

**COMPETITIVE APPLICATION FOR PARKS, RECREATION & TOURISM
DOWNING-GROSS CULTURAL ARTS CENTER PROGRAMS**



**City of Newport News
OFFICE OF PURCHASING
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www.nnva.gov/purchasing**

INSTRUCTIONAL PROGRAM

Title: Instructors for Downing-Gross Cultural Arts Center Programs

Applications Due: This is an open opportunity. Applications may be submitted at any time.

Project Overview: The City of Newport News seeks qualified instructors to provide/lead various instructional programs for the Downing-Gross Cultural Arts Center.

Questions related to this requirement should be directed to:

Department Representative: James Cooper, Cultural Arts Supervisor, cooperjt@nnva.gov

Contract Officer: Michael White, Senior Buyer/Contract Officer, whitemt@nnva.gov

Submit applications via email, fax or US Mail to:

Mailing Address: Downing Gross Cultural Arts Center, 2410 Wickham Ave. Newport News, VA 23607

Email Address: James Cooper, Cultural Arts Supervisor, cooperjt@nnva.gov

-or-

Joanne Palmeira, Superintendent of Cultural Arts, palmeirajl@nnva.gov

Fax: 757-247-8960

SECTION A

SCOPE OF WORK

1. **Purpose:** The City of Newport News (the “City”) is seeking competitive applications from qualified individuals (“Instructors” or “Applicants”) to provide various instructional programs for the Downing Gross Cultural Arts Center. The Instructors may provide additional related services to the City.
2. **Program Types:** Programs may include but are not limited to the following: Literary Arts, Music, Theater, Graphic Design, Arts/Visual Arts, Photography, Fabric and Thread Arts (Sewing, Quilting, Knitting, etc.), Entrepreneurship, Personal Development, Dance, and other programs.
3. **Background Requirements:**
 - a. There are four (4) primary sessions each year: summer, fall, winter and spring. However, sessions can occur monthly, individually or in a workshop format.
 - b. Program offerings must be consistent with the mission, values, and vision of the City of Newport News, Department of Parks, Recreation & Tourism, and the Downing-Gross Cultural Arts Center.
 - c. Instructors are responsible for the creation, implementation and internal evaluation of the programs that they provide.
4. **Criminal Background Checks:** A criminal background check will be completed by the City, at the City’s expense, prior to being selected as an instructor. State, local and sex offender checks may be required. Any individual who does not pass a criminal background check in accordance with the Department of Parks, Recreation & Tourism standards will not be selected as an instructor.
5. **Viability of Programs:** A contract for services provided by an instructor for the time specified is contingent on the following: sufficient enrollment or attendance, the event taking place as scheduled, contractor performance and appropriation of funds (when applicable). The City reserves the right to terminate a contract based on these contingencies.
6. **Contract:** All Instructors will sign a contract (the “Contract”) with the City. A sample of the Contract is included as Exhibit I. Do not submit the Contract with the application. A specific contract document will be prepared following award.
7. **Award:** The City will make multiple awards to meet existing program needs and to provide new program offerings as a result of this competitive application. Awards may be made throughout the course of the year. The Terms and Conditions contained in Section B apply to each awarded contract. A Purchase Order will be issued to constitute the official award.
8. **Term:** Contracts will be established for an initial period which may be a single session to as much as one year. Following the initial period, Contracts may be renewed for additional years at the sole discretion of the City. A new Contract document will be executed for each renewal period.
9. **Application and Selection Process:**
 - a. Individuals who are interested in becoming an Instructor must complete the program application (Attachment A) and return via US Mail, email or fax to the individuals noted herein.
 - b. The City will review the application and determine the viability of the program/class offered.

- c. The following criteria (listed in order of importance) will be used to select Instructors for programs:
 - i. Viability of the class/program offered.
 - ii. Qualifications of the Applicant
 - iii. Experience creating, implementing and evaluating classes or programs
 - d. The City will schedule interviews with Applicants who are selected based on the criteria specified in 9(c) above.
 - e. References will be contacted.
 - f. A favorable criminal background check and favorable references are required to be selected as an Instructor.
 - g. If a program/Instructor is selected by the City, programs will be prepared and promoted through means normally used by the Department of Parks, Recreation & Tourism and the Downing-Gross Cultural Arts Center.
 - h. **Rate for Services:** The rate structure will be negotiated with each Instructor following completion of interview. Contracts will be awarded to Instructors only after reaching a service rate agreeable to the City. Should the City determine that a contract with an Instructor will be extended beyond the initial period, adjustments to rates will be considered by the City based on factors that include but not limited to customer satisfaction, performance of the Instructor and enrollment. Adjustments are made in a manner determined by the City and may vary from instructor to instructor.
10. **Payment for Services:** Invoices are to be submitted by the Instructor at the end of the session for processing. Invoices are verified and then submitted for payment. Unless stated otherwise, payment terms are net 10 business days.
11. **Submitting an Application:** Applications (Attachment A) can be submitted at any time throughout the year. NOTE: A completed W-9 must be provided with the Application. A blank W-9 is available at <http://www.nnva.gov/724/Vendor-Registration>.

SECTION B

TERMS AND CONDITIONS

References in this section to Offeror and Contractor are synonymous to Instructor as indicated in Section A.

1. **AUTHORIZATION 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 or as otherwise required by law.

Any business entity that enters into a contract with a public body 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, as amended, 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.

2. **FAITH BASED ORGANIZATIONS:** The City of Newport News does not discriminate against faith based organizations.

3. **PAYMENT TERMS:**

- a. Payment terms shall be Net 10 Days
- b. The payment terms stated herein must appear on the contractor's invoice. Failure to comply with this requirement may result in the invoice being returned to the contractor for corrections.
- c. Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act. (1% per month)

4. **HOLD HARMLESS AND INDEMNIFICATION:** The Contractor shall defend, indemnify and hold the City, and City's employees, agents, and volunteers, harmless, from and against any and all damage claim, liability, cost, or expense (including, without limitation, reasonable attorney's fees and court costs) of every kind and nature (including, without limitation, those arising from any injury or damage to any person, property or business) incurred by or claimed against the contractor, its employees, agents, and volunteers, or incurred by or claimed against the City, City's employees, agents, and volunteers, arising out of, or in connection with, the performance of all services hereunder by the contractor. This indemnification and hold harmless includes, but is not limited to, any financial or other loss, any adverse regulatory, agency or administrative sanctions or civil penalties incurred by the City due to the negligent, fraudulent or criminal acts of the contractor or any of the contractor's officers, shareholders, employees, agents, contractors, subcontractors, or any other person or entity acting on behalf of the contractor. Unless otherwise provided by law, the contractor indemnification obligations hereunder shall not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the contractor under worker's compensation acts, disability benefit acts, other employee benefit acts, or benefits payable under any insurance policy. This paragraph shall survive the termination of the contract including any renewal or extension thereof.

The Contractor agrees to defend and save the City, its agents, officials, volunteers and employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process, patented or unpatented invention, goods and/or services or appliances furnished or used in the performance of the contract, or which the contractor is not the patentee, assignee, or licensee, to the same extent as provided in the above paragraph.

5. **LAWS AND REGULATIONS:** The Contractor shall keep fully informed of all federal, state and local laws, ordinances and regulations that in any manner affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances and regulations.
6. **GOVERNING LAW AND VENUE:** This solicitation and any resulting contract is subject to the laws of the Commonwealth of Virginia and the Newport News City Code. Any litigation with respect thereto shall be brought in the courts of the City of Newport News, Virginia, or the United States District Court for the Eastern District of Virginia, Newport News Division.
7. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the City.
8. **TERMINATION FOR CONVENIENCE:** The City may terminate a contract when funds are not appropriated for the specified goods or services or when it is determined to be in the City's best interest without providing specific cause at any time during the term of the contract. The Contractor shall provide notice of termination as promptly is practical.
9. **TERMINATION FOR CAUSE:** In the event that the Contractor shall for any reason or through any cause be in default of the terms, conditions, or obligations of the contract documents, the City may give the Contractor written notice of such default and terminate the contract. All terms, conditions, and obligations of the contract documents are considered material.

The City may, in its discretion, provide the Contractor an opportunity to cure the default, if curable, prior to termination. Unless a different duration is provided in the notice of default, or agreed upon by the parties in writing, the contractor shall have fourteen (14) calendar days to cure the default from the date such notice is mailed to the contractor unless notification is by facsimile or personal delivery, in which case the opportunity to cure shall commence upon delivery of the notice. Upon failure of the Contractor to cure the default, the City may immediately terminate the contract effective as of the mailing or delivery of the default notice. If the City terminates the contract, the Contractor shall remain liable for performance of all terms, conditions, and obligations through the date of termination. Termination by the City shall not constitute a waiver by the City of any other rights or remedies available to the City by law or contract.

In addition, failure of the Contractor to perform the obligations of the contract may result in debarment for a period of up to three years. Termination and/or debarment of the Contractor shall not constitute a waiver by the City of any other rights or remedies available to the City by law or contract.

10. **RIGHTS AND REMEDIES NOT WAIVED:** In no event shall the making by the City of any payment to the Contractor, or the waiver by the City of any provision under this contract including any obligation of the Contractor, constitute or be construed as a waiver by the City of any other provision, obligation, breach of covenant, or any default which may exist under this contract on the part of the contractor, and the making of any such payment by the City while any such breach or default exists shall not impair or prejudice any rights or remedies available to the City.
11. **INDEPENDENT CONTRACTOR:** The Contractor and any employees, agents, or other persons or entities acting on behalf of the Contractor shall act in an independent capacity and not as officers, employees, or agents of the City.
12. **ENTIRE AGREEMENT:** The contract resulting from this competitive application and any additional or supplementary documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any

of the parties hereto. This contract shall not be modified, altered, changed or amended unless in writing and signed by the parties hereto.

**ATTACHMENT A
INSTRUCTOR APPLICATION**

1. Detail the program/class that you would like to provide for the Downing-Gross Cultural Arts Center:

2. Describe your knowledge, skills and abilities to program instructor services for the program/class.

3. Describe your experience creating, implementing and evaluating classes or programs.

PERSONAL INFORMATION

Last Name	First Name	Middle Name	Email Address	
Address		City	State	Zip Code
Home Phone	Work Phone	Cell Phone	Preferred method of contact	
Are you legally eligible to be employed in the United States? (Proof of identity and eligibility will be required upon employment)		If no, what is your immigration status?	Are you at least 18 years old?	
Are you currently employed by the City of Newport News? If yes, list department		Have you ever been employed by the City in the past? If yes, list department		

REFERENCES: Must have knowledge of your related work experience for this opportunity.

Name of References	Phone Number	How do you know this reference?

CRIMINAL HISTORY

<p>Have you ever been convicted of a crime, including DWI/DUI and reckless driving, but excluding minor traffic violations Note: A conviction does not automatically mean that you cannot be considered for a contractual vendor position</p>
<p>If yes, please give the charge, date, place and disposition.</p>

AGREEMENT

I certify that the information given in response to the foregoing questions is true and correct and that I have not knowingly withheld or misrepresented any material fact herein. Any false information given herein shall result in the immediate rejection of this application or shall be grounds for immediate contract termination if discovered after being awarded a contract. I understand that the City of Newport News, Department of Parks, Recreation & Tourism, or Downing-Gross Cultural Arts Center will thoroughly investigate any information given to them during the application and selection process. I authorize any former employer(s), law enforcement agency, educational institution or any person or organization to provide information about me and release all concerned from all liability in connection therewith. I understand that my contract with the City is conditioned upon being physically able to perform the essential functions of the contract, with or without reasonable accommodation.

 Applicant's Signature

 Date

**EXHIBIT 1
(SAMPLE CONTRACT)**

INSTRUCTIONAL PROGRAM AGREEMENT

This agreement, made this day, _____ between the City of Newport News, hereinafter referred to as "City" and _____ hereinafter referred to as "Instructor".

WHEREAS, the City agrees for the services of Instructor(s) as (an) independent contractor(s), not as (an) employee(s), on the terms and conditions set forth below. Instructor(s) agrees to render to the City services as follows:

Name of Instructor: _____

Location of Services: Downing-Gross Cultural Arts Center

Type of Program of Instruction: _____

Period of Instruction: _____

Compensation: _____ Deposit (if required): _____ Payment Date(s): _____

Payment Frequency: _____

Payment Agreement: Payment shall be issued to (check one) Instructor ___ Company ___

Name on payment: _____

Address: _____

Phone Contact(s): () _____ work () _____ cell

Email (print legibly): _____

SSN or Federal ID Number: _____

1. The City agrees for the services of Instructor(s) as (an) independent contractor(s) and not as (an) employee(s). The City shall make payment to the Instructor/company who is responsible for compensating Instructor(s) acquired as noted above. The Instructor(s) are self-employed or employees of Instructors' company who will have the duty of and will be responsible for complying with Federal, State and Internal Revenue Service laws and regulations pertaining to the withholding of taxes and social security, and for complying with any union or Federation rules pertaining to deduction for dues and any health or welfare fund, and any other union or Federation deduction or payment, and Instructor(s) will hold City harmless and indemnify it for any claims therefrom.
2. Instructor(s) will be allowed reasonable access to the facility used for the instructional engagement before and after the engagement for the purpose of assembling and removing equipment. Instructor(s) may not be accompanied by guest(s) without prior City approval.
3. It is mutually agreed that neither party shall be responsible for any provision in this agreement when prevented from complying with a contractual provision due to any Act of God or any other legitimate condition beyond the control of the appropriate party.
4. Instructor(s) shall reimburse, indemnify and hold harmless the City for all loss to the City resulting from the negligence of Instructor(s) in the performance of this agreement. In further consideration, Instructor hereby agrees to assume all liability, jointly and severally, for any injuries or damages that

may be performance related, or that Instructor or its employees, or contractors may cause to any persons or property during Instructor's use of and visit to City while Instructor is engaged in the activities describe hereinabove. In addition, unless otherwise indicated herein, Instructor agrees to provide the City a certificate of insurance showing proof of current General Liability, Automobile Liability and, if applicable, Workers Compensation coverage as required by State statute, and agrees to name the City of Newport News as an additional insured in respect to liability and the Instructor's activities/event described hereinabove.

- a. The City shall not be liable for any damages or injuries of the Instructor(s), their contractors or their equipment, while on the City's premises, and Instructor hereby releases the City, Board of Commissioners, Officers, Staff, Employees, Representatives and Agents from all form and manner of risks inherent or relating to such activities, and agrees to waive all claims and demands of any nature arising from said city visit, or related activities, except for those losses or claims arising from the sole or willful negligence of the City.
5. The validity, interpretation and effort of this agreement shall be governed by the laws of the Commonwealth of Virginia. The laws of the Commonwealth of Virginia shall govern all rights, obligations, remedies and liabilities arising pursuant to this agreement. Any litigation with respect thereto shall be brought in the courts of the City of Newport News, Virginia, or the United States District Court for the Eastern District of Virginia, Newport News Division.
 6. Only those items or services specifically delineated in this agreement and any rider(s) attached hereto are being provided or paid for by the City. No additional costs for items or services will be borne by the City without its prior expressed written consent.
 7. Any person/entity executing this agreement, other than Instructor(s), expressly warrants that he/she/it is authorized to execute this agreement for Instructor(s) for this service at the time and place specified in this agreement.
 8. This agreement shall not be binding upon the City until fully executed and Purchase Order issued, including signing and initialing of any changes by the parties hereto, or their authorized representatives, and delivered to the City at least 7 days prior to the date of service commencement.
 9. The City representatives signing this agreement certify that they sign as properly authorized representatives of the City and do not assume any personal liability for meeting the terms of this agreement.
 10. The City may modify this agreement provided written notice is given to Instructor(s). Both parties must initial all additions and deletions to this agreement and addendums in order to be valid. This agreement or addendums attached thereto represents a complete and final expression of the parties' agreement. The parties will therefore be responsible only for those items expressed in this agreement and any addendums attached thereto, irrespective of any additional or contrary oral or written statements or representations.
 11. During the performance of an agreement with the City, the Instructor(s) agrees as follows:
 - a. It will not discriminate against any employees or applicants for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by federal or state law relating to discrimination in employment, except where one or more of these are a bona fide occupational qualification reasonably necessary to the normal operations of the Instructor(s). The Instructor(s) agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
 - b. The Instructor(s) will be and state that he/she is an equal opportunity employer in all solicitations or advertisements for employees.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- d. The Instructor(s) will include the provisions of the foregoing paragraphs (a), (b) and (c) in every subcontract or Purchase Order of over ten thousand dollars (\$10,000) so that the provisions will be binding upon each subcontractor or vendor.
12. If Instructor(s) fail(s) to fulfill its obligations under this agreement properly and on time, or otherwise violates any provision of this agreement, the City may terminate the agreement by written notice to Instructor(s) without any obligation on the part of the City. Instructor(s) shall remain liable after the termination for any damages caused by Instructor(s) breach. The notice shall specify the acts or omissions relied on as cause for termination. The City shall pay Instructor(s) fair and equitable compensation for satisfactory performance rendered to the City prior to the receipt of the notice of termination by Instructor(s), less the amount of damages arising from the breach by Instructor(s). Instructor(s) shall remain liable after termination and the City may affirmatively collect damages.
13. It is mutually agreed that any attached contract, or any addendums thereto, by and between the City and Instructor(s) pertaining to this instructional engagement is supplemental and subordinate to the City of Newport News Instructional Program Agreement. The terms and conditions of this agreement and the rights, privileges, duties, and obligations arising pursuant thereto shall at all times and in all events and situations be controlling and prevailing.
14. If in the City's sole determination, the Instructor(s) or their employees appear on or near the performance site noticeably under the influence of alcoholic beverages, narcotics, drugs, or other controlled substances, or exhibit behavior, conduct or acts that would reflect negatively upon the City or are socially unacceptable as determined by the City or its staff, the City shall have the right to terminate this contract and/or trespass and have the offenders removed from the premises with no liability on the part of the City. The Instructor(s) shall be liable to the City for payment within thirty (30) days after demand of all of the City's costs, expenses, damages, and claims resulting from such cancellation, including reasonable attorney's fees and costs incurred in the enforcement of this provision. Instructor(s) acknowledge(s) that no weapons of any kind, alcoholic beverages, narcotics, drugs, or other controlled substances are permitted on or to be consumed at or near the service location site.
15. The Instructor(s) acknowledge they have received a copy of an executed copy of this agreement and will be sensitive to the commonly accepted local standards of civility and conduct incidental to their instructional performance.
16. In the event any of the provisions of this agreement are rendered to be invalid, illegal or unenforceable for any reason, the remainder of this agreement shall remain in full force and effect and shall be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereby agree and accept the foregoing terms and provisions of this Agreement and each of the parties have authorized their official representatives to execute on the date shown herein.

Date: _____

Date: _____

City of Newport News, Virginia

For: _____
Name of INSTRUCTOR or Company

By: _____
Signature of City Representative

By: _____
Signature of Authorized Representative

Printed Name

Printed Name

Title

Title