CONTRACT DEB20160916
BETWEEN
THE COMMONWEALTH OF VIRGINIA
DEPARTMENT OF GENERAL SERVICES
DIVISION OF ENGINEERING AND BUILDINGS
AND HART BUSINESS SOLUTIONS LLC

NOTICE OF CONTRACT AWARD

1. DATE………………………………………………………………May 1, 2017
2. COMMODITY NAME...........................................Non Professional Services
3. CONTRACT NUMBER……………………………………DEB20160916
4. CONTRACT PERIOD…………………………..May 1, 2017 – April 30, 2019
   Five one year renewals remaining
5. AUTHORIZED USERS…………………………………All Public Bodies
6. CONTRACTORS…………………………………………Hart Business Solutions, LLC
7. TERMS……………………………………………………Net 30 days
8. DELIVERY…………………………………………………..As requested
9. F.O.B…………………………………………………………Not applicable
10. FOR FURTHER CONTRACT INFORMATION CONTACT: Hugh Elwood
     (804) 786-1014
     e-mail: hugh.elwood@dgs.virginia.gov

Notice: This Notice of Contract Award is being provided to you to announce the vendors to whom the Non-Professional construction related Services have been awarded to. You may begin using the Contractors immediately using the information provided herein. Any questions concerning the provisions of the contract should be directed to the Contract Officer listed above.

By: Shirley McNutt
    Shirley McNutt, VCCO, VCO
    Contract Officer
COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT

This contract entered into this 1st day of May 2017 by Hart Business Solutions LLC, hereinafter called the “Contractor” and Commonwealth of Virginia, Department of General Services, Bureau of Facilities Management called the “Purchasing Agency.”

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the goods/services to the Purchasing Agency as set forth in the Contract Documents:

   Services for a web based construction pay application process

PERIOD OF PERFORMANCE: From: May 1, 2017 through April 30, 2019 with five one year renewals.

The contract documents shall consist of:

(1) This signed form;

(2) The following portions of the Request for Proposal dated September 16, 2016:

   (a) The Statement of Needs, Scope of Work
   (b) The General Terms and Conditions,
   (c) The Special Terms and Conditions
   (d) The Special Terms and Conditions for Information Technology Goods and Services

(3) The Contractor’s Proposal dated October 18, 2016 and the following negotiated modifications to the Proposal, all of which documents are incorporated herein.

   (a) Pricing

SCOPE OF WORK

This contract is for a web based service that can continue the electronic processing already in place provide for continue expansion for real time entry, processing and management of payment applications whether the request for payment is by the Contractor, AE or support vendor for specific projects. This service shall generate reports for use by COVA in the tracking of commitments, payments and overall expenditure to date in real time for all costs associated with construction projects.

Project Code Nomenclature:

   The Web Services shall have the capability to accept the DEB nomenclature for project numbering. This nomenclature allows for the tracking of all payments to the project code which also tracks all building permits and drawing reviews within the DEB Bureau known as the Bureau of Capital Outlay Management (BCOM). This project code also ties into the COVA budget bill which funds the project. This project code supports the complete project and is the search feature used by COVA for locating information on the project. Typical format for the project code 3 digit agency code + five digit budget bill code + 3 digit sub project code. (i.e. 194-17778-001).

Project Code Data:

   The Web Services shall have the ability to accept the following text information about the project code, location of the project, description of the project, and name of the Owner/Agency.

Owner/Agency Data for each Project Code:

   The Web Services shall have the ability to accept the following information from the Owner/Agency:

   • Name of project manager (generally one person)
   • Name of approver(s) (primary and a backup)
   • Name of reviewer(s) (may be as many as five (5))
   • Address of same
   • Phone and fax number of same
Email address of same
Title of person
Department name
This information shall link to the project code.

**Project Roles That Submit Payments:**

The Web Services shall support payment applications by the following Contractors:

- General Contractor
- Construction Manager at Risk
- Design Builder
- PPEA Developer
- Architect/Engineer
- Inspector
- FF&E
- Non Professional Services (Move Management, Signage, etc.)
- Special Consultants (Abatement/Geo/Borings, etc.)

**Project Roles That Submit Payments Data Requirements:**

The Web Services shall have the ability to accept the following from those submitting payment applications:

- Name of company
- Name of approver(s) (primary and back up)
- Address
- Phone and fax number
- Email address
- Taxpayer Identification Number (TIN)
- DMBE registration number
- DPOR contractor’s number.

This information shall link to the project code.

**Payment Approval Forms:**

The Web Services shall have the ability of utilizing/duplicating the DGS-30-104 Schedule of Values which is in Uniformat (No alternate format will be accepted) and the DGS-30-216 AE Invoice in the complete functionality. These are currently Excel documents. The Web Services shall also have the capability of providing single invoice approvals for construction support purchases and services. The data to complete these forms shall be entered by the contractor and the contractor shall enter change order amounts based on the CO11 approval process. The contractor shall have the capability of entering certain invoices for single expenses. This information shall link to the project code.

**Approval Flows for Vendor Forms:**

The Web Services shall have the ability to be compliant with the current approval process for payment applications. This information shall link to the project code.

**Owner/Agent Entries:**

The Web Services shall have the ability for the Owner/Agent to enter expenses that do not require approval into the system. These expenses shall link to the project code.

**Reports:**

The Web Services shall have the ability to deliver the following reports for viewing and printing, or by export to spreadsheet format (Microsoft® Excel or similar format) by the Owner/Agency, COVA budgeting personnel, and DEB designated personnel:

- Report showing total approved for payment by project code
- Report showing outstanding approvable by project code
- All contractors by project code
- DMBE approvals by project code
- Report showing approvers and reviews by project code

**Financing:**
DEB is soliciting a no cost to COVA solution. The Web Services provider shall provide a business model that supports the needs of COVA, the reporting requirements, etc. with the no direct cost to COVA.

Training:
The Web Services provider shall provide a complete training program comprised of class room training and web based training for users of the service. COVA will provide the class room spaces and set ups for Owner/Agent training.

Implementation:
The Web Services provider shall provide an active web site and system the day the contract is signed.

Architecture and Web-Based Functionality: Proposed solutions should use an n-tier architecture design. The Commonwealth seeks a completely web-based solution, meaning that all applications (e.g. end user interface and reporting) are available to approved users and appropriate login rights via all standard web browsers and Internet Explorer 6.0, which is currently the COV standard browser, and any then current enterprise standard that may be in effect over the proposed full term of the agreement. Offerors must also elaborate on the following additional Architecture and Web-based Functionality requirements in their proposals:

a. Provide a diagram detailing the architecture, diagram both high level and lower level information and functionality, detail components of the Solution, what functions do they provide and where do they reside? Supply supporting documents and references to resources in relation to these diagrams.

b. Describe your platform’s requirements and constraints, i.e. list any system prerequisites for your product, including any products that are not provided with the software solution you are proposing, but which are required to use your software solution.

c. Provide a description of end-user personal computer requirements. Include supported operating systems and browsers. Provide a list of all client-side required software.

d. Describe any third-party software required at the host or client site. Document the use/purpose of the software, criticality of the software i.e., will the Solution fail to function without it, the corporate structure, financial standing, etc., of the third-party company, any licensing agreements for such software, etc. Include contingency plans should the third-party software fail to function i.e., due to them not upgrading their software, etc. to meet an upgrade of your baseline hardware/software configuration and/or their going out of business, etc.

e. Does your product require any browser plug-ins or applets? Please document what third party products are used and explain how all client-side software will be installed and maintained.

f. Do you use a SSL certificate for secure access to your Solution?

g. Does your Solution support load-balancing? Describe.

h. Provide a summary of your disaster recovery plans? Has fail-over and redundancy been engineered into your proposed Solution? How can fail-over processing procedures be tested? Describe.

i. Are any performance measurements and reporting tools available? Describe.

j. If your web app is Java-based, is it J2EE compliant?

k. Which browsers (in addition to the COV standard of IE 6.0) are supported? What browser version/operating system combinations? (i.e., MAC OS, IE, Linux and Firefox, Netscape, etc.)

Accessibility Requirements

Offerors must elaborate on the following Accessibility Requirements in their proposals. The proposed solution must meet or exceed the required Virginia Information Technologies Agency (VITA) IT Accessibility Standards, Web Site Standards, Web Site Guidelines as described at on the VITA Accessibility page: http://www.vita.virginia.gov/library/default.aspx?id=663

Any solution must comply with Americans with Disability Act Accessibility standards as described in Federal “Section 508,” “Electronic and Information Technology Accessibility Standards for Web-based Intranet and Internet Information and Applications”. The Web Accessibility and Template Guide (WATG) can be reviewed at the following URL: http://www.vadsa.org/watg.
Describe the proposed Solution's compliance with the above listed standards and guidelines, and World Wide Web Consortium (W3C) published standards including HTML 4.01, XHTML 1.0 CSS level 1 & 2, DOM and SMIL.

State whether your Solution has been validated by W3C.

Any supplier receiving an award as a result of this BVA shall be required to certify and warrant that their Solution meets or exceeds these Commonwealth accessibility policies, standards, and guidelines, or any other then-current version over the term of any agreement resulting from this BVA, or renewals thereof.

Security Requirements

All security controls, standards, measures, or other criteria must meet minimally meet all of the required Virginia Information Technologies Agency (VITA) policies, standards, and guidelines, as described at http://www.vita.virginia.gov/library/default.aspx?id=537#securityPSGs, particularly Information Security Standards (COV ITRM Standard SEC501-01, dated August 11, 2009 (Revision 5)).

Any supplier receiving an award as a result of this BVA shall be required to certify and warrant that their Solution meets or exceeds these Commonwealth security policies, standards, and guidelines, or any other then-current version over the term of any agreement resulting from this BVA, or renewals thereof.

The proposed Solution must provide effective and robust security controls, standards, and measures for system and data security. Any system user or group must be granted unique access to the Solution according to their role/login. The Commonwealth shall be the owner of any and all data and information collected and stored, and this data and information shall not be given, shared, sold or transferred to any third party, without prior written approval by a duly-authorized representative of the Commonwealth.

In addition to addressing the foregoing Security Requirements in their proposal, an Offeror must also elaborate on the following additional Security Requirements:

a. Describe user administration functions, how user authorization is validated i.e., how are new user logins ‘approved’, how users/roles are created/maintained, the use of roles and groups in assigning application functions and data access rights to users.

b. Describe how user identifications (IDs) are managed and the configuration alternatives for enforcing Commonwealth password policies. Note: VITA requires applications to enforce strong passwords, of a minimum length, and to enforce regular password changes. Does the Solution include reports, etc., which can be used to verify user access rights (i.e., annual sign-off by the user’s manager)?

c. Describe how data is secured. Include in your description the techniques used to prevent authorized users from accessing data.

d. Describe how the Solution protects sensitive data. The Commonwealth requires all sensitive data (Federal Tax ID numbers, Social Security Numbers, Credit Card numbers, etc) to be encrypted when stored in any database. Passwords must be stored as one way hashes, or as stated in any then-current VITA standards, policies, and guidelines.

e. Are there any “as delivered” user IDs and passwords in the Solution (Please list them and describe their use)? If any exist, can the Commonwealth restrict the use of these user-ids (i.e., by the Commonwealth changing the passwords or the role for the user id)?

f. Can security and operational administrative rights be segregated? Can individual data fields be secured on role and/or user level?

g. Describe how the data is stored in the database. Will the data be stored in a shared database or will it use a dedicated database which will contain only our data? If Commonwealth data will reside in a shared database, describe the controls that will be used to secure our data from unauthorized access.

h. Will you be able to provide a copy of the database should the Commonwealth require it.

i. Can a user’s access rights be suspended if a user fails to identify correctly after a configurable set/number of attempts in any single session?

j. Is user activity logging available (i.e.: are data/record audit trails maintained)?

k. What facility is available for producing reports from the above logging files?
Support Requirements

The Offeror must provide ongoing support services program for any proposed Solution. This maintenance support program should provide off-site support, telephonic support, upgrades, patches, and other fixes or technological enhancements over the term of any agreement, or renewals thereof. Offerors should describe their maintenance support program options, and include problem prioritization, escalation procedures, response time for off-site and/or telephonic support, and production problems. The Offeror must also handle User management requests such as password resets etc.

In addition to the above, an Offeror must elaborate on the following additional Support Requirements in their proposal:

a. Do you have a help desk for users and support staff? If yes, what are the hours of availability?

b. How are support calls tracked and resolved?

c. Discuss how you would make us aware of potential problems, evaluate potential problems, and provide solutions.

d. Describe any information sources that enable the customers to obtain information and assistance about the Solution and how to use it such as online documentation or help guides.

e. Detail your customer service plan. How will it address emergencies and system shutdowns? What are the hours of availability? What is the service time?

GENERAL TERMS AND CONDITIONS:

A. VENDORS MANUAL: This solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under “Vendors Manual” on the vendors tab.

B. APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (Code of Virginia, § 2.2-4366). ADR procedures are described in Chapter 9 of the Vendors Manual. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every contract over $10,000 the provisions in 1. and 2. below apply:

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

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

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. **DEBARMMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

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

H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPS**. Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. **CLARIFICATION OF TERMS:** If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. **PAYMENT:**

1. **To Prime Contractor:**
   a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

   b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.

d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).

2. **To Subcontractors:**

a. A contractor awarded a contract under this solicitation is hereby obligated:

   (1) To pay the subcontractor(s) within seven (7) days of the contractor’s receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

   (2) To notify the agency and the subcontractor(s), in writing, of the contractor’s intention to withhold payment and the reason.

b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor’s obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. **QUALIFICATIONS OF offerors:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be
requested. The Commonwealth reserves the right to inspect offeror’s physical facilities prior to award to satisfy questions regarding the offeror’s capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency’s written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

   a. By mutual agreement between the parties in writing; or

   b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency’s right to audit the contractor’s records and/or to determine the correct number of units independently; or

   c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Vendors Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, 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 Commonwealth may have.
T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers’ compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

**MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:**

1. Workers’ Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers’ compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer’s Liability - $100,000.

3. Commercial General Liability - $1,000,000 per occurrence and $2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.

4. Automobile Liability - $1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA VBO (**www.eva.virginia.gov**) for a minimum of 10 days.

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

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

W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, web site portal (**www.eVA.virginia.gov**) streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods
and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

a. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:
   (i) DSBSD-certified Small Businesses: 1%, capped at $500 per order.
   (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at $1,500 per order.

b. Refer to Special Term and Condition “eVA Orders and Contracts” to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

Y. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

AA. BID PRICE CURRENCY: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.

BB. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: 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 above that enters into a contract with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

SPECIAL TERMS AND CONDITIONS

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

2. AWARD OF CONTRACT: Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (Code of Virginia, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor’s proposal as negotiated.
3. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

4. **eVA ORDERS AND CONTRACTS:** The solicitation/contract will result in (12) purchase order(s) with the applicable eVA transaction fee assessed for each order.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eVA.virginia.gov. Contractors should email Catalog or Index Page information to eVA-catalog-manager@dgs.virginia.gov.

5. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth upon written agreement of both parties for five successive one year periods, under the terms of the current contract, and at a reasonable time approximately 90 days) prior to the expiration.

If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the Services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

6. **FINAL INSPECTION:** At the conclusion of the work, the contractor shall demonstrate to the authorized owner representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the contractor at the contractor’s sole expense prior to final acceptance of the work.

7. **IDENTIFICATION OF PROPOSAL ENVELOPE:** If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

   From:________________________________________
   Name of Bidder/Offeror ___________________________
   Due Date ___________________________
   Time ___________________________

   Street or Box Number ___________________________

   City, State, Zip Code ___________________________

   IFB/RFP Title ___________________________

   IFB No./RFP No. ___________________________

   DSBSD-certified Micro Business or Small Business No. ___________________________

   Name of Contract/Purchase Officer or Buyer ___________________________

8. **SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:**

It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. Unless the bidder/offeror is registered as a DSBSD-certified small business and where it is not practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses when they have received DSBSD small business certification. No bidder/offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals. If small business subcontractors are used, the
prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

9. **PRIME CONTRACTOR RESPONSIBILITIES:** The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

10. **WARRANTY (COMMERCIAL):** The contractor agrees that the goods or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the contractor gives any customer for such goods or services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation. A copy of this warranty should be furnished with the bid/proposal.

11. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

12. **CONTINUITY OF SERVICES:**
   a.) The Contractor recognizes that the services under this contract are vital to the Agency and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another contractor, may continue them. The Contractor agrees:
   
   (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
   (ii) To make all Agency owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
   (iii) That the Agency Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.
   
   b) The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer’s approval.
   
   c) The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

13. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and
the Commonwealth’s use and acceptance of such form, or its acceptance of Contractor’s statement describing why the bidder or offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

**SPECIAL TERMS AND CONDITIONS INFORMATION TECHNOLOGY GOODS AND SERVICES**

1. **CERTIFICATION TESTING PERIOD - SYSTEMS:** The system specified in the contract shall be considered ready for testing upon receipt of documentation from the contractor that a successful system audit or diagnostic test was performed at the site demonstrating that the system meets the minimum design/performance capabilities stipulated in the purchase agreement. The 4 day testing period shall commence on the next calendar day following receipt of this documentation. Upon request, the procuring agency will provide written confirmation of its acceptance following successful completion of the certification period. Such acceptance shall not be conclusive of complete conformance in all respects to the contract specifications and other requirements, or the nonexistence of potential latent defects.

2. **CONFIDENTIALITY (Commonwealth):** The Commonwealth agrees that neither it nor its employees, representatives, or agents shall knowingly divulge any proprietary information with respect to the operation of the software, the technology embodied therein, or any other trade secret or proprietary information related thereto, except as specifically authorized by the contractor in writing or as required by the Freedom of Information Act or similar law. It shall be the contractor’s responsibility to fully comply with § 2.2-4342F of the *Code of Virginia*. All trade secrets or proprietary information must be identified in writing or other tangible form and conspicuously labeled as “proprietary” either prior to or at the time of submission to the Commonwealth.

**CONFIDENTIALITY (Contractor):** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual’s and the agency’s written consent. Any information to be disclosed, except to the agency, must be in summary, statistical, or other form which does not identify particular individuals. Contractors and their employees working on this project will be required to sign the Confidentiality statement in this solicitation.

3. **DEMONSTRATIONS:** By submitting a bid or proposal, the bidder or offeror certifies that the specified equipment is in productive use and capable of demonstration in the proposed configuration. The Commonwealth reserves the right to require bidders or offerors to demonstrate the functionality of proposed equipment to its satisfaction prior to making an award decision. Such demonstration is intended to show that a vendor’s products will perform in a completely satisfactory manner and that they will meet or exceed the performance specifications contained in the solicitation. Failure by a vendor to promptly comply with a request for demonstration could result in their bid being rejected. Failure to reject shall not relieve the vendor of its obligation to fully comply with all requirements of the contract.

4. **EXCESSIVE DOWNTIME:** Equipment or software furnished under the contract shall be capable of continuous operation. Should the equipment or software become inoperable for a period of more than 24 hours, the contractor agrees to pro-rate maintenance charges to account for each full day of inoperability. The period of inoperability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than 2 consecutive calendar days, the contractor shall promptly replace the equipment or software at no charge upon request of the procuring agency. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within 2 days following the request for replacement.

5. **LATEST SOFTWARE VERSION:** Any software product(s) provided under the contract shall be the latest version available to the general public as of the due date of this solicitation.

6. **OWNERSHIP OF INTELLECTUAL PROPERTY:** All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the Commonwealth. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the Commonwealth to evidence the Commonwealth’s sole ownership of specifically identified intellectual property created or developed in the performance of the contract.
7. **PRODUCT SUBSTITUTION:** During the term of any contract resulting from this solicitation, the vendor is not authorized to substitute any item for that product and/or software identified in the solicitation without the prior written consent of the contracting officer whose name appears on the front of this solicitation, or their designee.

8. **SOFTWARE UPGRADES:** The Commonwealth shall be entitled to any and all upgraded versions of the software covered in the contract that becomes available from the contractor. The maximum charge for upgrade shall not exceed the total difference between the cost of the Commonwealth's current version and the price the contractor sells or licenses the upgraded software under similar circumstances.

9. **SOURCE CODE:** In the event the contractor ceases to maintain experienced staff and the resources needed to provide required software maintenance, the Commonwealth shall be entitled to have, use, and duplicate for its own use, a copy of the source code and associated documentation for the software products covered by the contract. Until such time as a complete copy of such material is provided, the Commonwealth shall have exclusive right to possess all physical embodiments of such contractor owned materials. The rights of the Commonwealth in this respect shall survive for a period of twenty (20) years after the expiration or termination of the contract. All lease and royalty fees necessary to support this right are included in the initial license fee as contained in the pricing schedule.

10. **THIRD PARTY ACQUISITION OF SOFTWARE:** The contractor shall notify the procuring agency in writing should the intellectual property, associated business, or all of its assets be acquired by a third party. The contractor further agrees that the contract's terms and conditions, including any and all license rights and related services, shall not be affected by the acquisition. Prior to completion of the acquisition, the contractor shall obtain, for the Commonwealth's benefit and deliver thereto, the assignee's agreement to fully honor the terms of the contract.

11. **TITLE TO SOFTWARE:** By submitting a bid or proposal, the bidder or offeror represents and warrants that it is the sole owner of the software or, if not the owner, that it has received all legally required authorizations from the owner to license the software, has the full power to grant the rights required by this solicitation, and that neither the software nor its use in accordance with the contract will violate or infringe upon any patent, copyright, trade secret, or any other property rights of another person or organization.

12. **NONVISUAL ACCESS TO TECHNOLOGY:** All information technology which, pursuant to this agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this agreement:

   (i) effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;

   (ii) the Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the technology interacts;

   (iii) Nonvisual Access Technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

   (iv) the Technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

   Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.
If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, §§ 2.2-3500 through 2.2-3504 of the Code of Virginia.
METHOD OF PAYMENT

The construction contractor pays GC Pay for processing of pay applications in GC Pay based on the rate schedule below.

The public body pays for any consulting services or other services outside of the construction contractor pay application process, via a purchase order and approved invoice.

PRICING SCHEDULE

Hourly rate schedule:

<table>
<thead>
<tr>
<th>CLASSIFICATION</th>
<th>RATE PER MAN HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-site Training services</td>
<td>$100.00 per man hour plus travel expenses</td>
</tr>
<tr>
<td>Customization of GC Pay</td>
<td>$200.00 per man hour</td>
</tr>
<tr>
<td>Cost forecast and scenario modeling</td>
<td>$20,000 annually paid in 4 equal payments</td>
</tr>
</tbody>
</table>

Monthly fee for use of the web services based on the cost of a construction contract. This monthly fee shall be paid by the construction contractor to the GC Pay.

<table>
<thead>
<tr>
<th>Original Construction Contract Value:</th>
<th>Monthly Project Fee for the Construction Project Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.01 - $99,999.99</td>
<td>$40.00</td>
</tr>
<tr>
<td>$100,000 - $249,999.99</td>
<td>$75.00</td>
</tr>
<tr>
<td>$250,000 - $499,999.99</td>
<td>$110.00</td>
</tr>
<tr>
<td>$500,000 - $999,999.99</td>
<td>$150.00</td>
</tr>
<tr>
<td>$1,000,000 - $4,999,999.99</td>
<td>$185.00</td>
</tr>
<tr>
<td>$5,000,000.00 and Greater</td>
<td>$225.00</td>
</tr>
</tbody>
</table>

IN WITNESS WHEREOF, the parties have caused this Agreement/Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

Name of Company (PRINT): HART BUSINESS SOLUTIONS, LLC

Name of Person (PRINT): Daniel Brunelli

Title of Person: Chief Operating Officer

Contractor Address (PRINT): 828 N. Mecklenburg Ave
South Hill, Virginia 23159

Authorized Signature of Contractor: [Signature]

AGENCY:

Name of Agency: Commonwealth of Virginia, Department of General Services
Title of Person: Thomas George, P.E.
Director Bureau of Facilities Management

Authorized Signature of Agency: [Signature]

Date: 4/18/2017