

ORD - 3189D

REQUESTED BY COUNCILMEMBERS DAVIS AND DYER

1 AN ORDINANCE DIRECTING THE CITY MANAGER TO
2 DEVELOP A PROGRAM FOR PREQUALIFICATION OF
3 CONSTRUCTION CONTRACTS BETWEEN \$100,000 AND
4 \$500,000

5
6 WHEREAS, the requirement for bid, payment, and performance bonds
7 (collectively, "bonding") for City nontransportation-related construction contracts
8 exceeding \$100,000 is provided by state law;

9
10 WHEREAS, Delegate Ron Villanueva proposed House Bill 1951 to increase the
11 statutory threshold for nontransportation-related construction contracts that require
12 bonding;

13
14 WHEREAS, the General Assembly adopted the bill and the Governor signed it
15 into law, which, effective July 1, 2011, will allow the City to waive the bonding
16 requirements on nontransportation-related construction contracts valued between
17 \$100,000 and \$500,000 if prospective contractors are prequalified;

18
19 WHEREAS, the City has adopted procedures for the prequalification of
20 prospective contractors for construction contracts (Resolution 3169, adopted February
21 7, 2006);

22
23 WHEREAS, with the exception of projects with significant health or safety risks,
24 such as environmental remediation and proprietary controls, the use of a
25 prequalification process instead of a bonding requirement for nontransportation-related
26 construction contracts valued at \$500,000 or less will present little or no financial risk to
27 the City, primarily because the City does not pre-pay for such work;

28
29 WHEREAS, the City believes that reducing barriers to entry in the procurement
30 process will benefit the City by increasing competition in City procurements and will also
31 benefit small, woman-owned, minority-owned, and service disabled veteran-owned
32 businesses for which bonding requirements are often an insurmountable impediment to
33 their participation in the City's construction contract procurement process; and

34
35 WHEREAS, the Virginia Beach Minority Business Council supports the increase
36 of dollar thresholds for construction contracts that require bonding.

37
38 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
39 VIRGINIA BEACH, VIRGINIA:

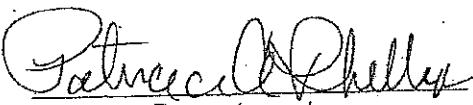
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41 The City Manager or his designees shall develop a program (the "Program")
42 based on the changes to state law provided by Chapter 789 of the 2011 Acts of
43 Assembly, effective July 1, 2011, that is consistent with the following parameters:
44

- 45 a. The Program will apply to nontransportation-related construction contracts
46 valued between \$100,000 and \$500,000, with the exception of projects that
47 have significant health or safety risks such as environmental remediation and
48 proprietary controls;
- 49 b. As required by state law, prospective contractors must be prequalified before
50 bonding can be waived;
- 51 c. The prequalification process will be consistent with City Council Resolution
52 3169;
- 53 d. A prospective contractor may be denied prequalification only upon the
54 grounds set forth in Section 2.2-4317 of the Virginia Code. However, for this
55 Program only, financial capacity will not be an applicable basis for denial of
56 prequalification; and
- 57 e. After prequalification, prospective contractors will not require bid,
58 performance, or payment bonds for those contracts subject to this Program.
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61
62

Adopted by the Council of the City of Virginia Beach, Virginia on the 28th day
of June, 2011.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Finance Department


City Attorney's Office

CA11885
R-3
June 21, 2011

RES - 03169

1 A RESOLUTION OUTLINING PROCEDURES FOR
2 THE PREQUALIFICATION OF PROSPECTIVE
3 CONTRACTORS FOR CONSTRUCTION CONTRACTS
4 TO BE USED FOR COMPLEX PROJECTS

5 WHEREAS, pursuant to Code of Virginia ("Virginia Code") § 2.2-
6 4317, prospective contractors may be prequalified for particular
7 types of supplies, services, insurance or construction, and
8 consideration of bids or proposals may be limited to prequalified
9 contractors;

10 WHEREAS, any prequalification of prospective contractors for
11 construction by a public body shall be pursuant to a
12 prequalification process for construction projects adopted by the
13 public body; and

14 WHEREAS, the City of Virginia Beach, Virginia, ("City")
15 desires to establish the necessary procedures for the
16 prequalification of prospective contractors for construction
17 contracts.

18 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
19 VIRGINIA BEACH, VIRGINIA:

20 That the following procedures shall govern the
21 prequalification of prospective contractors for construction
22 contracts:

23 1. The City shall publish notice of its request for
24 qualifications ("RFQ") at least ten (10) days prior to the date set
25 for receipt of qualifications by posting in the Purchasing Agent's

26 office and in a local newspaper of general circulation in the City
27 so as to provide reasonable notice to the maximum number of
28 offerors that can be reasonably anticipated to submit qualification
29 in response to the particular request. Additionally, qualification
30 may be solicited directly from vendors. If practicable, the notice
31 shall also be published in appropriate national trade publications.

32 2. The RFQ shall indicate in general terms those services
33 sought by the City, specifying the factors to be used in evaluating
34 the potential offeror's qualifications. The RFQ shall contain or
35 incorporate by reference other applicable contractual terms and
36 conditions, including any unique capabilities to be required of the
37 offeror. The RFQ shall request of potential offerors only such
38 information as is appropriate for an objective evaluation of all
39 offerors pursuant to such criteria. Prior to the issuance of the
40 RFQ, the City shall establish procedures whereby comments
41 concerning specifications or other provisions in the RFQ can be
42 received and considered prior to the time set for receipt of
43 qualifications.

44 3. The Committee shall evaluate each responding offeror's
45 qualifications submittal, and any other relevant information, and
46 shall select a minimum of two (2) offerors deemed to be fully
47 qualified and best suited. An offeror may be denied
48 prequalification only upon the grounds set forth in Virginia Code §
49 2.2-4317. At least thirty (30) days prior to the date established

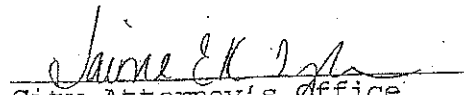
50 for the submission of proposals, the City shall advise each offeror
51 in writing as to whether that offeror has been prequalified. In
52 the event that an offeror is denied prequalification, the written
53 notice shall state the reasons for the denial of prequalification
54 and the factual basis for such reasons.

55 Adopted by the Council of the City of Virginia Beach,
56 Virginia, on the TTH day of FEBRUARY, 2006.

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL SUFFICIENCY:


Patricia A. Phillips
Finance Department


Jaime E. K. [unclear]
City Attorney's Office

CA9896
H:\GG\PA\OrdRes\Constructor Contracts RES
R-2
January 19, 2006