; or
- At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. *CFR §200-323 and 40 CFR Part 247*

2.13 Cost & Price Analysis. For procurement actions in excess of the Simplified Acquisition Threshold (\$250,000) the non-federal entity must perform a cost or price analysis in accordance with *CFR§ 200.324*.

2.14 Federal Review of Documents. In accordance with *CFR §200.325* the County and any contractor engaged in a contract that uses federal funds shall make available, upon request by the Federal awarding agency or pass-through entity, procurement documents including technical specifications related to the procurement.

2.15 Bonding Requirements for Construction or Facility Improvement Contracts or Subcontracts Exceeding \$250,000. The County shall consult with the federal awarding agency or pass-through agency to ensure that a bid bond, performance bond and payment bond are adequate for the project, prior to procurement and contract for any federal funded construction project over \$250,000 (Simplified Acquisition Threshold) in accordance with *CFR §200-326*.

3. Appendix II to CFR Part 200 Provisions. All contracts made by a non-federal entity under the federal award must contain contract provisions associated each section, when applicable.
 - a. Violation or Breach of Contract, including termination for cause and convenience by the non-federal entity, the manner by which it will be affected, the basis for settlement, administrative, contractual or legal remedies in instances where contractors violate or breach contract terms and penalties or sanctions as appropriate. For the purposes of County procurement and contracts, the applicable sections of Appendix I. County of Northampton Procurement Policy General Terms and Conditions address breach of contract terms.
 - b. Equal Opportunity Clause. Except as otherwise provided, each contracting agency shall include the Equal Opportunity Clause (*Title 41, Subtitle B, Chapter 60-1.4*) as provided, in each of its government contracts (and modifications thereof if not included in the original contract). For the purposes of County procurement and contracts the clause in Item 4. shall be used.
 - c. Davis-Bacon Act, as amended (*40 U.S.C. 3141-3148*). For the purposes of County procurement and contracts, the guidance provided in Item 11 below shall be used for Construction Projects or grant projects that specifically require Davis-Bacon Act compliance.
 - d. Contract Work Hours & Safety Standards. When required by a federal program legislation, all prime construction contracts in excess of \$2000 awarded by non-federal entities must include a provision for compliance with the Davis Bacon Act (*40 U.S.C*

3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5). For the purposes of County procurement and contracts the clause listed in Item 7, below, shall be used.

- e. Rights to Inventions Made Under a Contract or Agreement. Applies when recipient or subrecipient wishes to enter into a contract with a small business or non-profit and when the federal award meets the definition of “funding agreement” under 37 CFR 401.2., and pertains to experimental, developmental or research work under the funding agreement.
- f. Clean Air Act (42U.S.C 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C 1251-1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards of these acts. For the purposes of County procurement and contracting Item 8 and 9 below, shall be used to meet these standards.
- g. Debarment and Suspension. (Executive Orders 12549 and 12689) A contract award (2CFR 180.22) must not be made to parties listed on the governmentwide exclusions in the System for Award Management ([HTTPS://SAM.GOV/CONTENT/HOME](https://sam.gov/content/home)). The County will review the exclusion list prior to granting any awards for a federal funded project. The contractor’s responsibility is to verify that all contractors, principals and affiliates are not excluded and to ensure that all subcontracts and lower tiered contracts are reviewed to ensure that said entities are not suspended or debarred in accordance with 2 CFR Part 180, Subpart C and 2CFR pt. 3000 subpart C. The bidder shall include this statement in any subcontracts relating to this project.
- h. Byrd Anti-Lobbying Amendment (31 U.S.C 1352)- Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. The attachment at the end of this document provides a filing form.

4 Equal Employment Opportunity. This section applies to construction contracts. During the performance of the contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.
- c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contractor or understanding, a notice to be provided advising the said labor union or workers’ representatives of the contractor’s commitments

under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the portion of the sentence immediately preceding paragraph a and the provision of paragraphs a-g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

5 Compliance with the Copeland "Anti-Kickback" Act

- a. This section applies to construction contracts in excess of \$2,000 paid for by the one of the following programs: Emergency Management Preparedness Grant Program, Homeland Security Grant Program.
- b. Contract. The Contractor shall comply with *18 U.S.C. §874*, *40 U.S.C. §3145*, and the requirements of *29 C.F.R. pt. 3* as may be applicable, which are incorporated by reference into this contract.
- c. Subcontracts. The Contractor or Subcontractor shall insert in any subcontract the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- d. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in *29 C.F.R. §5.12*.

- 6 Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that *31 U.S.C. Chap. 38* (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the County, the contractor, or any other party pertaining to any matter resulting from the contract.

7 Contract Work Hours and Safety Standards Act

- a. This section is applicable on contracts in excess of \$100,000 that involve the employment of mechanics or laborers.
- b. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- c. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- d. **Withholding for unpaid wages and liquidated damages.** The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- e. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

8 Clean Air Act.

- a. This section applies to all contracts in excess of \$150,000.

- b. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, *42 U.S.C. §7401 et seq.*
- c. The contractor agrees to report each violation to the County of Northampton, and understands and agrees that the County will, in turn, report each violation as required to assure notifications to the recipient, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- d. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. Federal Water Pollution Control Act.

- a. This section applies to all contracts in excess of \$150,000.
- b. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Contract Act, as amended, *33 U.S.C. §1251 et seq.*
- c. The contractor agrees to report each violation to the County of Northampton and understands and agrees that the County will, in turn, report each violation as required to assure notification to the recipient, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- d. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

10. Access to Records (FEMA Projects)

- a. The contractor agrees to provide the County of Northampton, the Commonwealth of Virginia, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract
- d. In compliance with Section 1225 of the Disaster Recover Reform Act of 2018, the County of Northampton and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags. (FEMA Projects) The contractor shall not use the US Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The Contractor shall include this provision in any subcontracts.

11. Compliance with Davis-Bacon Act. [Use only on Construction Projects or when required by Grant]

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be

applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

ATTACHMENT A -CERTIFICATION OF ANTI-LOBBYING

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

The undersigned _____ [Contractor] certifies, to the best of his or her knowledge, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Federally Funded Project/Grant Reference

Date of Signature