



REQUEST FOR PROPOSAL (RFP)

October 20, 2016

RFP NUMBER: 1019-16-HC

RFP SUBJECT: HOBBY CLASSES

SEALED PROPOSALS TO BE SUBMITTED ONLY TO: Purchasing Office/City of Falls Church 300 Park Avenue, Rm 300 East Falls Church, Virginia 22046 / Phone (703) 248-5007

PROPOSAL DUE DATE AND TIME: OPEN THROUGH NOVEMBER 30, 2021 at 11:00 AM.

NOTE: To be considered for the upcoming Winter/Spring session Hobby Class Awards, sealed proposals should be received at the address above by no later than October 31, 2016 at 11:00 AM.

All inquiries and questions should be made in writing and forwarded to Jim Wise, Purchasing Agent, via email to jwise@fallschurchva.gov with copy to fsmith@fallschurchva.gov.

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THIS PAGE AND ALL REQUIRED FORMS MUST BE COMPLETED, SIGNED, AND RETURNED WITH PROPOSAL

In compliance with this Request For Proposal and to all the conditions imposed herein, the undersigned offers and agrees to furnish the services in accordance with the attached signed proposal.

Please type or legibly print all information.

FULL LEGAL NAME & ADDRESS OF OFFEROR:

Form fields for Company's Legal Name, Street Address, City, Zip, Date, By, Authorized Representative - Signature, Printed Name, Title.

Phone: Email:

FAX: VA SCC Business Registration #: See Section V - "Proof of Authority to Transact Business in VA"

Offer package contains proprietary and/or confidential information: No Yes, and if so, the information is appropriately marked.

The City of Falls Church is committed to the letter and spirit of the Americans with Disabilities Act. To request a reasonable accommodation for any type of disability or that this document be made available in an alternate format, call 703 248-5007, (TTY 711).

The City of Falls Church does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against any firm because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

**RFP # 1019-16-HC  
HOBBY CLASSES**

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**TO BE COMPLETED AND SUBMITTED WITH PROPOSAL:**

**COVER PAGE OF THIS RFP**

- ATTACHMENT 3      CLASS PRICE SCHEDULE**
- ATTACHMENT 4      REFERENCES & COMPANY INFORMATION**
- ATTACHMENT 5      VIRGINIA SCC REGISTRATION INFORMATION**

## I. SUBJECT

The City of Falls Church (City) is soliciting proposals from qualified firms to provide Hobby Classes (Classes) for its Recreation and Parks Department as is further described herein. The term "Hobby Class" is a generic name for recreational and leisure-time activities/classes offered by the City's Recreation & Parks Department.

## II. GENERAL

- A. Firm's who currently have a contract with the City for Hobby Class programs are not obligated to submit another proposal under this RFP at this time unless specifically requested by the City. Firms under current contract for Classes may submit a proposal under this Open RFP approximately six months prior to the expiration date of that contract.
- B. The City will be receiving proposals throughout the five (5) year contract period (December 1, 2016 through November 30, 2021) and will be making multiple awards during this period on an as needed basis.
- C. ACCESS TO RFP UPDATES: This RFP and any addenda are available on the City of Falls Church's website: [www.fallschurchva.gov/Bids](http://www.fallschurchva.gov/Bids). This solicitation and any associated addenda may also be published through eVA, the Commonwealth of Virginia's electronic procurement portal for registered suppliers ([www.eva.virginia.gov](http://www.eva.virginia.gov)).
- D. **Offerors are solely responsible for checking the Website to insure that they have the most current information regarding the RFP.**  
All addenda must be signed and submitted with your proposal.
- E. Any material question or interpretation of a specification or requirement pertaining to this solicitation shall be submitted in writing. As determined by the Purchasing Agent, answers to such questions will be expressed in the form of an addendum which will be posted on the City's website ([www.fallschurchva.gov/Bids](http://www.fallschurchva.gov/Bids)). If utilized for the initial RFP release, addenda will also be published through eVA (the Commonwealth of Virginia's e-procurement portal for registered suppliers).  
Oral answers will not be authoritative.
- F. The City is not liable for any costs incurred by any Offeror or Contractor in connection with this RFP or any response by any Offeror to this RFP. The expenses incurred by Offeror in the preparation, submission, and presentation of the proposal are the sole responsibility of the Offeror and may not be charged to the City.
- G. ACCEPTANCE OF PROPOSALS - BINDING 150 DAYS: All proposals submitted shall be binding for one hundred and fifty (150) calendar days following that proposal submission and opening. Proposals will be accepted, opened and evaluated on an ongoing basis.
- H. The term Offeror shall mean any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the City and offering to enter into contracts with the City. The term "Contractor" shall mean the Offeror that is awarded a Contract and/or issued Purchase Orders by the City for services to be provided. The terms "Contract" and "Purchase Order" may be used interchangeably herein.
- I. Any person or firm, or agent of any person or firm, currently suspended or debarred from participation in City procurement, conducting business or submitting proposals on contracts by any other local government or agency of the Commonwealth of Virginia, or the Federal Government **IS NOT ELIGIBLE** for contract award under this solicitation.
- J. This solicitation is being conducted in accordance with the guidelines of the Competitive Negotiation (for other than Professional Services) method of contractor selection per the Virginia Public Procurement Act.

### III. COMPETITION INTENDED

It is the City of Falls Church's intent that this Request for Proposals (RFP) permits competition. It shall be the Offeror's responsibility to advise the City's Purchasing Agent, in writing, if any language, requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Any such notification shall be sent to the City's Purchasing Agent's email address: [jwise@fallschurchva.gov](mailto:jwise@fallschurchva.gov) with a copy to [fsmith@fallschurchva.gov](mailto:fsmith@fallschurchva.gov). Confirmation of email receipt shall be the responsibility of the notifying Offeror.

Nothing herein is intended to exclude any responsible Offeror or in any way restrain or restrict competition. All qualified Offerors are encouraged to submit proposals.

### IV. ELIGIBILITY

A. The following are minimum requirements for proposal submission:

1. The Offeror must submit its Virginia State Corporation Commission ("SCC") registration number or justification for exemption. See Section below entitled "Proof of Authority to Transact Business in Virginia".
2. The Offeror must be currently licensed in accordance with any specific requirements of this solicitation and the Code of Virginia (Architect, Licensed Engineer, Contractor's license, etc.).

It is the Offeror's sole responsibility to have knowledge of the applicable licenses(s), if any, associated with this solicitation's scope of work. Any applicable license shall be maintained during the term of any resultant contract.

- B. Any person or firm, or agent of any person or firm, currently suspended or debarred from participation in City procurement, conducting business or submitting bids on contracts by any other local government or agency of the Commonwealth of Virginia, or the Federal Government is not eligible for contract award under this solicitation.
- C. Any current debarment (Federal, state or local jurisdiction) must be disclosed on the Company Information Form attached to this solicitation.

### V. PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

- A. State Corporation Commission (SCC) registration requirements effective July 1, 2010 require that proposals include the identification number issued by the State Corporation Commission as proof of registration or justification for non-registration, per the requirements in this section. **Please complete the Proof of Authority to Transact Business in Virginia form (Attachment 5) and submit it with your Proposal. Failure to provide this information or providing inaccurate or purged information may result in rejection of your proposal.**
- B. A firm organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its proposal the identification number issued to it by the State Corporation Commission (SCC). The Offeror shall provide its SCC ID number on the cover sheet of this solicitation and on the appropriate form.
- C. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its Proposal, for consideration by the City, a signed statement attached to the Cover Sheet of this RFP, describing why the Offeror is not required to be so authorized under Title 13.1 or Title 59 of the Code of Virginia. Any Offeror described herein that fails to provide the required information or for whom such signed exception is not considered valid by the City, shall not receive an award unless a waiver of this requirement is granted, in writing, by the City Manager.

### VI. RIGHTS OF THE CITY

- A. Among the indisputable rights of the City specified herein, the City, at its sole discretion may:

1. Cancel, withdraw or re-advertise this RFP; accept or reject all or any part of proposals; and/or waive minor technicalities/informalities.
  2. Award a contract to multiple Offerors for the same or similar services whenever any such actions are in the best interest of the City.
  3. Issue RFPs for similar work and other projects as the need may occur; issue Purchase Orders and/or expand or otherwise modify existing Purchase Orders for work similar to that being proposed hereunder, in consideration of the City's knowledge and/or evaluation of each Contractor's qualifications, expertise, capabilities, performance record, current ability to perform, location and/or distance to the project, and any and all other factors as may be pertinent to the particular project and for the convenience of the City.
  4. Add, delete or change services, locations, requirements, frequency of service, or other factors related to the products and/or work under contract dependent upon requirements that may develop during the contract period and cannot guarantee the amount of work or predict future funding for any resultant contract.
  5. Use any or all ideas presented in reply to this RFP, subject only to the limitations regarding proprietary/confidential data of Offeror.
- B. This is a Request for Proposals and is in no way to be misconstrued as a commitment to purchase on the part of the City.

## **VII. CONTRACT PERIOD AND RENEWAL OPTIONS**

- A. Any contract resulting from this solicitation will begin on the date of award (effective date) unless otherwise provided in the award letter and/or contract and continue through a one (1) year period (Initial Term) unless otherwise provided in a resultant contract. Thereafter, the contract may be renewed, at the City's sole option, for up to four, one (1) year periods or multiples thereof. The dates for the performance of services may vary dependent upon the needs of the City.
- B. A Notice of Intent to Renew may be given to the Contractor in writing by the City, normally sixty (60) days before the expiration date of the current contract. Failure to give such notice will not constitute a breach of this contract. This notice will not be deemed to commit the City of Falls Church to a contract renewal.
- C. Contractor shall notify the City, in writing, at least ninety (90) days prior to the then current contract period expiration if the Contractor intends not to extend the contract term.
- D. The City may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the then current term of the contract.
- E. The City reserves the right to suspend and reinstate the provision of services for specific periods of time during any contract term based upon the needs of the City. This option is in addition to the City's rights to terminate any contract in accordance with the Section entitled "Termination" herein.
- F. NON-APPROPRIATION OF FUNDS - Multiyear contracts may be continued each fiscal year only after funding appropriations and program approvals have been granted by the City of Falls Church City Council, if applicable. In the event that the City does not grant or make available necessary funding appropriation/program approval, then the affected multiyear contract becomes null and void, effective July 1 of the fiscal year for which such approvals have been denied.

## **VIII. PURPOSE AND BACKGROUND**

- A. The purpose of this Request for Proposals is to enter into a contract with qualified firms for the provision of Hobby Classes to serve community residents through the City's Recreation and Parks Department (Department).

- B. These Classes include specific programming for infants, toddlers, youth, teens, adults and senior adults. Classes may be offered for infants to senior adults in appropriate age groupings: infant 0-3 years; toddlers 3-5 years, youth 6-12 years, teens 13-17, adults 18 and older, and senior 55 and older. Although participants aged 65 and older may take any "Adult" program, there are numerous, specific Senior Adult Classes planned and offered that are substantially subsidized for City residents at 50% of the regular cost.
- C. The Department offers class sessions three times a year. The Winter/Spring session is January through May of each year. The Summer session is June through August and the Fall session is September through December. Start dates for each session vary.
- D. **Prospective Contractors should not feel restricted to offer only Classes or projected dates/time that may be listed below.** The City is open to new Class ideas.
- E. The Falls Church Community Center is located at 223 Little Falls St., Falls Church, VA.

## IX. SCOPE OF WORK AND REQUIREMENTS

- A. The successful firm shall provide all labor, personnel, expertise, equipment, materials, and other resources required for the performance of services. See Section XXX, Attachment 1 – “Scope of Work” for more details.
- B. The following list of potential activities may be held at any City facility (specific facility to be determined), at the contractor’s place of business or other off-site location. Please indicate in your proposal the preferred location(s) for the activity(s):

- |  |   |
|--|---|
| • Children’s Dance                       | • Tumbling & Fitness For Tots                 |
| • Adult Dance Classes                    | • Children’s Theater                          |
| • Movement For Tots                      | • Culinary Arts                               |
| • Combo Dance                            | • Computer & Digital Art                      |
| • Children’s Etiquette                   | • Fencing (Foam)                              |
| • Teen Babysitting                       | • Adult Landscaping/Environment               |
| • Adult CPR/First Aid                    | • Exercise/Movement/Fitness                   |
| • Teen Ballet Classes                    | • Adult Yoga & Pilates                        |
| • Senior Aerobic Classes                 | • Jewelry Making                              |
| • Arts And Crafts                        | • Sign Language                               |
| • Foreign Languages                      | • Adult Health & Wellness                     |
| • Parenting Classes                      | • Child Ethnic/Cultural                       |
| • Public Speaking Skills (Teens, Adults) | • Music (Adult Voice, Children Music Classes) |
| • Sewing, Knitting & Quilting            | • Cheerleading Classes                        |
| • Chess                                  | • Intermediate/Advanced Art Classes           |

**The list above is not all inclusive. Prospective contractors may and should feel free to submit proposals for other Classes for the City’s consideration.**

## X. CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE

- A. The following documents which are included or referenced in this solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:
- This RFP including all addenda, attachments, exhibits, and/or appendices hereto, and other documents which may be incorporated by reference, if applicable
  - Standard and/or special provisions and specifications
  - Price Schedule
  - Any Addenda/Amendments/Memoranda of Negotiations
  - Purchase Order

- B. There is no binding agreement, no contractual relationship, no understanding, nor mutual assent until a contract is duly executed, or Purchase Order received by the Contractor.
- C. The contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The contract may be amended or modified only by written modification.

## **XI. PRICES, FEES AND REVISIONS**

- A. Prospective contractors shall submit in their proposal for each Class proposed a schedule proposed student fees (fees) (see Attachment 3). Fees must include the City's administrative percentage (currently 30%). The fees will remain the same regardless of the number of students or Classes completed per season/session unless otherwise agreed to in writing. The fees must be inclusive of all charges that may be incurred in fulfilling the requirements of the contract. The associated work will be performed during the period(s) of time determined by the City based upon its then current needs.
- B. The fees shall remain firm for the first year (Initial Term) of the contract unless otherwise mutually agreed upon in writing. Prices may be modified by mutual agreement to account for variation in Class offerings (number of days, number of sessions, time of year, etc.) and the needs of the City.
- C. If the Contractor wishes to increase the fees, the request must be made in writing at least sixty (60) days prior to the proposed effective date to the City's Purchasing Agent and the Program Coordinator. The written request for an increase in the fees shall include as a minimum (1) the cause for the adjustment, (2) the proposed effective date, (3) the amount of the change requested with documentation to support the requested adjustment (i.e. specific and/or itemized increased costs to the Contractor or the prices of similar programs held in the geographic area within thirty (30) miles of the City), and (4) verification that the requested price increase is general in scope and not applicable solely to the City.
- D. Approved price adjustments shall be the same unit price or percentage increase as documented and the contract or an associated Purchase Order shall be modified accordingly. Any such price increases shall remain firm through the upcoming Winter, Spring, Summer and Fall Class sessions or as otherwise mutually agreed to in writing.
- E. The City reserves the right to terminate the contract or suspend a Class if there is no mutual agreement on price increases for a particular Class or session.
- F. Any orders placed prior to the proposed effective date of the increase shall not be subject to such increase.
- G. Price reductions may be initiated by the Contractor at any time and shall be effective immediately. The Contractor shall give the City written notice of any such price reductions.

## **XII. PAYMENT TERMS AND INVOICING**

- A. The City will pay Contractor a maximum of seventy percent (70%) of the total Class fees received by the City for each Class session except for students who are City residents and 65 years or older (Senior City Residents) who pay a 50% discounted Class fee. For the Senior City Residents only, the Contractor will be paid 100% of the discounted Class fee.
- B. Payments to Contractors will exclude the \$20 non-resident fee and any refunds or credits issued by the City to Class participants.
- C. Payment will be issued to the Contractor net thirty (30) days after satisfactory delivery and completion of the Class session, verification of enrollment numbers, and the City's receipt of an undisputed invoice unless (i) more favorable terms are stated on contractor's invoice and the City elects to pay on such terms, or (ii) any items thereon are questioned, in which



payment will be withheld pending verification of the amount claimed and the validity of the claim.

- D. The City is under no obligation and will not honor Contractor's request(s) for expedited payment.
- E. Contractors must submit an invoice which includes the name of the Class, Contractor's address, number of verified participants, cost for the class session, and total amount due (see paragraph A above). All invoices shall also reference the applicable Purchase Order number and be submitted to the following name and mailing address unless otherwise directed:
 

City of Falls Church  
Attn: Hobby Class Program Coordinator  
223 Little Falls St.  
Falls Church, Virginia 22046
- F. The City will not make modifications to the Contractor's invoice. If a correction is needed, the Contractor must submit a revised invoice.
- G. Conflicting pre-printed provisions on the reverse or front of the Contractor's form(s) shall be deemed deleted.
- H. The prices and payments shall be full compensation for the services and all other incidentals necessary to complete the services ordered.
- I. Any discount period for payments to contractor shall be computed from the date of proper receipt of the firm's correct invoice. Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act (1%per month).
- J. The City reserves the right to withhold any or all payments or portions thereof for firm's failure to perform in accordance with the provision of the PO/contract or any modifications thereto.
- K. Payment by the City of invoices does not mean or imply that the services have been accepted and does not impair or limit in any way the City's full rights and remedies which shall be and remain as set forth hereof.
- L. Invoices for final payment shall be submitted within thirty (30) days after completion and acceptance of the work otherwise specified in the contract or mutually agreed upon in writing.

### **XIII. PROMPT PAYMENT DISCOUNT**

- A. Unless otherwise specified herein, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a proposal for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- B. In connection with any discount offered, time will be computed from the date an undisputed invoice is received by the City. In the event the Offeror does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.
- C. For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the City check or issuance of an Electronic Funds Transfer, if applicable.

### **XIV. AMBIGUITY, CONFLICT OR OTHER ERRORS IN THE RFP**

- A. If an Offeror discovers any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposal, it shall immediately notify the City of such error in writing and request modification or clarification of the document. The City will make modifications to material issues by issuing a written revision and will give written notice via addendum posted on the City's website ([www.fallschurchva.gov/Bids](http://www.fallschurchva.gov/Bids)) and eVA, the Commonwealth of Virginia's electronic procurement portal for registered suppliers ([www.eva.virginia.gov](http://www.eva.virginia.gov)).

- B. The Offeror is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal.

#### **XV. SUBCONTRACTORS**

- A. In the event that the Offeror desires to subcontract some part of the work specified in the solicitation or contract, the Offeror shall furnish the City the names, qualifications, and experience of the proposed subcontractors and the percentage of the work under any resultant contract to be performed by each.
- B. The City reserves the right to reasonably reject the Contractor's selection of subcontractors.
- C. The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
- D. Nothing contained in the contract shall create any contractual relationship between any subcontractor and the City.

#### **XVI. PROPOSAL PREPARATION**

- A. Before submitting a proposal, the Offeror must read this ENTIRE solicitation including the Terms and Conditions/Standard Provisions. Failure to read any part of this solicitation shall not relieve the Offeror of its contractual obligations.
- B. The RFP cover page must be completed as required, signed in ink by Offeror's representative with the AUTHORITY TO BIND HIS/HER FIRM IN A CONTRACT, and returned with the proposal.
- C. All information requested must be submitted in writing. Proposals which are substantially incomplete or lack key information may be rejected by the City at its discretion. Proposal contents shall be arranged in the same order and identified with headings as presented herein.
- D. The City reserves the right to accept or reject all or any part of proposals, waive minor technicalities/informalities and award the contract to the most qualified and best suited Offeror to best serve the interest of the City.
- E. Failure to submit all information requested may result in the Purchasing Agent requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the City at its discretion.
- F. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of context. Unnecessarily elaborate proposals, brochures of other presentations, expensive paper, bindings, visual and other presentation aids beyond that sufficient to present a complete and effective proposal are neither required nor desired.
- G. Your firm's name must be on the bottom or top of each and every page of your proposal.
- H. Each copy of the proposal should be bound in a single volume. The City encourages the use of recycled goods, therefore, it is urged that proposals be submitted on paper made from or with recycled content and be printed on both sides.
- I. Unless otherwise necessary, all pages of the Proposal should be printed on 8 ½" x 11" paper with type no smaller than 12 font size or equivalent.
- J. The City will not consider information other than the materials provided in a duly submitted proposal and/or subsequent interviews for proposal evaluation purposes

- K. **A separate proposal, meeting the requirements of Section XVII below shall be submitted for EACH CLASS proposed.** However, only one (1) completed Attachment 4 “References & Company Information” and Attachment 5 “Virginia SCC Registration Information” should be included in your proposal package.
- L. Your proposal **Should Not** include a copy of this RFP other than the pages and attachments specifically requested.
- M. The City reserves the right to request additional information and/or clarifications regarding the content of proposal(s). Responses shall be provided in writing by the time and in compliance with the City’s request. The City also reserves the right to negotiate any of the proposal content which may be in its best interest.

## **XVII. PROPOSAL SUBMISSION REQUIREMENTS**

### **A. Specific Requirements**

1. Offerors should submit two (3) complete hard copy, sealed proposal packages consisting of one (1) original (clearly marked as such on the cover of the proposal package) and two (2) copies of each proposal to include the information and format described herein.
2. In addition to the hard copies, each Offeror is requested to submit one (1) searchable, indexed PDF copy of their complete Proposal on CD in the Proposal package.
3. If the Proposal contains proprietary or confidential information in accordance with the section “Trade Secrets or Proprietary Information” herein, the Offeror shall also submit one (1) separate, sealed redacted hardcopy of the proposal along with a separate, redacted version of the searchable, indexed PDF both clearly marked as such.
4. The CD(s) shall be clearly marked with the RFP number, Offeror’s name, date of Proposal and redacted ID if applicable.
5. The hard copy proposal shall be the Offeror’s “official” Proposal and shall meet all requirements for submission. **The CD copy will not be accepted in lieu of the hard copy Proposal.**

### **B. Proposal Content**

Submit proposal package in the order outlined below. Each section should be separated by tabs, clearly labeled and with pages numbered.

1. **RFP Cover Page:** Signed in ink and completed as required.
2. **Title Page:** Include the RFP number, RFP name, name of Offeror, address, telephone number, and date of preparation. Provide name, telephone number and email address of person to contact regarding proposal questions or issues.
3. **Overview:** Provide a brief history of your company and description of its goals, objectives and strategy for accomplishing the proposed scope of services and the length of time your firm been in business.  
  
Confirm your agreement to all provisions and requirements in this RFP including but not limited to Attachment 1 “Scope of Work and Requirements”. See paragraph 6 below if you have any exceptions.
4. **Proposal/Class Description and Specifics:** For **EACH CLASS** proposed, please address the details/requirements in Section XXX; Attachment 1 “Scope of Work and Requirements”.

Please include a brief brochure type description of the Class you will instruct. The sample brochure description should include the price of the Class, how many Class meetings and supply fees if applicable. Most importantly, include the Class objectives so our participants will know what to expect to gain as participants in your Class if contracted.

5. **Detailed Price Proposal:** For **EACH CLASS** proposed (including any options), include a separate Class Price Schedule (Attachment 3). The prices shall include all supervision, labor, services, equipment, materials and other out of pocket expenses to perform the work described in this RFP.
6. **References/Prior Experience:** Provide a minimum of three (3) commercial or governmental references (other than the City) who could attest to the Offeror's past performance to provide product/services similar to those required for the contract. The list should include company or public body name, contact persons, telephone numbers and email addresses.

In addition, submit details of any prior experience with programs, camps and/or classes provided to the City within the past three (3) years.

Offerors may also attach any recommendations and/or evaluations from current or previous clients and/or students/parents of students that demonstrate success with similar programs.

7. **Exceptions:** The Offeror shall identify (by Section Number) any specific sections or issues and elaborate on any exceptions and proposed resolution(s) to any and all technical, functional, cost, Scope of Work, or other issues and/or terms and conditions herein in a subsection labeled "Exceptions".

**The City reserves the right to accept, reject or negotiate any proposed change(s) in the scope, terms and conditions or other provisions of the RFP.**

### C. General Requirements

1. Proposals shall be placed in a sealed, opaque envelope, and clearly marked in the lower left-hand corner with the RFP number and RFP title. Proposals are to be submitted by mail, courier or delivered in person **ONLY** to:
 

City of Falls Church  
Attn: Purchasing Office  
300 Park Ave, Suite 300 East  
Falls Church, VA 22046  
Phone (703) 248-5007 / FAX (703) 248-5444
2. The Purchasing Office is open for the receipt of sealed proposals from 9:00 AM until 4:30 PM, Monday through Friday (excluding City holidays). The City is not responsible for deliveries attempted outside of these time periods or misdirected to other offices.
3. Oral proposals are not allowed and proposals so delivered will not be considered.
4. All erasures, interpolations, and other changes in the proposal shall be signed or initialed by the Offeror.
5. By submitting a proposal in response to this Request for Proposal, the Offeror represents it has read and understands the Scope of Work, Standard Provisions/Terms and Conditions, all other sections of this solicitation and any attachments hereto and has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations that in any manner may affect the cost, progress, or performance of the work.
6. **Offerors are solely responsible for checking the City's Website to insure that they have the most current information regarding the RFP.**

7. All erasures, interpolations, and other changes in the proposal shall be signed or initialed by the Offeror. Carelessness in quoting business terms (i.e. prices), or in preparation of the proposal will not relieve the Offeror. When an error is made in extending total prices, the unit price will govern. Offerors are cautioned to recheck their proposals for possible error. Errors discovered after negotiation cannot be corrected, and the Offeror will be required to perform if its proposal is accepted.
8. Conditional proposals are subject to rejection in whole or in part.
9. Under no circumstances shall an Offeror, whose proposal has not been awarded, be entitled to any claim for compensation under this solicitation.

#### **D. Proposal Submission Covenants And Certifications**

The Offeror's signature on the RFP Cover Page or the Proposal itself covenants and certifies acknowledgement and compliance with the following:

##### **1. Americans With Disabilities Act Requirements**

The City is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all City programs, activities and services. The City government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any City contractual agreement must make the same commitment. Your acceptance of any contract resulting from this solicitation acknowledges your commitment and compliance with ADA.

##### **2. Employees Not to Benefit**

To the best of the firm's knowledge, no City of Falls Church official or employee having official responsibility for the procurement transaction, or member of his or her immediate family (including spouse, parents or children), has received, been promised, directly or indirectly, or will receive any financial benefit, including but not limited to fees, commission, finder's fee, political contribution or any similar form of remuneration, or other financial benefit of more than nominal or minimal value on account of the act of awarding and/or executing this contract.

##### **3. Fully Informed**

The Offeror acknowledges that they have read this solicitation, understand it, has satisfied itself from its own investigation of the conditions to be met and/or products to be provided, fully understands Offeror's obligation, agrees to be bound by this solicitation's terms and conditions (except as otherwise explicitly provided in writing), and will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information. In addition the Offeror has or will provide properly trained employees, staff, subcontractors (if approved by the City), or other personnel; and has familiarized itself with all federal, state, and local laws, ordinances, and rules and regulations; that in any manner may affect the cost, delivery, progress, or performance of products and/or work proposed and to be provided under this RFP.

##### **4. Collusion**

In the preparation and submission of this RFP, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1 et seq.) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

##### **5. Insurance**

If awarded the contract, the firm will have the insurance coverage specified herein at the time the work commences. Additionally, it will maintain this coverage during the

entire term of the contract and verify that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. During the period of contract, the City requires the Contractor to furnish certificates of insurance for the coverage required, naming the City of Falls Church as additional insured.

6. Conflict of Interest

The provisions referenced in the paragraph above entitled "Ethics In Public Contracting" above, supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§§ 18.2-498.1 et seq.), and Articles 2 (§§ 18.2-438 et seq.) and 3 (§§ 18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

7. Employment Discrimination By Contractor Prohibited

During the performance of any resultant contract, the Offeror will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, and Section 2.2-4311 of the Virginia Public Procurement Act which provides that:

In every contract over \$10,000.00 the provisions in "a" and "b" below apply:

a. During the performance of this contract, the contractor agrees as follows:

- 1) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

b. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

8. Drug Free Workplace

Every Contract over \$10,000 the following shall apply:

During the performance of any resultant 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 of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from

engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

9. All other applicable federal and state requirements, policies and guidelines:

Including but not limited to: Ethics In Public Contracting (Sections 2.2-4367 through 2.2-4377, of the Virginia Public Procurement Act as set forth in the Code of Virginia, as amended): Conflict of Interest (the State and Local Government Conflict of Interests Act (§§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§§ 18.2-498.1 et seq.), and Articles 2 (§§ 18.2-438 et seq.) and 3 (§§ 18.2-446 et seq.) of Chapter 10 of Title 18.2).

## **XVIII. PROPOSAL EVALUATION CRITERIA**

- A. Selection of the successful Offeror(s) will be based upon a “Best Value” evaluation. Best Value means the overall combination of experience, quality, price, and various elements of required services that in total are optimal relative to the City’s needs.
- B. Major factors to be considered in the evaluation may include, but shall not necessarily be limited to the services, tasks, specifications, and/or requirements referred to in the Scope or Statement of Work and the criteria set forth below.
- C. Evaluation factors will include but are not limited to the following criteria which are listed in relative order of importance with the first 3 factors being relatively equal in importance:
1. Income potential to the City
  2. Costs to participants
  3. Staff qualifications/Experience
  4. Compliance with RFP provisions/depth of response to the requirements
  5. References
- D. The proposals will also be evaluated against substantially similar Class offerings currently available under the City’s Parks and Recreation programs. Those proposed Classes that may not be currently offered, improve upon current City programs, and/or are fiscally advantageous to the City as compared to current City programs, may be given favorable consideration.

## **XIX. BASIS OF AWARD**

- A. Awards under this RFP will be made to the highest qualified Offerors whose proposal(s) are determined, in the sole opinion of the City, to be the most advantageous to the City considering the criteria above.
- B. Proposals determined not to meet one or more material RFP requirements, are substantially similar or duplicates of current City programs/classes and/or not considered to improve upon current City programs or be fiscally advantageous to the City, in the City’s sole opinion, may be excluded from further consideration.
- E. The City will be receiving proposals throughout the contract period and will be making multiple awards during that period. Therefore any awards made under this solicitation do not guarantee that an awardee(s) will be the only provider(s) of a particular type of program/class nor obligate the City to commit any volume of business to an awardee(s).
- F. City staff will evaluate proposals as they are received. Interviews and/or site visits may be requested as needed. The final terms and conditions of the proposed contract will be negotiated by the Purchasing Agent or his/her designee with the successful Offerors. Contracts may be awarded to multiple Offerors who submit responsible and responsive proposals. The City reserves the right to waive any informality and to reject all proposals in whole or in part.
- G. Negotiations shall be conducted with each of the selected Offerors. The Offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at

the beginning of negotiations, and such exceptions shall be considered during negotiation. The City may undertake concurrent negotiations with the selected Offerors. Negotiations may be conducted face to face, via telephone, via email, or other correspondence.

- H. After negotiations have been conducted, the City shall select Offerors on an ongoing basis which, in the City's opinion, have made the best proposals, and shall award contracts to Offerors that the City decides to be in its best interests. Should the City determine in writing and in its sole discretion that only one (1) Offeror is fully qualified for any particular program/class, or that one (1) Offeror is clearly more highly qualified than the others under consideration for a similar class offering, a contract may be negotiated and awarded only to that Offeror.
- I. The City may cancel this Request for Proposal or reject proposals at any time and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

## **XX. NOTICE OF ACCEPTANCE/AWARD**

- A. A written Notice of Award will be furnished to the successful Offeror to be followed by execution of a contract.
- B. The successful Offeror shall be expected to sign the contract (or accept the Purchase Order) within a period of ten (10) days from the date of the City's acceptance and approval of their proposal, and to submit the Certificate of Insurance as required in the relevant article of the contract. Failure to do so may cause the bid to be considered withdrawn.
- C. Performance under any resultant contract shall not to begin until the Contractor's receipt of the City's Purchase Order. Contractors providing goods or services without a signed City purchase order, do so at their own risk. The City will not be liable for payment of any purchases made by its employees without appropriate purchase authorization signed by City's Purchasing Agent.
- D. All awards for goods and non-professional services over \$100,000 are contingent upon City Council approval.
- E. Public announcement of Awards under this solicitation will be posted periodically on the City's website: [www.fallschurchva.gov/Bids](http://www.fallschurchva.gov/Bids).

## **XXI. PROTEST OF AWARD OR DECISION TO AWARD**

Any Offeror may protest the award or decision to award only in accordance with the provisions of Sections 2.2-4357 through 4364 of the Code of Virginia, and only if such is provided for in such Code section.

## **XXII. CONTRACT DOCUMENTS**

- A. This solicitation, including all addenda, attachments, exhibits and/or appendices hereto, shall become a part of any contract that may be awarded inclusive of any terms, conditions and/or provisions that may be changed, added to, deleted, or modified as may be agreed to between the City and the Offeror during negotiations.
- B. Other documents which shall become a part of any resultant contract include but are not limited to:
  1. Offeror's Proposal and any modifications accepted by the City
  2. Proposal clarifications; responses to questions/issues.
  3. Documents submitted in conjunction with oral discussions/presentations.
  4. Memoranda of Negotiations
- C. EXCEPTIONS – This solicitation contains terms and conditions the City favors and intends to use in any resultant contract. The City reserves the right to negotiate any and all exceptions in its best interest.



- D. A written award notice, contract, or purchase order mailed (or otherwise furnished) to the successful Offeror within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract.
- E. There is no binding agreement, no contractual relationship, no understanding nor mutual assent until a contract is signed, executed and exchanged by and between the Offeror and the City
- F. The contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The contract may be amended or modified only by written modification.

### **XXIII. CHANGES/ADDITIONS**

- A. The City may, at any time, in writing require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any services under the contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly.
- B. The City reserves the right to add similar or new services as requirements change during the period of the contract by Contract amendment. Upon request by the City, the Contractor shall submit a new Class proposal. The Contractor may also offer an unsolicited Class proposal for the City's consideration. The City and the Contractor will mutually agree to prices for the new Class(es) to be added to the Contract.
- C. No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the City's Program Coordinator and the Purchasing Agent.

### **XXIV. TRADE SECRETS OR PROPRIETARY INFORMATION**

- A. Trade secrets or proprietary information submitted by a firm in response to this solicitation shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the firm must invoke the protection of this section prior to or upon submission of data or materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary (Section 2.2-4342F of the Code of Virginia).
- B. If the proposal contains any proprietary or trade secret material, such notice must be indicated on the cover sheet of this solicitation and attached as the **first page of the proposal and clearly identify the material/information** by some distinct method such as highlighting/underlining or submitted in a separate and clearly labeled section. In addition, the Offeror must (i) indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information and (ii) clearly state the justifiable reason why protection is necessary.
- C. **Classification of an entire proposal document and/or prices (line item or totals) as proprietary or trade secret is NOT ACCEPTABLE and may result in REJECTION of the proposal.**

### **XXV. TAX EXEMPTION**

The City is exempt from the payment of federal excise taxes and the payment of State Sales and Use Tax on all tangible, personal property for its use or consumption. Tax exemption registration number 54-6001271 applies. A certificate will be furnished upon request. The price offered must be net, exclusive of taxes.

### **XXVI. COOPERATIVE PROCUREMENT**

- A. As authorized in Section 2.2-4304 of the Code of Virginia, this procurement is being conducted on behalf of other public bodies. Any resultant contract may be used by public bodies, agencies, institutions and localities of the several states, territories of the United States, and the District of Columbia with the consent of the Contractor at the same prices and/or discounts and terms.

- B. Each jurisdiction and/or political subdivision has the option of executing a separate agreement with the Contractor after making their own legal determination as to whether the use of this contract is consistent with their laws, regulations, and other policies. Such other contracts may contain general terms and conditions unique to those jurisdictions and/or political subdivisions. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the Contractor, the Contractor may withdraw its extension of the award to that public body or political subdivision.
- C. It is the responsibility of the Contractor to notify the jurisdictions and/or political subdivisions of the availability of any contract resulting from this solicitation.

## **XXVII. ORDER OF PRECEDENCE**

- A. In the event that there is a conflict between any specific terms, conditions and/or provisions of this RFP, the specific provisions of the RFP shall take precedence over the "Standard Provisions" which shall take precedence over the "General Conditions and Instructions to Offerors" sections herein.
- B. In the event there is a conflict between any specific terms, conditions and/or provisions of contract documents resulting from this solicitation, the contract shall take precedence over the Request for Proposals which shall take precedence over the Offeror's response to the Request for Proposals unless otherwise stipulated in the contract.

## **XXVIII. STANDARD PROVISIONS**

The headings of the sections in the "Standard Provisions" and/or "General Conditions and Instructions to Bidders" are inserted for convenience only and are not intended to affect the meaning or interpretation of this solicitation or any resultant contract.

### **A. Choice Of Law**

Any contract resulting from this solicitation is made, entered into, and shall be performed in the City of Falls Church, Virginia, unless otherwise specified, and shall be governed by the applicable laws of the Commonwealth of Virginia. Any dispute arising out of the contract, its interpretations, or its performance shall be litigated only in either the General District Court or in the Circuit Court of the County of Arlington, Virginia.

### **B. Compliance With Laws**

The Contractor shall comply at its own expense with all federal, state, and local laws, rules, regulations, orders and other legal requirements that are directly or indirectly related to the Contractor's performance under the contract, including procurement of required permits, certificates, licenses, insurance, approvals, and inspections.

No Offeror or contractor shall institute any legal action against the City until all statutory requirements have been met.

### **C. Authority To Transact Business In Virginia**

A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the City pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The City may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

Any foreign corporation transacting business in Virginia shall secure a certificate of authority, as required by Section 13.1-757 of the Code of Virginia, from the State

Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

**D. BPOL License Requirement**

Contractor shall be licensed in accordance with the City's Business, Professional, and Occupational Licensing (BPOL) Tax Ordinance. All questions regarding the BPOL license requirement and tax should be referred to the Office of the Commissioner of the Revenue, 300 Park Avenue, Suite #104E, Falls Church, Virginia 22046-3301; Phone: (703) 248-5019; Fax: (703) 248-5212.

**E. Purchase Orders**

Contractor shall not start work prior to the receipt of a purchase order. A purchase order may be enclosed with the resulting contract or may be issued shortly thereafter, and will become an integral part of the resulting contract.

Any purchase order issued by the City which references this solicitation or resultant contract, shall be deemed to be placed under and incorporate the terms and conditions of this solicitation or resultant contract as well as any supplemental terms and conditions agreed to by the parties in writing. However, the City's failure to specifically incorporate, identify, or reference the contract on any purchase order shall in no manner affect the applicability of these terms and conditions.

A contract is not a Purchase Order or order to proceed. Except as otherwise provided herein, contractors providing goods or services without a signed City purchase order do so at their own risk. The City will not be liable for payment of any purchases made by its employees without appropriate purchase authorization signed by City's Purchasing Agent or designee.

Orders for less than \$1,000.00 do not require a Purchase Order.

**F. Safety**

All contractors and subcontractors performing services for the City are required to comply with OSHA standards, all other Federal and State guidelines, and other industry accepted safety rules and regulations as applicable.

**G. Warranties**

Contractor warrants to the City that services provided hereunder shall be diligently, efficiently and skillfully performed in a manner which meets or exceeds the highest prevailing standards in the industry, and in accordance with applicable specifications. Any products provided as a part of the services shall be new, free from defects in material or workmanship. All warranties shall survive inspection, acceptance and payment.

The Contractor agrees to: furnish Services at the times and places and in the manner and subject to conditions herein set forth provided that the City may reduce the said Services at any time; enter upon the performance of Services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence; and render all work and Services in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods, and procedures of all government boards, bureaus, offices, and other agents.

**H. Default**

In case of Contractor's failure to deliver products and/or to meet specifications in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City may have.

**I. Termination**

Subject to the provisions below, the contract may be terminated by the City upon thirty days (30) written notice; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the contract may be extended upon written approval of the City until said work or services are completed and accepted.

a. Termination for Convenience

In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall pay the Contractor a reasonable, equitable adjustment in the contract price for completed performance, but no amount shall be allowed for anticipated profit on unperformed services.

b. Termination for Cause

The City may terminate the contract for cause, default, or negligence on the part of the Contractor at any time. Termination by the City for cause, default or negligence on the part of the Contractor shall be excluded from the foregoing provision (a) hereinabove; termination cost, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause. In the event any Termination for Cause is found to be improper or invalid by any court of competent jurisdiction, then such termination shall be deemed to have been a Termination for Convenience.

c. Termination Due to Unavailability of Funds in Succeeding Fiscal Years

Applicable multiyear contracts may be continued each fiscal year only after funding appropriations and program approval have been granted by the appropriate City authority. If necessary funds are not appropriated or otherwise made available to support continuation of the performance of the contract in a subsequent fiscal year, then the contract shall be canceled on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first, and the Contractor shall be reimbursed for the reasonable value of any documented nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this agreement. No amount shall be allowed for anticipated profit on unperformed services.

**J. Delays/Service Failure**

Failure of a Contractor to deliver products or services within the time specified, or within reasonable time as interpreted by the City, or failure to make replacements/corrections of rejected products/services when so requested, immediately or as directed by the City, shall constitute authority for the City to purchase in the open market products/services of comparable grade/quality to replace the services, products rejected, and/or not delivered. Should public necessity demand it, the City reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the City.

If delay is foreseen, Contractor shall give thirty (30) days prior written notice to the designated City Project Manager. The City has the right to extend delivery date if reasons appear, in the sole discretion of the City, to be valid. Contractor must keep the City advised at all times of status of order. Except as otherwise provided in the contract, default in promised delivery or failure to meet specifications, authorizes the City to purchase supplies, equipment, or services elsewhere and charge full increase in cost and handling to defaulting Contractor.

If the Contractor is unable to provide the required service for any period of time, except as provided in the paragraph herein entitled "FORCE MAJEURE", the Contractor is responsible for providing a backup service, satisfactory to the City, to the City at no additional cost to the City. The City reserves the right to make arrangements for service, under emergency conditions from other sources, should the Contractor be unable to provide the required service within the required time frame. If this occurs, the City further reserves the right to recover all costs from the Contractor.

Nothing in the section shall prohibit or restrict the City's right to return goods not accepted by the City within a reasonable period of time without penalty or restocking fees.

If the City has paid Contractor for all or part of the Services that are ultimately rejected or not accepted by the City, or if the City later determines that Contractor's performance of Services was performed in a manner that breached the terms of this Agreement, Contractor shall (in addition to any other remedy available to City) return to City all amounts paid for such Services.

**K. Indemnification**

The Contractor agrees to indemnify and hold harmless the City of Falls Church, Virginia, its officers, agents, and employees from any liability, claim, 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 using department or to failure of the using department to use the materials, goods or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered. The Contractor agrees to protect the City from claims involving infringement of patent or copyrights.

Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and hold harmless and defend the City as herein provided.

The Contractor shall also save the City, its officers, agents and employees harmless from liability of any nature or kind for the use of any copyrighted or un-copyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a Contract for which the Contractor is not the patentee, assignee, licensee or City.

The Contractor shall protect the City against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery; furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible and protect the City from loss or damage to City owned property while it is in the custody of the Contractor.

If the Contractor uses any design, device, or materials covered by letters patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way involved with the work.

**L. Debarment Status**

By submitting their bid/proposals, all bidders/offerors certify that they are not currently debarred from submitting bids/proposals on contracts by any agency of the Commonwealth of Virginia, nor are they an agent of any person or entity that is currently debarred from submitting bid/proposals on contracts by any agency of the Commonwealth of Virginia.

**M. Correspondence**

All communications between the parties relating to material contractual issues shall be through the Purchasing Agent and must be in writing to be deemed binding.

**N. Relationship Of The Parties**

The Contractor shall be legally considered and acting solely as an independent contractor and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered servants or agents of the City. The City will not be legally

responsible for any negligence or other wrongdoing by the Contractor, its servants or agents. The City will not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, social security tax, or any other amounts or benefits to the Contractor. Further, the City will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the City for its employees or officers.

Persons furnished by the respective parties shall not be considered employees of the other party for any purpose. Nothing contained in the solicitation or any resultant contract is intended to give rise to a partnership or joint venture between the parties.

**O. Use Of Information**

Any specifications, drawings, sketches, models, samples, tools, computer or other apparatus programs, technical or business information or data, written, electronic, oral, or otherwise (all hereinafter designated "Information") which the City furnished, or shall furnish, to the Contractor under the contract or in contemplation of this agreement, or that Contractor comes in contact with on City premises or under City control shall remain City property. All copies of such information in written, graphic or other tangible form, and all information, ideas, discoveries, improvements, derived from or reflecting such information, shall be returned to City at its request, and in any event within thirty (30) days after the expiration or termination of the contract. Unless such information was previously known to Contractor free of any obligation to keep it confidential, or has been or is subsequently made public by City or a third party without breach of any agreement, it shall be kept strictly confidential and shall be used only in performing services under this Agreement, and may not be used for other purposes except upon such terms as may be agreed upon between Contractor and City in writing. Unless approved in writing by the Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared, or assembled by the Contractor under contract.

**P. Work Site Damages**

Any damage to property, whether owned by the City or others, resulting from services performed under this contract, shall be repaired or replaced to the City's satisfaction at the Contractor's expense. Contractor shall immediately notify City of any such damages.

**Q. Additions/Deletions:**

The City reserves the right to add similar items/services or delete items/services specified in the resultant contract as requirements change during the period of the contract. The City and the Contractor will mutually agree to prices for items/services to be added to the contract and/or reduction in overall costs for items/services deleted. Contract amendments will be issued for all additions or deletions.

**R. Dispute Resolution**

Arbitration shall not be applicable but the parties shall negotiate in good faith to resolve any dispute arising under the contract. Disputes by Contractor with respect to the contract which are not otherwise disposed of by mutual agreement shall be submitted in writing and forwarded to the City Purchasing Agent. The Contractor's dispute shall detail all pertinent facts of the dispute and the desired outcome.

Such dispute shall be considered and decided in the first instance by the City's Purchasing Agent, whose decision shall be reduced to writing and forwarded to the Contractor within twenty (20) days of receipt of such written dispute. The decision of the Purchasing Agent shall be final and binding unless within twenty (20) days from the date of such decision, the Contractor forwards a written appeal addressed to the City Manager with copy to the Purchasing Agent. Within twenty (20) days of receipt of such written appeal, the City Manager shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Contractor.

The decision of the City Manager shall be final and binding unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. Pending a final determination of a properly appealed decision of the Purchasing Agent, the Contractor shall proceed diligently with the performance of the Contract in accordance with that decision.

In accordance with §2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

**S. Non-Waiver**

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the contract, shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

The City's failure at any time to enforce any of the provisions of the contract or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided will in no way be construed to be a waiver of such provisions, rights, remedies or options or in any way to affect the validity of this agreement. The exercise by the City of any rights, remedies or options provided hereunder or at law or equity shall not preclude or prejudice the exercising thereafter of the same or any other rights, remedies, or options.

**T. Severability**

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

**U. Record Retention/Audits**

The Contractor shall maintain accurate records of all invoices, amounts billable to and payments made by the City, during the performance of the contract and for a period of three (3) years from the completion of this agreement. Such records shall include, but not be limited to: all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices, including the Contractor's copies of periodic estimates for partial payment; ledgers; cancelled checks; deposit slips; bank statements; journals; contract amendments and change orders; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Such records shall be available to the City on demand and without advance notice during the Contractor's normal working hours. City personnel or designee may perform in-progress and post-audits of the Contractor's records.

**V. Insurance**

- a. The Contractor is responsible for its work and for all materials, tools equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage of or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract, or in any way whatsoever with the contracted work.
- b. The Contractor shall, during the continuance of all work under the contract provide

the insurance as detailed below:

- 1) Maintain statutory Workers' Compensation and Employer's Liability insurance in limits of not less than \$100,000 to protect the contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, volunteers, or subcontractors including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia, or which may be hereinafter enacted.
- 2) Maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the Contractor, its subcontractors, and the interest of the City, its officers and employees against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverages for explosion, collapse and underground hazards, where required. Completed operations liability endorsement shall continue in force for three years following completion of the contract.
- 3) Maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of \$1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the contractor. In addition, all mobile equipment used by the contractor in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. The Garage Keeper's Liability coverage shall also be maintained where appropriate.
- 4) Maintain Contractors Liability insurance in the amount of \$1,000,000 per occurrence/aggregate to insure against loss due to liability imposed upon an owner/contractor for acts arising out of the operations of independent contractors/subcontractors or out of an owner's/contractor's supervisory activity.
- 5) Maintain Professional Liability Insurance (if applicable) in the amount of \$1,000,000 per occurrence/aggregate to cover each individual professional staff where appropriate. "Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering (VPPA § 2.2-4301).
- 6) Maintain Environmental Impairment Liability Insurance (if applicable) including sudden and accidental pollution and in transit coverage as well as coverage for storage at site in the limits of \$2,000,000 per occurrence/aggregate where appropriate.
- 7) Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy
- 8) Liability Insurance "Claims Made" basis: If the liability insurance purchased by the contractor has been issued on a "claims made" basis, the contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:
  - (a) Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractors or sub-contractors work under this contract, or



- (b) Purchase the extended reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
- 9) The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VI.
- 10) The Contractor will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein before any work is started. In addition, the Contractor will secure and maintain all insurance certificates of its subcontractors, which shall be made available to the City on demand.
- 11) The Contractor will provide on demand certified copies of all insurance policies related to the contract within ten (10) business days of demand by the City. These certified copies will be sent to the City from the Contractor's insurance agent or representative. During the period of the contract, the City reserves the right to require the contractor to furnish certificates of insurance for the coverage required
- c. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty five (45) day advance written notice to the City. The Contractor shall furnish a new certificate prior to any change or cancellation dated. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.
- d. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities provisions of the contract.
- e. Contractual and other liability insurance provided under this contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the City from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors.
- f. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- g. The City, its officers and employees shall be named as an "additional insured" in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the City may possess."
- h. If an "ACCORD" Insurance Certificate form is used by the Contractor's insurance agent, the words, "endeavor to" and "... but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted or crossed out.
- i. Insurance coverage required by this solicitation shall be in force throughout the contract term. Should the contractor fail to provide acceptable evidence of current insurance within five (5) days of written notice at any time during the contract term, the City shall have the absolute right to terminate the contract without any further obligation to the contractor, and the contractor shall be liable to the city for the entire additional cost of procuring the uncompleted portion of the contract at the time of termination.

**W. Time Of The Essence**

Time is of the essence in respect to all provisions of the contract that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this agreement.

**X. Antitrust**

By entering into a contract, the contractor conveys, sells, assigns and transfers to the City all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the City under said contract.

**Y. News Release/Publicity By Contractors**

As a matter of policy, the City does not endorse the products or services of a Contractor. News releases or other publicity concerning any resultant contract from this solicitation will not be made by a Contractor without the prior written approval of the City. All proposed news releases will be routed to the Purchasing Agent for review and consideration of approval.

**Z. Relationship Of Parties**

The Contractor will be legally considered and acting solely as an independent contractor and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered, employees, servants or agents of the City. The City shall not be legally responsible for any negligence or other wrongdoing by the Contractor, its servants or agents. The City shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, social security tax, or any other amounts for benefits to the Contractor. Further, the City shall not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the City for its employees or officers.

Persons furnished by the respective parties shall not be considered employees of the other party for any purpose. Nothing contained in the solicitation or any resultant contract is intended to give rise to a partnership or joint venture between the parties.

**AA. Procedures**

The extent and character of the services to be performed by the Contractor(s) or products delivered shall be subject to the general control and approval of the City's Recreation Program Supervisor.

**BB. Key Personnel**

Any personnel named in the proposal details will remain responsible for performance of the described task(s) throughout the period of any contract resulting from the solicitation. Requests for substitutions shall be reviewed and may be approved by the City at its sole discretion.

NO substitutions, additions or cancellations, including those of key personnel, are permitted after Contract award without written approval by the City's Purchasing Agent or his/her designee. Where specific employees are proposed by the Contractor for the work, those employees shall perform the work as long as those employees work for the Contractor, either as employees or subcontractors, unless the City agrees to a substitution. Requests for substitutions shall be reviewed and may be approved by the City at its sole discretion.

The City will, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the City reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the Contractor's employees shall be the sole responsibility of the Contractor.

Where required, personnel used by the Contractor to perform under the contract shall be licensed and certified as required by the Virginia Board for Contractors. Contractors shall submit evidence of licensing, trades certification and training within five (5) calendar days of the City's request. The City reserves the right to reject any of Contractor's service personnel who, in the City's judgment, are not adequately qualified to perform the work.

#### **CC. Payments To Subcontractors**

Within seven (7) days after receipt of amounts paid by the City for work performed by a subcontractor under this Agreement, the Contractor shall either:

- a. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under this agreement; or,
- b. Notify the City and subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The Contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven-day period except for amounts withheld as allowed in item b. above.

Unless otherwise provided under the terms of this agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include this provision in each of its subcontracts requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of the City.

#### **DD. HIPAA Compliance**

The Contractor shall comply with all applicable legislative and regulatory requirements of privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

#### **EE. Non-Exclusive Market Rights**

It is expressly understood and agreed that except as otherwise specifically provided in writing, any resultant contract neither grants to Contractor an exclusive privilege to provide to the City any Services which the City may require, nor does it require the purchase of any services from Contractor by the City.

Contractor understands and agrees that the City is free to and may contract with other Contractors for the procurement of comparable Services.

#### **FF. Section Headings**

The headings of the sections and their relative order are inserted for convenience only and are not intended to prioritize specific terms or conditions or affect the meaning or interpretation of the contract.

#### **GG. Conflict Of Interest**

In the event that a conflict of interest arises with Contractor acting as the City's authorized Contractor on a specific job, the City reserves the right to seek professional services elsewhere on the specific job over which the conflict arose.

#### **HH. Virginia Freedom Of Information Act**

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

**II. Funding**

A contract shall be deemed binding only to the extent of appropriations available for the purchase of goods and services.

**JJ. Assignment**

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this contract, without the prior written consent of the City

**KK. Force Majeure**

Neither party shall be liable for any delay or failure to perform its obligations in connection with any action described in this Agreement, if such failure results from any act of God, riot, war, civil unrest, flood, earthquake, acts by the public enemy, or other cause beyond such party's reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a party's financial condition or negligence).

**LL. Americans With Disabilities Act Requirements**

The City is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all City programs, activities and services. The City government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any City contractual agreement must make the same commitment. Your acceptance of any contract resulting from this solicitation acknowledges your commitment and compliance with ADA

**MM. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business.**

In the solicitation or awarding of contracts, the City shall not discriminate against a bidder or offeror 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.

**NN. Provisions Required By Law Deemed Inserted**

Each and every provision of laws and clauses required by law to be inserted in a contract resulting from this solicitation shall be deemed to be inserted and incorporated by reference. The contract shall be read and enforced as though the required provisions are included and if through mistake or otherwise, any such provision is not inserted or not correctly inserted, then upon the application of either party, the contract may be amended to make such Insertion.

**XXIX. GENERAL DEFINITIONS, CONDITIONS AND INSTRUCTIONS TO OFFERORS**

- A. The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the City of Falls Church, unless otherwise specified.
- B. If there is a conflict between the terms and conditions in this "General Conditions and Instructions to Offerors" section, and other provisions, conditions and/or attachments to this solicitation, the other provisions, conditions and/or attachments of this RFP shall take precedence.
  1. **DEFINITIONS:** The terms defined in this section shall have the meanings set forth below whenever they appear in this Solicitation regardless of case (capitalized or not), unless the context in which they are used clearly requires a different meaning or a different definition is described for a particular Section or provision:
    - a. **BEST VALUE:** As predetermined in the Request for Proposal, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

- b. OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the City.
  - c. CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the City.
  - d. CITY: City of Falls Church.
  - e. DAY: Unless otherwise specified “day” or “days” shall mean calendar days
  - f. GOODS/PRODUCTS: All material, equipment, supplies, printing, and/or automated data processing/information technology hardware and software.
  - g. INFORMALITY: A minor defect or variation of a proposal or proposal from the exact requirements of the invitation to proposal or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.
  - h. OPEN MARKET PROCUREMENT: A method of competitive solicitation for the purchase or lease of goods, non-professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less than \$50,000.
  - i. PROPOSAL: The offer of a supplier to provide goods and/or services in accordance with general specifications or requirements in a Request for Proposal solicitation (RFP). A proposal is subject to scope and price negotiation.
  - j. PURCHASING AGENT: The Purchasing Agent employed by the City of Falls Church, Virginia or his/her designee.
  - k. REQUEST FOR PROPOSAL (RFP): A request which is made to prospective suppliers (Offeror) for a Proposal. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.
  - l. RESPONSIBLE OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required.
  - m. SERVICES: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.
  - n. SOLICITATION: Depending upon the context an RFP or the process of notifying prospective Offerors that the City wishes to receive proposal on a set of requirements to provide goods or services.
  - o. STATE: Commonwealth of Virginia.
2. LEGAL ACTION: No Offeror, potential Offeror, or subcontractor shall institute any legal action until all statutory requirements have been met.
  3. CONDITION OF COMMODITIES: All items proposed shall be new, latest model, design or pack and in first class condition, including containers suitable for shipments and storage, unless otherwise indicated in proposal invitation/proposal request. Verbal agreements to the contrary will not be recognized.
  4. SAMPLES: Samples, if required, must be furnished free of expense to the City on or before date specified; if not destroyed in examination, they will be returned to Offeror, if requested, at Offeror’s expense. Each sample must be marked with the Offeror’s name and address, City’s request number and opening date. **DO NOT ENCLOSE IN OR ATTACH PROPOSAL TO SAMPLE.**
  5. FORMAL SPECIFICATIONS - When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the Offeror will be required to

- furnish articles in conformity with that specification. The Offeror shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.
6. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the City shall have the right to terminate or suspend this contract without liability to the City or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
  7. LABELING OF HAZARDOUS SUBSTANCES - If the items or products requested by this solicitation are "Hazardous Substances" as defined by 10.1-1400 of the Code of Virginia (1950), as amended, 42 U.S.C. § 11001 et seq., or 42 U.S.C. § 9601 et seq., then the Offeror, by submitting his proposal, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products that the Offeror does not violate any of the prohibitions of Sec. 10.1-1400 et seq., or the Code of Virginia or Title 15 U.S.C. Sec. 1263. Material Safety Data Sheets (MSDS) and descriptive literature shall be provided with the proposal or delivered materials for each chemical and/or compound offered.
  8. MATERIAL SAFETY DATA SHEETS: Material Safety Data Sheets (MSDS) and descriptive literature shall be provided with the proposal or delivered materials for each chemical and/or compound offered.
  9. SHIPPING - Unauthorized advance shipments and shipments other than for the quantity ordered are returnable at Contractor's expense. Delivery shall not be deemed complete until the goods have been actually received by City at its facility.
  10. RESPONSIBILITY FOR SUPPLIES TENDERED - Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the City may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.
  11. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the City when not in conflict with the contract. The decision of the City as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the City shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the City, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the City, there shall be added to the time of completion a time equal to the period of such delay caused by the City. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Standard or Specific Provisions for the individual solicitation.
  12. POINT OF DESTINATION-All materials shipped to the City must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

13. **CONTRACT ALTERATIONS** - No alterations in the terms of a contract shall be valid or binding upon the City unless made in writing and signed by the City's authorized representative.
14. **BANKRUPTCY:** If the Contractor should be adjudged bankrupt, or make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of the Contractor's insolvency, then the City may without prejudice to any other right or remedy, terminate the contract Contractor and procure such goods or services from other sources. In such event, the Contractor shall be liable to the City for any additional cost occasioned by such failure or other default. In such cases, the Contractor shall not be entitled to receive any further payment if the expense of finishing the contract requirements, 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 City.
15. **SUBCONTRACTING:** If one or more subcontractors are required, the contractor is encouraged to utilize small, minority-owned and women-owned business enterprises. For assistance in finding subcontractors, contact the Virginia Department of Business Assistance <http://www.dba.state.va.us/>; the Virginia Department of Minority Business Enterprise <http://www.dmb.e.state.va.us/>; local chambers of commerce and other business organizations. As part of the contract award, if requested by the City, the prime contractor agrees to provide the names and addresses of each subcontractor that subcontractor s status as defined by the Commonwealth of Virginia as small, minority-owned and/or woman-owned business and the type and dollar value of the subcontracted goods/services provided.

Except as otherwise specified in the solicitation, the Contractor may subcontract third party issues performed under the contract, but must submit a written list of those subcontractors, their addresses, personnel who will be performing the work, and a description of the work to be performed to the City prior to the work actually being done. The City must agree to the third party's work and reserves the right to deny the third party access if necessary.

16. **GENERAL GUARANTY** - Contractor agrees to:
- a. Indemnify and save the City, its agents and employees harmless from any claim or liability of any nature or kind for unauthorized use of any copyrighted or uncopyrighted compositions, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract.
  - b. Protect the City against latent defective materials or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
  - c. Furnish adequate protection against damage to all work and to repair damages of any kind, to the building or equipment, to his/her own work or to the work of other contractors, for which his/her workers or those providing work through Contractor are responsible.
  - d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the United States, State, County, and City.
  - e. Protect the City from loss or damage to City-owned property while it is in the custody or control of the Contractor.
17. **SERVICE CONTRACT GUARANTY** - Contractor agrees:
- a. To furnish services described in the solicitation at the times and places and in the manner and subject to conditions therein set forth, provided, however, that the City may reduce the said service at any time.
  - b. To enter upon the performance of services with all due diligence and dispatch; assiduously press to its complete performance and exercise therein the highest degree of skill and competence.

- c. All work performed and services rendered shall strictly conform to all laws, statutes, regulations, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices, and other agencies.
  - d. Said services may be inspected by an employee of the City at any reasonable time and place selected by the City. The City shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
  - e. The presence of a City/County/State Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material.
18. SMALL, WOMEN-OWNED, MINORITY-OWNED, AND SERVICE DISABLED VETERAN-OWNED BUSINESS:
- a. The City encourages small, women-owned, minority-owned, and service disabled veteran-owned businesses to participate in business opportunities with the City. Contact the Virginia Department of Small Business and Supplier Diversity for information regarding certification and certified businesses: <http://www.dmbv.virginia.gov/>
  - b. Where Federal grants or monies are involved it is the policy of City, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.



**XXX. ATTACHMENTS**

Attachment 1 **Scope of Work and Requirements**

Attachment 2 **Refund Policy**

**ATTACHMENTS TO BE COMPLETED AND RETURNED WITH PROPOSAL**

Attachment 3 **Price Schedule**

Attachment 4 **References & Company Information**

Attachment 5 **Virginia State Corporation Commission (SCC) Registration Information**

## ATTACHMENT 1 – SCOPE OF WORK AND REQUIREMENTS

The information below describes the minimum requirements and standards of the services to be provided.

The dates and times listed below are projected dates and times for the Initial Term of the contract only. The City reserves the right to modify such dates and times as needs arise for the Initial Term and any contract renewals.

The Falls Church Community Center is located at 223 Little Falls St., Falls Church, VA.

### A. General Specifications

1. The minimum, optimum and maximum number of participants for each Class shall be included in the firm's proposal. Generally, all Classes should have a minimum of five (5) students registered at least one (1) week before the Class starts. Classes that have less than 5 students may be cancelled by the Recreation and Parks Department.
2. The amount of space desired (i.e. gyms, rooms) should be included in the contractor's proposal. The final decision on how much and what space is to be made available will be decided by the City.
3. Contractors must provide in the proposal a curriculum of clearly defined goals and objectives for each Class proposed in the psychomotor (physical), cognitive (intellectual) and affective (social) domains. These goals and objectives shall be consistent with the instructional content of the Class.
4. Instructors are required to take attendance at every Class. The completed attendance sheets should be submitted at the end of the session to the City representative.
5. Contractors shall take attendance and provide such information to the City as needed. Class attendance worksheets and rosters are available from the Department for the Contractor's use. Contractors should contact students who have missed a number of Classes. Any person attending a Class who is not on the roster should be referred to the Recreation & Parks office immediately.
6. Class cancellations by the Contractor must be avoided. The Contractor agrees to notify all participants in the Class if the Contractor cancels Class and further agrees to arrange with the City for additional dates to use the facility to make up Classes. It is the Contractor's Instructor's responsibility to notify his/her students and the Recreation & Parks Department if the Class is canceled. Call 703-248-5027 and 703-248-5137 and leave messages regarding the cancellations. Such messages to the City must be followed up in writing via email or fax within 24 hours. It is also the Instructor's responsibility to notify the Program Supervisor at 703-248-5137 of substitute teachers. Make-ups are usually scheduled at the end of the session and should be coordinated through the Program Supervisor. With the contractor's permission, individual students may attend a make up Class provided that the Class is not at maximum enrollment.
7. The Contractor is an independent contractor and not an employee of the City. Contractors are required to provide the necessary supplies to operate the Classes except in those situations and for those items where a specific supply fee is charged by the Department as a part of the registration fee. Contractors are required to provide qualified, trained instructors to teach the scheduled Classes. The Contractor must respond to complaints from the students or parents regarding the quality of instruction and take remedial action where deemed necessary by the Department.
8. Email addresses or other information obtained by the Contractor or provided on rosters may not be used for publicity or solicitation purposes. No photos of students may be posted on the internet including social websites such as Facebook, etc.
9. The Contractor agrees to exercise reasonable care in the performance of this Contract, and to take whatever special precautions are warranted to prevent the risk of property damage or bodily injury to anyone.

**B. Staffing Requirements**

1. The Instructor shall possess extensive experience in the development, organization and direction of the class program, and shall be of sufficient maturity and stability in the opinion of the City to properly supervise the program.
2. Instructors must have significant training and experience in the Class they provide. Significant experience in comparable activities working with youth groups is also highly desirable.
3. Staff members shall be at least 16 years of age.
4. Contractors must have in place an organized and comprehensive procedure for the screening, selection and assignment of their staff members. Contractors must include in their proposal a descriptive listing of the experience and education of staff members to be assigned to the program. The City reserves the right to reject proposed staff members assigned during the contract term, or require the immediate removal of staff members previously approved, who, in the sole opinion of the City, do not meet the City's criteria for the assignment.
5. Key personnel named in the proposal will remain responsible throughout the period of this contract. No diversion or replacement may be made without submission of a resume of the proposed replacement, with final approval being granted by the City's Hobby Class Program coordinator.
6. The contractor will submit a Criminal History Police Check report on each of their staff members. This request is made in accordance with title 19.2, section 389, Code of Virginia, and if requested by the department a complete background check will be performed for every person who will be working with children.

**C. Evaluation**

At the completion of each session, an evaluation form, designed by the Recreation and Parks Department, is to be given to each participant to evaluate the Class. These evaluation forms may be used to determine whether or not the Class will be offered in the future. The contractor and/or its Instructors shall not influence, or attempt to influence the evaluations.

**D. Registration, Flyers and Forms**

Class registration will take place at the Falls Church Community Center or on-line using the City's website with payment made to the City.

Promotional flyers, brochures and registration forms will be printed or electronically published by the City's Recreation & Parks Department. Contractors shall provide the content (Class description) for brochure/flyer publication and other information as may be needed by the City in the format and by the dates required by the City. The City reserves the right to edit such content to meet its needs.

**E. Revenue Share**

The City will administer the registration and fee collection process for all Classes, and provide marketing, facilities, and scheduling services. The City will retain an agreed upon percentage of the paid tuition from each student. Unless otherwise agreed upon in writing, the City will keep at least 30% of the paid student fee and the contractor will receive the remaining percentage as full payment for services satisfactorily completed. For City Residents 65 and older, a discount of 50% is provided to the student. The contractor receives the full 50% of the registration paid by the customer but no more.

**F. Facilities**

The facilities are subject to change based on availability. Most of the facilities are jointly used by the City School district and Recreation Department, and the schools have priority use of all of the facilities.

**G. Contractor Responsibilities**

1. The contractor will be responsible for repair or replacement of any equipment belonging to the City or the City Schools, which is damaged, destroyed or broken by any of the student or staff. The contractor will be required to assume full replacement responsibility for any City or City School property, issued to the contractor for use in the Class that is stolen or lost.
2. The contractor will be responsible for assuring that all students have been picked up either by a parent, individuals designated by the parents, or guardian prior to departure from the Class. If any problem arises concerning pick up of students, the contractor will contact the Recreation Department staff immediately.
3. The Contractor must provide a list of names and addresses of references for which previous Classes have been offered, which shall include a title and phone number for a contact person.
4. The Contractor must provide a copy of its current business license and insurance certificate.

**H. Subcontractors**

1. Contractors may not use subcontractors for the provision of services hereunder except and unless specifically approved in advance by the City. The City reserves the right to reasonably reject the successful Contractor's selection of subcontractors.
2. The contractor shall be solely and unequivocally responsible for all subcontractors and the work they may perform including acts, omissions, compliance with insurance and with all provisions and requirements of this RFQ.

## ATTACHMENT 2 – CLASS REFUND POLICY

### CLASS REFUND POLICY

The City will provide a full credit or refund for an class/activity (activity) if the activity is canceled by the Recreation and Parks Department (Department) or upon request when schedule or location changes made by the Department prohibit or limit an individual's ability to attend an activity.

To request a credit or refund for any reason other than those stated above a "Request for Refund/Household Credit must be completed and submitted. All requests are handled using the following guidelines:

- *When a request is made ten or more calendar days before the activity starts a refund is granted less a 20% processing fee and a credit is granted less a 10% processing fee.*
- When a request is made five to nine calendar days before an activity starts no refunds will be granted, but a credit will be granted less a 10% processing fee.
- When a request is made less than five calendar days before an activity starts no refund or credit will be granted unless there is a medical reason (doctor's note required) or for relocation of at least 25 miles from the City of Falls Church. If a refund or credit is granted for medical reasons or because a class participant has moved the refund will be assessed a 20% processing fee or the credit a 10% processing fee.
- No refunds or credits will be granted once an activity has ended

**ATTACHMENT 3 – CLASS PRICE SCHEDULE**

***COMPLETE A SEPARATE PRICE SCHEDULE FOR EACH HOBBY CLASS PROPOSED.***

**FIRM'S NAME:** \_\_\_\_\_

**HOBBY CLASS TYPE/NAME:** \_\_\_\_\_

**Session/Period:** **Winter/Spring**      **Summer**      **Fall**      ***CIRCLE ALL THAT APPLY.***

**CLASS PROFILE**

1. Number of students per session: \_\_\_\_\_ Minimum      \_\_\_\_\_ Maximum
2. Teacher to Student Ratio \_\_\_\_\_
3. Student profile:      From \_\_\_\_\_ To \_\_\_\_\_ years of age  
\_\_\_\_\_ Co-ed      \_\_\_\_\_ Female only      \_\_\_\_\_ Male only
4. Length of class (45 minutes, 1 hours, etc.): \_\_\_\_\_
5. Preferred day of the week and time: \_\_\_\_\_
6. Type of space requested: \_\_\_\_\_
7. Special Requirements: \_\_\_\_\_

**PRICE SCHEDULE**

1. Total Student Fee per class per student:      \$\_\_\_\_\_/Student  
(Example – if there are 8 sessions for the class, this would be 1/8 of the total class fee)
2. Percentage of Student Fee to be paid to Contractor.      \_\_\_\_\_% (Maximum 70%)
3. Prompt Payment Discount:      \_\_\_\_\_% Net \_\_\_\_\_ Days  
The City's standard payment term is Net 30 days after receipt of an undisputed invoice

**All fee, charges and costs must be identified along with options on this form.**

***Add pages/details as needed.***

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

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Telephone Number      Email Address

Contact for RFP and/or  
Contract Questions: \_\_\_\_\_ / Title: \_\_\_\_\_

Email address: \_\_\_\_\_      Tele. No. \_\_\_\_\_

**ATTACHMENT 4 – REFERENCES & COMPANY INFORMATION**

**4A. REFERENCES**

Submit references for contracts/projects similar in scope to the requirements in this solicitation. References should be for current work or projects completed within the last three (3) years.

Has your firm ever traded or done business under another name? If yes, please provide details.

Please Type or Print Legibly.

1. Firm Name: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

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

Phone number: \_\_\_\_\_

\*\*\*\*\*

2. Firm Name: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

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

Phone number: \_\_\_\_\_

\*\*\*\*\*

3. Firm Name: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

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

Phone number: \_\_\_\_\_

\*\*\*\*\*

4. Experience/references with City of Falls Church programs (if any). Include Key City Contract, Name of program(s), Dates, etc.

#### 4B. Company Information

1. Name of Business: \_\_\_\_\_

Other Business Names Used During Past Ten (10) Years, if applicable:

\_\_\_\_\_

2. Type of Business (check one): Proprietorship \_\_\_ Partnership \_\_\_ Corporation \_\_\_

Other \_\_\_\_\_

3. Name of Owner of Chief Executive Officer: \_\_\_\_\_

4. Address of office/shop from which work will be provided:

5. How many persons does the Offeror currently employ? \_\_\_\_\_

6. Is all the equipment, supplies and/or materials proposed in this RFP and/or necessary to efficiently and effectively perform the services under this RFP operative and presently in the Offeror's inventory?

\_\_\_ YES \_\_\_ NO If NO explain.

7. Are you current removed from a vendor's list or debarred from conducting business or submitting bids or proposals on contracts by any Commonwealth of Virginia agency or local government, or agency of the Federal government? \_\_\_ YES \_\_\_ NO

If yes, explain and provide information regarding the debarment and the local or federal government or agency contact information (name, title, telephone number and email address.

8. Key contact person for Questions and Contract Administration:

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Phone # \_\_\_\_\_ Email Address: \_\_\_\_\_

***Add additional pages if needed to completely answer the questions above.***



**ATTACHMENT 5 – VIRGINIA STATE CORPORATION COMMISSION (SCC)  
REGISTRATION INFORMATION**

**This Form Must Be Returned With Bid/Proposal**

Pursuant to Virginia Code §2.2-4311.2, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid/ proposal the identification number issued to it by the State Corporation Commission (VA SCC). Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the Bidder/Offeror is not required to be so authorized.

Any bidder/offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or designee. The SCC may be reached at (804) 371-9733 or at <http://www.scc.virginia.gov/default.aspx>. **Email:** [sccinfo@scc.virginia.gov](mailto:sccinfo@scc.virginia.gov)

If this bid/proposal for goods or services is accepted by the City of Falls Church, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

**Please check the appropriate line below and provide the requested information:**

The bidder/offeror (Legal Name) \_\_\_\_\_r:

is a corporation or other business entity with the following SCC identification number:

**-OR-**

**This IS NOT the same as a Tax ID Number (TIN)**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

**\*\*NOTE\*\*** Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids/proposals:

*The City reserves the right to determine in its sole discretion whether to allow such waiver.*