

**Board of Supervisors**

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March 15, 2017

**INVITATION FOR BID**

**BID #330172**

Sealed Bids (**Bid #330172**) for the **Purchase of Stream Mitigation Credits for the Stafford County Department of Public Works** will be accepted until **2:00 P.M., Thursday, March 30, 2017**, at which time they will be opened and read aloud in the Purchasing Office, Stafford County Administration Center, 1300 Courthouse Road, Stafford, Virginia.

Please be observant of all Bid instructions and specifications. Should any questions arise concerning this Bid, contact the Purchasing Office at (540) 658-8611.

Stafford County reserves the right to accept or reject, in whole or part, any and all Bids and to waive informalities.

Anita Perrow  
Purchasing Manager



## GENERAL INSTRUCTIONS

1. Mail or deliver Bids to the Stafford County Purchasing Office, Stafford County Administration Center, 1300 Courthouse Road, P.O. Box 339, Stafford, Virginia, 22555-0339.
2. Submit one (1) original, clearly marked, and three (3) copies of the Bid before the opening time stated in the Bid Invitation.
3. All Bids shall be signed in ink by authorized principals of the firm and must be received in sealed envelopes with the statement, "**Bid Enclosed**" and the number typed or **written in the lower left-hand corner.**
4. Stafford County reserves the right to accept or reject, in whole or part, any and all Bids and to waive informalities.
5. Bids will be opened promptly at **2:00 P.M., Thursday, March 30, 2017, in the Purchasing Office.** No late Bids will be accepted. **It is the Vendor's responsibility to ensure a timely delivery to the proper receiving location.**
6. The Owner reserves the right to accept or reject, in whole or in part, any and all Bids received and to waive informalities.
7. Any questions relative to the bidding procedure shall be directed to the Purchasing Office, Purchasing Manager, by mail or by telephone at (540) 658-8614.
8. Any questions relative to the technical aspects of the Bid shall be directed to Alex Owsiak, Stafford County Public Works, P.O. Box 339, Stafford, VA 22555-0339, Telephone (540) 658-4609 or email **aowsiak@staffordcountyva.gov.**

No interpretation of the meaning of the Contract Documents will be made to any Bidder orally. Every request for such interpretation must be in writing. To be given consideration, such requests must be received at least five (5) days prior to the date fixed for receiving Bids. Any and all such interpretations and any supplemental instructions will be returned in writing to the prospective Bidder requesting such interpretations, or will be in the form of written Addenda which, if issued, will be posted on the Stafford County Purchasing Website (<http://staffordcountyva.gov/index.aspx?NID=154>), no later than three (3) days prior to the date fixed for the receiving of Bids. Failure of any Bidder to receive any such Addenda or interpretation shall not relieve said Bidder from obligation under the Bid as submitted. All Addenda so issued shall become part of the Contract Documents.

9. The Bids will be in full force and effect for ninety (90) days after they have been officially opened.

10. All Bids shall be submitted on the forms contained herein. In all items where both labor and material are required, Bids shall be made separately on the same, and the total price for each item shall be the sum of the labor and material unit prices. All Bids not in conformity with this notice may be considered unresponsive and may be rejected.
11. The name of a certain brand, make, manufacturer, or definite specifications is to denote the quality to the specific brand, make, manufacturer or specifications named; it is to set forth and convey to prospective Bidders the general style, type, character and quality of article desired, and wherever in specifications or Contract of article desired, and wherever in specifications or Contract documents a particular brand, make of materials, device or equipment shall be regarded merely as a standard. Any other brand, make of material, device or equipment which is recognized the equal of that specified, considering quality, workmanship and economy of operation and is suitable for the purpose intended, shall be considered responsive to the specifications.

**With respect to acceptance of products, the Owner shall be the sole judge of compliance with the intent of the specifications.**

12. Contract Execution

The contents of the Bid submitted by the successful Bidder and the Bid specifications shall become a part of any Contract awarded as a result of these specifications. The successful Vendor will be expected to sign a Standard Contract for Services with the Owner. Additional terms and provisions will be included in the Contract.

13. References

The Owner reserves the right to check any and all references and shall consider any information received in the evaluation of the Bids.

The Contractor shall attach a list of references to this Bid which shall include the name, address, and telephone number of a contact person for all other companies and/or municipalities that the Contractor is currently or has recently performed similar services for.

Failure to comply may result in the Bid being deemed non-responsive and grounds for disqualification.

14. Provision for Bid Withdrawal

- A. The Bidder of this project may, under certain circumstances, withdraw his Bid from consideration in accordance with Section 2.2-4330, Code of Virginia.

- B. Pursuant to Code Section 2.2-4330, Code of Virginia (2003), as amended, the Owner has elected to use the procedure for Bid withdrawal numbered one (1), which reads as follows:

The Bidder must give notice in writing of his claim of right to withdraw his Bid within two (2) business days after the conclusion of the Bid opening procedure.

- C. The above referenced Code Section contains provisions which allows prosecution of any Bidder who fraudulently withdraws or attempts to withdraw a Bid under this Code Section.

17. Opening of Bids

- A. Bids will be opened at the time and place designated in the advertisement for Bids. The person whose duty it is to open the Bids will decide when the specified time has arrived and no Bids shall be accepted thereafter.
- B. At the time for opening of Bids, their contents will be made public for the information of Vendors and others properly interested who may be present, either in person or by representatives.
- C. The Owner reserves the right to reject any Bid or all Bids and to waive informalities and to accept such Bids as are best suited to the interests of the Owner. The Owner reserves the right to award all or any part of this Bid to any one Vendor. In making an award, the Owner will take into consideration the facilities and technical experience of the Vendor.

18. Right to Negotiate

The Owner reserves the right to waive informalities, and to reject any and all Bids. If the Bid from the lowest responsible Bidder exceeds available funds, the Owner reserves the right to negotiate with the apparent low Bidder to obtain a Contract price within available funds.

19. Faith-Based Clause

This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia Section 2.2-4343.1 or against a Bidder or Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

20. Interpretations

No oral explanation in regard to the meaning of the specifications will be made and no oral instructions will be given before the award of the Contract. Discrepancies,

omissions, or doubts as to the meaning of the specifications should be communicated in writing to the owner for interpretation. Vendors should act promptly and allow sufficient time for a reply to reach them before the submission of Bids. Any interpretation made will be in the form of an Addendum to the specifications, which will be forwarded to all Bidders and its receipt by the Vendor must be acknowledged on the Bid forms.

21. Qualifications of Bidder

- A. The Owner may make any investigations he deems necessary to determine the ability of the Bidder to perform the work. The Vendor shall furnish the owner all information and data requested for this purpose.
- B. The Owner reserves the right to reject any Bid if evidence submitted by, or investigation of, any Bidder fails to satisfy the owner that the Bidder is properly qualified to carry out the obligations of the Contract to complete the work contemplated.

22. Completion of Bid Forms

- A. Bid forms furnished herewith to Vendors shall be filled out as required, signed in ink and submitted with the original Bid form.
- B. Bids by partnership must be signed in the name of the partnership by one of the members of the partnership, followed by the signature and title of the person signing. Bids submitted in the name of corporations must be signed with the legal name of the corporation by the President, Secretary, or other person authorized to bind it in the matter, followed by the signature and title of the person signing. Each Bid must give the full business address of the Vendor and must be signed by designee with designee's usual signature.
- C. Sales tax shall not be included in the Bids, as Owner is exempt from Virginia Sales Tax and Federal Excise Tax.

23. Hold Harmless Clause

The Contractor shall, during the term of the Contract including any warranty period, indemnify, defend, and hold harmless the County, its' officials, employees, agents, and representatives thereof from all suits, actions, or claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violations of rights, sustained by any person or property in consequence of any neglect in safeguarding contract work or on account of any act or omission by the Contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The Vendor agrees that this clause shall include claims involving infringement of patent or copyright.

24. Safety

All Contractors and Subcontractors performing services for the County of Stafford are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all Contractors and Subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.

25. Notice of Required Disability Legislation Compliance

Stafford County government is required to comply with state and federal disability legislation: The Rehabilitation Act of 1993 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act 1990.

Specifically, Stafford County, may not, through its Contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the American with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities of the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and Local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

26. Ethics in Public Contracting

The provisions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act as set forth in the 1950 Code of Virginia, as amended, shall be applicable to all Contracts solicited or entered into by this County. A copy of these provisions may be obtained from the Purchasing Office upon request.

The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act (§2.1-348 et. seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et. seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

27. Employment Discrimination by Contractors Prohibited

Every Contract of over \$10,000 shall include the following provisions:

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 or 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, shall 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 to meet this requirement.

The Contractor will include the provisions of the foregoing paragraphs, a, b, and c in every Subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each Subcontractor or Vendor.

28. Drug-free Workplace

Every Contract of over \$10,000 shall include the following provisions:

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 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 purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

29. Exemption from Taxes

The County is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificates indicating the County's tax exempt status will be furnished by the County of Stafford on request.

30. Substitutions

NO substitutions, including key personnel, or cancellations permitted after award without written approval by the County Administrator.

31. Assignment of Contract

This Contract may not be assigned in whole or in part without the written consent of the County Administrator.

32. Debarment

By submitting a Bid, the Bidder is certifying that he is not currently debarred by the County. The County's debarment procedure is in accordance with Section 2.2-4321 of the Code of Virginia.

33. Use of Contract by Other Government Entities

Bidders are advised that all resultant Contracts will be extended, **with the authorization of the Bidder**, to Metropolitan Washington Council of Governments jurisdictions and other jurisdictions and Political Subdivisions of the Commonwealth of Virginia to permit their ordering of supplies and/or services at the prices and terms of the resulting Contract. If any other jurisdiction decides to use the final Contract, the Contractor must deal directly with that jurisdiction of political subdivision concerning the placement or orders, issuance of the purchase order, contractual disputes, invoicing, and payment. The County of Stafford acts only as the "Contracting Agent" for these jurisdictions and political subdivisions. Failure to extend a Contract to any jurisdiction will have no effect on consideration of you Bid.

It is the responsibility of the awarded Vendor to notify the jurisdictions and political subdivision of the availability of the Contract.

The County of Stafford shall not be held liable for any costs or damage incurred by another jurisdiction as a result of any award extended to that jurisdiction or political subdivision by the awardee.

34. Each Bidder or Offeror shall certify, upon signing a Bid or Proposal, that to the best of his knowledge no Stafford County official or employee having official responsibility for the procurement transaction, or member of his/her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award

of this Contract. If such a benefit has been received or will be received, this fact shall be disclosed with the Bid or Proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the Contract made, or could affect payment pursuant to the terms of the Contract.

35. Immigration Reform and Control Act of 1986

By accepting a Contract award, Vendor certifies that it does not and will not during the performance of this Contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

36. Proof of Authority to Transact Business in Virginia

A Bidder or Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its Bid or Proposal the identification number issued to it by the State Corporation Commission. Any Bidder or Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its Bid or Proposal a statement describing why the Bidder or Offeror is not required to be so authorized. Any Bidder or Offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Administrator ([https://cisiweb.scc.virginia.gov/z\\_container.aspx](https://cisiweb.scc.virginia.gov/z_container.aspx)).

37. W-9 Form

Each Bidder or Offer will submit a completed W-9 form with their Bid. In the event of a Contract award, this information is required in order to issue Purchase Orders and payments to your firm. A copy of this form can be downloaded from <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.

**PURCHASE OF STREAM MITIGATION CREDITS FOR THE STAFFORD COUNTY  
DEPARTMENT OF PUBLIC WORKS**

**SCOPE OF WORK**

**BID #330172**

**I. SCOPE**

The Stafford County Department of Public Works is soliciting responses for the purchase of Stream Mitigation Credits for the Hydrologic Unit Code (HUC) 02070011.

The resulting contract shall be awarded to one (1) or more qualified mitigation banks and shall be award on a firm fixed price.

**II. DEFINITIONS**

1. Qualified Mitigation Banks(s) banks(s) or Bank(s)-that mitigation bank(s) that have their Mitigation Banking Instrument approved by the Interagency Review Team (IRT), and are authorized by the IRT to sell credits by the bid submittal date to compensate for impacts in Hydrologic Unit 02070011.
2. Hydrologic Unit (HU) Boundaries-as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset, as specified at Va. Code § 28.2-1308.
3. IRT – Interagency Review Team.

**III. SCOPE OF SERVICE**

The County is seeking to purchase 58 stream mitigation credits. The Brooke Road Project is located in HUC 02070011 and the credit must be currently available for this HUC.

Bidder's Minimum Qualifications

1. Each mitigation bank submitting a bid must have the number of steam credits and Wetland credits announced in the bid authorized for sale by its respective IRT at the time of bid submission.
2. Bidders can offer all or any portion of the total quantity of credits being sought by the County.
3. The mitigation bank must be approved by the U.S. Army Corps of Engineers (USACE) and the Virginia Department of Environmental Quality (DEQ).
4. The mitigation bank must be active and currently operating in accordance with all applicable federal, state and local permits, laws, regulations and procedures.
5. The mitigation bank must have an approved mitigation banking instrument allowing the bank to sell credits to permittees in HUC 02070011 that contains the Site.

#### **IV. REQUIREMENTS**

1. Provide evidence of the quantity and type of credits available from the Bank. This can be an IRT credit release letter or updated bank ledger.
2. Provide written assurance that specified credits shall remain available for the purchase by the County for a period of ninety (90) calendar days following bid submission.
3. Provide the unit price for each credit offered as per the bid form.
4. Qualified Mitigation Banks, whether a bidder or not, shall not form an association, partnership or any other form or relationship with another qualified mitigation bank that would allow for combining of credits, or arranging prices from those offered by each individual qualified mitigation bank, whether a bidder or not.
5. If you are bidding more than one (1) Bank, you must submit another complete bid form consisting of pages 12 and 13.
6. If a bidder owns or has controlling interest in one (1) bank, and a minority interest in another qualified mitigation bank, that information must be disclosed in any bid involving qualified mitigation banks that a bidder has interest in.
7. The credits shall be available for purchase not later than September 20, 2016.

#### **V. CONTRACT AWARD**

1. The County reserves the right to purchase any portion of credits offered by any/all bidders at the Unit Price offered by the respective bidder.
2. Following award of Contract, and within five (5) business days of a written request by the County, the mitigation bank(s) shall provide:
  - a) A written letter of Stream and Wetland Mitigation credit availability stating that the type and number of mitigation credits have been reserved for use by the County;
  - b) A Contract executed by the successful bidder in the form included in this IFB; and
  - c) An invoice for the credit purchase.
  - d) Within ten (10) calendar days after receipt of payment for the invoice, the mitigation bank(s) shall provide the County with
    - i. A Bill of Sale for the number of credits purchased;
    - ii. An Affidavit of Credit Sale; and
    - iii. Copies of the letters transmitted by the Bank(s) to the USACE and DEQ verifying the sale.

**PURCHASE OF STREAM AND WETLAND MITIGATION CREDITS FOR THE  
STAFFORD COUNTY DEPARTMENT OF PUBLIC WORKS**

**BID #330172**

**BID FORM**

**PROJECT: COMPENSATORY STREAM AND WETLANDS CREDITS**

1. The undersigned Bidder proposed and agrees, if this Bid is accepted, to enter into an Agreement with Owner to provide the required services according to the contract terms and conditions contained herein.
2. Bidder will provide the services for the following unit prices. Individual task costs must total to the lump sum cost.

**Cost for 58 Stream Mitigation Credits: Per Credit: \$** \_\_\_\_\_

**Total** \_\_\_\_\_

**BID TOTAL**

**Numbers \$** \_\_\_\_\_

**Words** \_\_\_\_\_

3. The following information is required as part of the Bid:

Mitigation Bank Information

Bank Name: \_\_\_\_\_

Permit No: \_\_\_\_\_

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

\_\_\_\_\_

Service Areas (HUCs): \_\_\_\_\_

Stream Credits Currently Available: \_\_\_\_\_

4. The following documents are attached to and made a condition of this Bid:
- a. Provide evidence of the quantity and type of credits available from the Bank. This can be an IRT credit release letter or updated bank ledger.
  - b. Provide written documentation that chair of the Bank's Interagency Review Team will authorize use of credits from this bank for the County's USACE and DEQ permits for the Site.
  - c. Provide written assurance that specified credits shall remain available for purchase by the County for a period of ninety (90) days following bid submission.
  - d. Evidence of authority to do business in the state of the Project.
5. Communications concerning this Bid shall be addressed to:

Name: \_\_\_\_\_

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

\_\_\_\_\_

E-mail: \_\_\_\_\_

Phone No: \_\_\_\_\_

State Corporation Commission Identification Number: \_\_\_\_\_

**PURCHASE OF STREAM AND WETLAND MITIGATION CREDITS FOR THE  
STAFFORD COUNTY DEPARTMENT OF PUBLIC WORKS**

**RESPONSE SHEET**

**BID #330172**

Company Name: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Name and Title of Person Submitting Bid: \_\_\_\_\_

Signature: \_\_\_\_\_

(Print Name): \_\_\_\_\_

State Corporation Commission (SCC) Number: \_\_\_\_\_



**SMALL AND MINORITY BUSINESS ENTERPRISES**

The Stafford County Purchasing Ordinance and relevant Federal and State Laws, Orders and Regulations, require Stafford County to ensure that its procurement practices are non-discriminatory and promote equality of opportunity for Small and Minority Business Enterprises.

Definitions:

1. Small Business:

For the purposes of this document a Small Business concern is one which, regardless of ownership or control:

- (a) does not exceed two-hundred and fifty (250) employees.; or
- (b) gross annual income does not exceed ten (10) million dollars; or
- (c) is independently owned and operated (not subsidiary of another firm).

2. Minority Business:

A business entity which is operated and controlled by a minority.

- (a) The terms "operated and controlled" shall mean that the managerial and official staff of this entity shall be comprised of minority persons, sufficient in ratio and gross earnings to demonstrate that the business transactions are, in fact, controlled by minority persons; and that the primary power, direct or indirect, to influence the management of this entity shall rest with minority persons or a corporation, partnership, or sole proprietorship in which minority persons collectively own, operate, control and share in earning of fifty one percent (51%) or more of such an enterprise.
- (b) A minority person shall mean Black, Hispanic; Asian or Pacific Islanders; American Indian or Alaskan Native; and women, regardless of races or ethnicity.

**PLEASE CHECK THE FOLLOWING INFORMATION RELEVANT TO YOUR FIRM:**

**Minority Business Firm:** Yes \_\_\_\_\_ No \_\_\_\_\_

**Small Business Firm:** Yes \_\_\_\_\_ No \_\_\_\_\_

The above information is requested for statistical purposes only. All firms tendering responses will receive equal consideration for award.

**CONTACT FOR ADMINISTRATION:**

**NAME:** \_\_\_\_\_

**ADDRESS (OFFICE):** \_\_\_\_\_

**TELEPHONE (OFFICE):** \_\_\_\_\_

**STAFFORD COUNTY  
STANDARD CONTRACT FOR SERVICES**

This Contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the Board of Supervisors of Stafford County, Virginia, or its authorized agents, and the Contractor identified below for services identified herein, on the following terms and conditions. This Contract is prepared in accordance with Chapter 20 of the Stafford County Code.

1. **Definitions.**

(a) As used in this Contract, the term "County" shall mean the Board of Supervisors of Stafford County, Virginia, or the using department identified below and authorized by the Purchasing Regulations or other law to enter contracts. For purposes of this Contract, the "County" shall mean \_\_\_\_\_ (If this line is blank, the County shall mean the Board of Supervisors).

(b) As used in this Contract, the term "Contractor" shall mean:

2. Where brackets are provided beside any provision of this Contract, only those provisions which are marked shall apply. Such brackets shall be marked by the County as part of the bid process.

3. **Provision of Services.**

(a) The contractor hereby agrees to provide the following services to the County:

(b) The time, manner and place for performance of such services shall be:

4. **Time and Essence.**

Time shall be of the essence in this Contract, except where it is herein specifically provided to the contrary.

5. **County Obligations.**

(a) In return for the services identified above, the County shall pay the Contractor the following amounts:

[ ] (b) In addition to any provision of Paragraph 5 hereof, the Contractor agrees to grant the County a two percent (2%) discount for all invoices, provided that the County pays any invoice or other billing within ten (10) working days of receipt thereof.

6. **Termination for Convenience of the County.**

(a) The parties agree that the County may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or in part, whenever the County Administrator of Stafford County shall determine that such termination is in the best interest of the County.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the County Administrator or his/her designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

(i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;

(ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;

(iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;

(iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Purchasing Officer of Stafford County; and

(v) use its best efforts to mitigate any damages which may be sustained by him as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six months after the effective date of their termination, unless one or more extensions of three months each are granted by the Purchasing Officer.

(e) The Purchasing Officer, with the approval of the County's signatory to this Contract, shall pay from the using department's budget reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered, or the service not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Purchasing Officer shall pay to the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

(i) with respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

- (A) cost of work performed or supplies delivered;
- (B) the cost of settling and paying any reasonable claims as provided in paragraph 6 (c) (iv), above;
- (C) a sum as profit on (A) determined by the Purchasing Officer to be fair and reasonable.

(ii) the total sum to be paid under (i) above shall not exceed the contract price, as reduced by the amount of payments otherwise made, and as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Purchasing Office shall determine to be due under this clause, the Contractor may dispute any claim in writing to the County Administrator or his/her designee in accordance with Paragraph 15 of this contract concerning Disputes.

(h) When termination for the convenience of the County is a provision of this Contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provision shall bar the Contractor from any recovery from the County whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

**7. Termination for Default**

Either party may terminate this Contract, without further obligation, for

the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

**8. Examination of Records.**

(a) The Contractor agrees that the County or any duly authorized representative, shall, until the expiration of three (3) years after final payment hereunder, have access to and the right to examine and copy any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the County or any duly authorized representative shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and copy any directly pertinent books, documents, papers and records of such Contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation, or claims shall have been finally disposed of.

9. **Termination for Non-Appropriation of Funds.**

(a) If funds are not appropriated for any succeeding fiscal year subsequent to the one in which this Contract is entered into, for the purposes of this Contract, then the County may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the County shall be liable only for payments due through the date of termination.

(b) The County agrees that should it terminate in accordance with this Section, it shall not obtain services for six months which are substantially equal to or similar to those for which this Contract was entered into. This provision shall survive any termination of the Contract.

[ ] 10. **Insurance.**

The Contractor shall maintain insurance, in the amount and form set forth herein, to insure against the risks which are identified herein. The insurance required hereby shall be:

11. **Assignability of Contract.**

Neither this Contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written permission of the County.

12. **Modifications or Changes to this Contract.**

(a) Change Orders. The Purchasing Officer, with the concurrence of the County's signatory to this Contract, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the

time of performance; provided that no Contractor shall be excused from performance under the then changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.

(b) The Contractor need not perform any work described in any change order unless they have received a certification from the County that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(c) The Contractor shall make a demand for payment for changed work within thirty (30) days of receipt of a change order, unless such time period is extended in writing, or unless the Purchasing Officer required submission of a cost proposal prior to the initiation of any changed work or supplies. Later notification shall not bar the honoring of such claim or demand unless the County is prejudiced by such delay.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

13. **Warranties.**

14. **Additional Bond Security.**

If any surety upon any bond furnished in connection with this Contract becomes unacceptable to the County, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interest of the County and a person supplying labor and materials in the prosecution of work contemplated by this Contract.

15. **Disputes.**

Any dispute concerning a question of fact as a result of this Contract shall be decided by the County Administrator, or his/her designee, who shall render his/her decision in writing and mail or otherwise forward a copy to the Contractor within 90 days of the receipt of the claim. The decision of the County Administrator, or his/her designee, shall be final and conclusive unless the Contractor appeals the decision within six months of the date of the final written decision, by instituting legal action as provided in the Code of Virginia § 2.2-4364 (1950, as amended). The Contractor may not institute a legal action, prior to receipt of the County Administrator's, or his/her designee, decision on the claim, unless the County Administrator, or his/her designee, fails to render such a decision within the time specified.

The Contractor's contractual claims, whether for money or other relief, shall be submitted in writing to the County Administrator or his/her designee, no later than 60 days after the final payment; however, written notice of the Contractor's intention to file such a claim shall have been given at the time of the occurrence or beginning of the work upon which claim is based. Nothing herein shall preclude the Contractor from submission of an invoice for final payment within a certain amount of time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the invoice for final payment.

16. **Nondiscrimination.**

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 or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably

necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

[ ] 17. **Additional Terms and Conditions.**

18. **Integration Clause.**

This Contract shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

19. **Legal Status**

All individuals performing work pursuant to this contract must be U.S. Citizens or possess documents that allow them to be employed and work in the United States.

20. **Faith-Based Clause.**

This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia Section 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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County Representative

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Title

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Contractor or Duly Authorized  
Representative

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Title

Revised 5/2015