



COMMONWEALTH OF VIRGINIA  
**COUNTY OF CAROLINE**

**RFP #2020-05-21**

**September 16, 2020**

**REQUEST FOR PROPOSAL  
ANNUAL CONTRACT FOR ENGINEERING SERVICES  
COUNTY OF CAROLINE, VIRGINIA**

Your firm is invited to submit a proposal to provide **Engineering Services for the County of Caroline, Public Works, and Utilities** in accordance with the enclosed specifications. The submittal, consisting of the original proposal and **five (5)** additional copies marked, "**Proposal for Engineering Services,**" will be received no later than **2:00 p.m., Friday, October 23, 2020, by:**

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|--|----|---|
| IN PERSON OR SPECIAL COURIER<br>County of Caroline<br>Department of Public Works/Utilities<br>12613 Mill Creek Road<br>Ruther Glen, Virginia 22546 | OR | U.S. POSTAL SERVICE<br>County of Caroline<br>Department of Public Works/Utilities<br>P O Box 424<br>Bowling Green, Virginia 22427 |
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**This R.F.P. and any addenda are available on the County of Caroline Purchasing website at <https://co.caroline.va.us/229/Procurement>** To receive an e-mail copy of this document; please send a request to:

Time is of the essence, and any proposal received after **2:00 p.m., October 23, 2020**, whether by mail or otherwise, will be returned unopened. Proposals shall be placed in a sealed, opaque envelope, marked in the lower left-hand corner with the R.F.P. number, title, and date, and hour proposals are scheduled to be received.

Nothing herein is intended to exclude any responsible firm or, in any way, restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals. The County of Caroline reserves the right to accept or reject any or all proposals submitted.

**ADDENDA {It is the Offeror's responsibility to check for issuance of any addenda}**

The authorized representative hereby acknowledges receipt of the following addenda:  
Addendum # \_\_\_\_\_ Date: \_\_\_\_\_ Addendum # \_\_\_\_\_ Date: \_\_\_\_\_

The awarding authority for this contract is the Director of Public Works/Utilities.

Technical questions concerning this Request for Proposal should be submitted to Joseph C. Schiebel at [jschiebel@co.caroline.va.us](mailto:jschiebel@co.caroline.va.us) by no later than **2:00 p.m. on Friday, October 16, 2020.**

## **BACKGROUND INFORMATION**

The County of Caroline requires Professional Engineering Services related to planning, design, and construction of potable water and sanitary sewer systems, involving both new construction and modification/rehabilitation of existing County facilities, and intends to consolidate these requirements into a three (3) year, non-exclusive contract for these services, with the option to extend the contract for two (2) additional one (1) year periods, cancelable by the County on sixty (60) days notice.

The County reserves the right to award contracts to more than one qualified offeror, depending on the expertise of the offering firms and the needs of the County. Selection will be as outlined below in the "Selection Process" and "Selection Procedure" sections. The selected offeror(s) may be asked to perform a variety of services throughout the term of the contract. Individual work assignments will be made for specific services from the offeror during the term of the contract.

Work assignments shall be made on an "as needed" basis. There is no assurance that a successful offeror will receive any work assignments whatsoever under the contract awarded as a result of this Request for Proposals. CAROLINE COUNTY RESERVES THE RIGHT AT ALL TIMES TO PERFORM WORK IN-HOUSE OR TO SEPARATELY BID AND AWARD LARGE PROJECTS ON A COMPETITIVE SELECTION BASIS.

## **SCOPE OF SERVICES**

Below are the general types of services expected to be provided by the consultant, and the minimally acceptable standards of performance. The scope of work for individual work assignments will be negotiated prior to the approval of the specific assignment. This outline is intended as a guide for offerors to describe the nature of the services sought and the qualifications required. Projects during the term of this contract may be expected to fall into one or more of the following categories:

- Master Planning (Water and Wastewater)
- Water Supply, including Hydro-geological investigation, Production, Treatment, Distribution, and Storage
- River Intake Permitting
- River Intake Design
- Wastewater Collection, Conveyance, and Treatment
- Contract Bidding, Construction Administration, and Inspection Services
- Plan Review/Local Approval
- Grading, Erosion, and Sediment Control
- Surveying
- Manage and Implement Solid Waste Environmental Monitoring
- Groundwater Monitoring Plan
- Groundwater Sampling, Chemical Analysis, Associating Reporting

Gas Extraction System and Flare Monitoring  
Solid Waste Disposal and Collection  
Construction of Groundwater Monitoring Wells and Completion Reports  
Gas Monitoring, Sampling, Analysis, and Reporting  
Solid Waste Master Planning

## **BASIC SERVICES OF ENGINEER**

### 1.1 Basic Services.

- A) The selected firm(s) shall perform Professional Engineering Services, related to potable water and sanitary sewer systems, including, but not limited to: civil, electrical, environmental, mechanical and structural Engineering Services; surveying and architectural services; and all other services incidental thereto;
- B) The selected firms(s) shall perform Professional Environmental Engineering Services pertaining to its closed sanitary landfill facility and other solid waste management facilities, including, but not limited to civil, electrical, environmental, mechanical, and structural Engineering Service; groundwater and landfill gas extraction systems and flare, and required periodic monitoring and maintenance; along with a wide range of related environmental and engineering services may also be accommodated under this contract; and all other services incidental thereto;

The Engineer and Surveyor represent that they will perform all tasks in accordance with generally accepted professional standards, and further represent that they will provide the County with the best possible advice and consultation within their authority and capacity as a Professional Engineer or Certified Land Surveyor in the Commonwealth of Virginia. The Engineer will comply with the regulations, laws, ordinances, and requirements of all governmental agencies and authorities that have jurisdiction over design criteria and environmental impact applicable to services provided to the County.

### 1.2 Study and Preliminary Design Phase.

Upon receipt of a request from the Director of Public Works/Utilities, in the form of a letter or an e-mail:

- A. Determine, through discussion with County personnel and other appropriate means, the task requirements, and review all available data.
- B. In consultation with the County, and on the basis of all available information, determine the Scope of Work. The Scope of Work shall include a not-to-exceed fee for all services proposed to be provided for the task.
- C. Upon approval of the Scope of Work by the Director of Public Works/Utilities, perform all necessary research, field, and survey work. Any work performed

without approval of the Scope of Work, either by letter or by e-mail from the Director of Public Works/Utilities, will be at the expense of the Engineer.

- D. Prepare preliminary design documents consisting of construction plans, survey plats, and specifications.
- E. Based on the information contained in the preliminary design documents, submit an opinion of probably project cost including, but not limited to, construction costs and contingencies.
- F. Furnish three (3) copies of the preliminary design documents and the Engineer's opinion of probable project cost to the County, and present and review them with the County.
- G. Furnish all such documents, plans, and design data as may be required for, and assist in the preparation of, the required documents so that the County may obtain approvals of all such governmental agencies and authorities as have jurisdiction over design criteria and environmental impact applicable to the project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate officials and authorities, including administrative hearings involving the project. The Engineer will attend as many hearings and meetings as are necessary to obtain such approval.

### 1.3 Final Design Phase.

Upon completion of the preliminary design phase and notification by the County that the preliminary design documents are acceptable in all respects to the County and to all governmental agencies and authorities as have jurisdiction over design criteria and environmental impact applicable to the project, the Engineer shall:

- A. On the basis of the preliminary design documents as finally approved, prepare the final construction plans and specifications, easements plats, and the contractor documents, which shall include bid forms, notice to bidders, instructions to bidders, advertisement, bid proposals, contract form, bonding and insurance requirements and, where applicable, federal compliance requirements, and assist in the preparation of other related documents.
- B. Furnish all such documents, plans, and design data as may be required for, and assist in the preparation of, the required documents so that the County may obtain approval of such from all governmental agencies and authorities as have jurisdiction over design criteria and environmental impact applicable to the project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate officials and authorities, including administrative hearings involving the project. The Engineer will attend as many hearings and meetings as are necessary to obtain such approval.

- C. Furnish The County with a revised opinion of probable project cost based on the final plans and specifications and other related documents.
- D. Prepare any necessary documents for alternate bids requested by the County.
- E. Furnish as required copies of the final plans and specification, contract documents, and all other related documents to the County and present and review all such documents with the County.

#### 1.4 Bidding or Negotiating Phase.

After authorization from the Director of Public Works/Utilities to proceed with the bidding or negotiating phase, the Engineer shall:

- A. Assist The County in obtaining bids or negotiating proposals for each prime contract for construction.
- B. Consult with and advise the County as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor.
- C. Consult with and advise the County as to the acceptability of substitute materials and equipment proposed by contractor.
- D. Assist the County in evaluating bids or proposals and in assembling and awarding contracts.
- E. Prepare four (4) sets of all documents necessary for the County and the Contractor(s) to enter into a Contract for the construction of the project and forward all such documents to the Contractor for execution.

#### 1.5 Constructing Phase:

During the construction phase, the Engineer shall:

- A. Furnish The County with an additional three sets of plans and furnish The County's Contractor(s) with an additional four (4) sets of plans.
- B. Consult with and advise the County and act as its representative as normally expected of Professional Engineers; the County's instructions to Contractor(s) will be issued by the Engineer through the inspector. The Engineer will have the authority to act on behalf of the County to the extent authorized by the County.
- C. Make periodic visits as necessary, to the site to observe as an experienced and qualified design professional the progress and quality of the executed work and to determine if the work is proceeding in accordance with the final plans and specifications and the contract documents. The Engineer's efforts will be

- directed toward providing assurance for the County that the completed project will conform to the final plans and specifications and to the contract documents. During such visits and on the basis of its on-site observations, the Engineers shall keep the County informed in writing of the progress of work, endeavor to guard The County against defects and deficiencies in the work of the contractor(s), shall notify the County of any observed defects or deficiencies in the work of the contractor(s), and shall disapprove or reject work as failing to conform to the final plans and specifications or contract documents.
- D. Review and approve shop drawings and samples, the results of tests and inspections and other data which contractor(s) is required to submit for conformance with the design concept of the project and compliance with the information given in the final plans and specifications and the contract documents; determine the acceptability of substitute materials and equipment proposed by contractor; and receive and review maintenance and operating instructions, schedules, guarantees, bonds, and certificates in accordance with the final plans and specifications and contract documents.
  - E. Issue instructions of the County to each contractor and prepare all change orders as required; the Engineer may, as the County's representative, require special inspection or testing of the work and shall act as interpreter of the requirements of the final plans and specifications and the contract documents and judge of the performance thereunder by the parties thereto.
  - F. Based on the Engineer's on-site observations as an experienced and qualified design professional and on his review of contractor's applications for payment and the accompanying data and schedules, the Engineer shall advise the County as to the amount owing to contractor(s) and indicate whether he approves such amounts; such approvals of payment will constitute a representation to The County, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Engineer's knowledge, information, and belief, the quality of the work is in accordance with the final plans and specifications and the contract documents (subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the final plans and specifications and the contract documents, and to any qualifications stated in its approval).
  - G. Conduct an inspection to determine if the project is substantially complete and a final inspection to determine if the project has been completed in accordance with the final plans and specifications and the contract documents and if each contractor has fulfilled all of its obligations thereunder so that the Engineer may indicate to the County, in writing, that final payment should be made to each contractor.
  - H. Provide the County with digitized plans in a format to be specified by the County.

- I. Engineer shall not be responsible for the acts or omissions of the contractor(s), any subcontractor of the contractor's or subcontractor's agents or employees or any other persons (except its own employees and agents) at the project site or otherwise performing any of the work of the project, not the result of the negligence, errors or omissions of the Engineer.

### **COUNTY'S RESPONSIBILITIES**

#### 2.1 The County shall:

- A. Provide to the Engineer all information in possession of the County, which related to the County's requirements for the project or which is relevant to the project.
- B. Assist the Engineer in obtaining permission to enter upon public and private property as required for the Engineer to perform its services. The County will acquire the necessary easements and/or property.
- C. Examine all studies, test results, reports, sketches, drawings, specifications, and proposals, and other documents presented by the Engineer.
- D. Pay all advertising costs necessary to obtain bids for contractors.
- E. Designate a person to act as the County's representative with respect to the work to be performed under this agreement. Such person shall have the authority to transmit instructions, receive information, interpret and define the County's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the Engineer's services.

### **DESIGN CRITERIA FOR ALL COUNTY PROJECTS**

All designs shall conform to the latest County, state, and federal regulations or standards.

All designs shall conform to the latest County and state erosion control and sedimentation rules, regulations, and ordinances. An erosion control and sedimentation plan must be approved by the County Erosion and Utility Inspection Department and included in the final approved set of utility plans.

The Engineer shall be responsible for coordinating his design and construction work with other Engineers where the projects connect or are affected by other projects.

The Engineer shall furnish a set of as-built project plans (recording drawings) as reflected by the inspection reports and field notes prepared on blackline mylar film

from information furnished by the project inspector at no additional cost to the County.

A completion date for submittal of engineering plans shall be established.

The Engineer shall submit plans and specifications and assist in obtaining approval from all local, state, and federal regulatory agencies.

The Engineer shall furnish the necessary plans and assist in the preparation of the application for Virginia Department of Transportation permits as necessary.

A letter will be sent in a form approved by the County by the Engineer to all property owners requesting permission to enter their property for surveys.

No trees or shrubs shall be cut without prior approval of the property owner.

The Engineer shall prepare all bid documents on forms as approved by the County. He shall furnish the County with four (4) sets of specifications. The Engineer shall also furnish four (4) sets of plans to the County's contractor at no cost. Additional sets will be furnished at reproduction cost.

The Engineer shall advertise for bids in local newspaper and furnish plans and specifications at the Engineer's sole expense to Dodge Report, Builder's Exchange, and The Association of General Contractors. Advertisement for bids shall be coordinated with the respective County department. Cost of advertising in newspaper will be paid by the County.

Monthly progress reports on the construction shall be submitted to the Director of Public Works/Utilities.

The Engineer shall designate in writing a project manager with authority to act on behalf of the firm in technical matter.

### **SELECTION PROCESS**

A. EVALUATION CRITERIA shall include, but are not necessarily limited to:

1. Priority assigned to Caroline County projects by offeror;
2. Depth and variety of staff expertise, including without limitation:
  - a. resumes of key individuals
  - b. education
  - c. staff size
  - d. expertise
  - e. location of and availability of key personnel and staff (Virginia office)



3. Managerial capabilities:
  - a. ability to manage several projects simultaneously and expeditiously
  - b. approach to problem/task resolution
  - c. management staff and amount of direct participation
    - i. demonstrated interest of consultant
    - ii. firm's principals and direct participation in proposed projects
  - d. means of controlling project scope
  - e. evaluation techniques
  - f. data gathering methods
  - g. communication procedures
  - h. team organization and amount of experience as a team
4. Familiarity with federal, state and local codes, conditions, and ordinances were essential to proper performance;
5. Past performance record and relevant experience;
  - a. references – showing names, addresses, and phone numbers (the County reserves the right to contact previous clients and inspect both on-site and design work)
  - b. quality of work, timeliness, diligence, ability to meet budget
6. Fiscal stability;
7. Overall quality of firm and proposal (includes reputation and integrity within the engineering community);
8. Technical capabilities
  - a. description of facilities and production capabilities
9. At the discussion stage, the County may discuss with the offeror non-binding estimates of total project costs, including, but not limited to, life-cycle costing and, where appropriate, non-binding estimates of price for services.

## B. SELECTION PROCEDURE

Caroline County may make final award to multiple offerors depending upon expertise of the offeror and County needs for different types of Engineering Services. Assignment of work to successful offerors shall be as previously described in the section entitled "Background Information." Selection of the successful offerors shall be as follows:

1. Offerors should make written proposals offering their qualifications and understanding of the request as presented. Proposals should be specific as to the ability to perform Engineering Services and surveying related to design and

operation of water and sewer, solid waste, capital projects, and other county departments.

2. Following evaluation of the written proposals as submitted, the County shall engage in individual discussions with the offeror or offerors deemed fully qualified, responsible, and suitable on the basis of the written proposals and with emphasis on professional competence. Such offerors shall be encouraged to elaborate on their qualifications, as well as alternative concepts, and to answer questions from evaluation team members.
3. Following these discussions, on the basis of the evaluation factors listed in this request and all information developed in the selection process to this point, the County shall select in the order of preference those offerors whose professional qualifications and proposed services are deemed most meritorious.
4. Negotiations shall then be conducted with the offeror ranked first in each category of services identified by the County as being needed. If a satisfactory contract cannot be successfully negotiated with the offeror ranked first in each such category, then negotiations with that offeror shall be formally terminated, and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

### **INFORMATION TO BE FURNISHED BY THE OFFEROR**

Offerors are to make written proposals which present the offeror's qualifications and understanding of the work to be performed. Offerors are asked to address each evaluation criterion and to be specific in presenting their qualifications. Your proposal should include all information which you consider pertinent to your qualifications for this request.

### **FURTHER INFORMATION**

All questions regarding this request should be directed, in writing, to the Director of Public Works/Utilities. Written responses from the County will be provided to all respondents to this request for proposals. The attached General Terms and Conditions are a part of this request for proposals and shall be a part of any contract awarded hereunder.

## Exhibit A

### General Terms and Conditions (Including Insurance and Indemnity)

The procurement documents, including Exhibit A "General Terms and Conditions," to the Invitation for Bid, the Request for Proposal, or other Solicitation, and the response of the bidder (**the "Contractor"**) will be incorporated into a resulting contract as fully and completely as if set forth in such contract in its entirety. The following are the general conditions that will apply to all procurements done by the Board of Supervisors of the County of Caroline (**the "County"**).

#### 1. General Provisions

Nothing in any resulting contract shall be construed as authority for either party to make commitments which will bind the other party beyond the scope of service contained herein. This contract is subject to appropriations by the County.

#### 2. Laws of the Commonwealth

- A. Procurement Act: This solicitation is subject to the provisions of the Virginia Public Procurement Act and any revisions thereto, which are hereby incorporated into this contract as appropriate.
- B. Any purchase order or contract resulting from this solicitation shall be governed in all respects, whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia as amended.
- C. The Contractor providing goods or services to the County under this contract assures the County that it is:
  - 1. Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
  - 2. Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986;
  - 3. Complying with federal, state and local laws and regulations applicable to the performance of the services procured; and
  - 4. Submitting the bid or proposal in full compliance with the Virginia Conflict of Interest Act.
- D. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:
  - 1. The Contractor (1) will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, 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, (2) will post in conspicuous places, available to employees and applicants for

employment, notices setting forth the provisions of this nondiscrimination clause, and (3) will state that the Contractor is an equal opportunity employer in all solicitations or advertisements for employees placed by or on behalf of the Contractor under this contract. All 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;

2. The Contractor will include the provisions of the foregoing subparagraph 2.(B)(1) in every subcontract or purchase order under this Contract of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor; and

E. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:

The Contractor shall A) provide a drug-free workplace for its employees; B) 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 its workplace and specify the actions which will be taken against any employee for a violation; C) state in all of its solicitations or advertisements for employees that it maintains a drug-free workplace; and D) include the provisions of this subparagraph in every subcontract or purchase order of over \$10,000, so that said provisions shall be binding upon each subcontractor or vendor.

For purposes of this subparagraph, "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 the provisions of the Virginia Public Procurement Act, 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.

F. In addition to the provisions contained in sub-paragraph C. pertaining to drug-free workplace, Contractor shall comply with the federal Drug-Free Workplace Act.

G. Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, in all invitations to bid, requests for proposals, contracts, and purchase orders, the County does not discriminate against faith-based organizations.

"Faith-based Organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

If Contractor is a faith-based organization, then Contractor shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

**NOTICE**

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as an applicant for or recipient of goods, services, or disbursements provided pursuant to a contract between the County and a faith-based organization, you are hereby notified as follows:

**Neither the County's selection of a charitable or faith-based provider of services or the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider**

**because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the County Administrator.**

### **3. Certifications**

By submitting their proposals, the Contractor certifies that:

1. The bid or offer (1) is made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) is in all respects fair and without collusion or fraud, and (3) is or is intended to be competitive and free from any collusion with any person, firm or corporation;
2. The Contractor has not offered or received any kickback from any other bidder or Contractor, supplier, manufacturer, or subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts, or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;
3. The Contractor is not a party to nor has he participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or condition upon which the contract resulting from the acceptance of his bid proposal is to be performed;
4. The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this proposal; and
5. The Contractor or subcontractor has not and will not confer on any public employee having official responsibility for a 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 is exchanged.

### **4. Warranties**

Any goods or services furnished by the Contractor under the contract shall be covered by the most favorable warranties provided by the Contractor to any customer; the rights and remedies hereby provided are in addition to any and do not limit those otherwise available to the County. The Contractor agrees that if such warranties are in any respect breached, the Contractor will pay to the County the full contract price agreed to by the County to be paid for the supplies, materials, equipment or services furnished under the bid or proposal.

### **5. Modifications, Additions or Changes**

Modifications, additions or changes to these terms and conditions may not be made except in writing and agreed to by the County; however, no fixed priced contract may be increased by more than twenty-five (25) percent of the amount of the contract or \$50,000 whichever is greater without the approval of the County. The amount of any contract may not be increased for any purpose without adequate consideration provided to the County.

**6. Hold Harmless**

The Contractor agrees to indemnify, defend and hold harmless the County and its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature provided by the Contractor, provided that such liability is not attributable to the sole negligence on the part of the County or to failure of the County to use the materials, goods, or equipment in the manner outlined by the Contractor and descriptive literature or specifications submitted with the Contractor's bid.

**7. Assignment**

The contract may not be assigned, sublet, or transferred without the written consent of the County.

**8. Default**

In the case of default or breach by the Contractor or the failure of the Contractor to deliver the services in conformance with the specifications in the contract the County shall give written notice to the Contractor specifying the manner in which the contract has been breached. If the County gives such notice of breach and the Contractor has not corrected the breach within fifteen (15) days of receipt of the written notice, the County shall have the right to immediately rescind, revoke or terminate the contract and in addition to any other remedies available at law to procure such services from other sources and hold the Contractor responsible for any and all excess cost occasioned thereby.

**9. Audit**

The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment or after all other pending matters are closed, whichever is longer. The County and its authorized agents, state auditors, the grantor of the funds to the County, the Comptroller of Virginia or of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audits, examinations, excerpts or transcriptions.

**10. Ownership of Documents**

Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the County by the Contractor upon completion, termination or cancellation of this Contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of the County. The County shall own the intellectual property rights to all materials produced under this contract.

**11. Payment and Performance Bond**

For any Contract for construction, the amount of which exceeds \$100,000, the Contractor shall furnish to the County the bonds required under Sections 2.2-4336 and 2.2-4337 of the Code and shall otherwise fully comply with the requirements of such sections of the Code. The County reserves the right to require payment and/or performance bonds in the amount of the Contract for any other Contracts, whether or not required by such sections of the Code.

**12. Required Payment**

Pursuant to Section 2.2-4354 of the Code, the Contractor covenants and agrees to:

- A. within seven (7) days after receipt of any amounts paid to the Contractor under the Contract, (i) pay any subcontractor for its proportionate share of the total payment received from the County attributable to the work under the Contract performed by such subcontractor, or (ii) notify the County and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason therefore;

- B. provide its federal employer identification number or social security number, as applicable, before any payment is made to the Contractor under the Contract; and
- C. pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Contractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under the Contract, except for amounts withheld pursuant to subparagraph 12a. above.
- d. Include in its contracts with any and all subcontractors the requirements of a, b, and, c above.

**13. Liability Coverage**

Unless otherwise expressly excepted in the procurement announcement documents prepared by the County, the Contractor shall take out and maintain during the life of the Contract such bodily injury, liability and property damage liability insurance as shall protect it and the County from claims for damages for personal injury, including death, as well as from claims for property damage, which may arise from its activities under this agreement. Such insurance shall at least have the coverages and be in the amounts set forth in section 15 "Insurance and Bond Requirements" set forth below and shall name the Board of Supervisors and the County as Additional Insureds. Such insurance must be issued by a company admitted within the Commonwealth of Virginia and with at least a Best's Key Rating of A:V1. The Contractor shall provide the County with a certificate of insurance showing such insurance to be in force and providing that the insurer shall give the County at least 30 days' notice prior to cancellation or other termination of such insurance.

**14. Loss or Damage in Transit**

Delivery by a contractor to a common carrier does not constitute delivery to state agencies or political subdivisions. Any claim for loss or damage incurred during delivery shall be between the contractor and the carrier. The state accepts title only when goods are received regardless of the F.O.B. point. The receiving agency will note all apparent damages in transit on the freight bill and notify the contractor. Discovery of concealed damages or loss will be reported by the receiving agency to the carrier and the contractor within seven days of receipt and prior to removal from the point of delivery if possible. The contractor shall make immediate replacement of the damaged or lost merchandise or be in default of the contract. It shall be the contractor's responsibility to file a claim against the carrier. If damage is to a small quantity, with the approval of the agency, the contractor may deduct the amount of damage or loss from his or her invoice to the agency in lieu of replacement.

**15. Freight**

By signing an I.F.B. the bidder certifies that the bid price(s) offered for F.O.B. destination include only the actual freight charges at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Freight charges are, therefore, established for each individual purchase. If a requirement is bid F.O.B. origin, the contractor shall prepay the charges and add the amount to the invoice. A copy of the freight bill should be attached to all invoices that include freight charges. In a solicitation specifying F.O.B. origin the state will consider freight cost in the evaluation of bids.

**16. Termination for Default**

In case of default by a contractor for failure to deliver or perform in accordance with the contract specifications or terms and conditions, the County may procure the articles or services from other sources and hold the defaulting contractor responsible for any resulting additional purchase and administrative costs. The County will normally repurchase from the next low bidder or purchase competitively by resolicitation. If the repurchase results in increased costs to the County, a letter will be sent to the defaulted contractor required payment for additional costs. When repayment is requested, the contractor will be removed from future bidding until the repayment has occurred. Contractors shall not be liable for any excess cost if the failure to perform arises out of any act of war, order of legal authority, strikes, act of God, or other unavoidable causes

not attributed to their fault or negligence. Failure of a contractor's source to deliver is generally not considered to be an unavoidable cause. The burden of proof rests with the contract.

Remainder of this page left blank.



**17. Insurance and Bond Requirements**

The Contractor shall maintain the following insurance to protect it from claims under the Workmen's Compensation Act, and from any other claims for personal injury, including death, and for damage to property that may arise from operations under the Contract, whether such operations be by itself or by any subcontractor, or anyone directly or indirectly employed by either of them.

| <b><u>TYPE OF COVERAGE</u></b>  | <b><u>LIMITS</u></b>   |
|---|--|
| Workers' Compensation and Employer's Liability including coverage under United States Longshoremen's and Harbor Worker's Act where applicable   | Statutory, including Employer's Liability of \$100,000.00 Each Accident<br>\$500,000.00 Disease-Policy Limit<br>\$100,000.00 Disease-Each Employee |
| Comprehensive General Liability endorsement coverages.  | Including the Broad Form C.G.L.  |
| Premises – Operations<br>Bodily Injury Liability and Property Damage Liability Combined   | \$500,000 Each Occurrence<br>\$1,000,000 Aggregate   |
| Including:<br>Underground Hazard (U)<br>Explosion and Collapse<br>Hazard (XC)   |  |
| Independent Contractors – Owner's Protective Bodily Injury Liability and Property Damage Liability Combined   | \$500,000 Each Occurrence<br>\$1,000,000 Aggregate   |
| Completed Operations - Products Liability<br>Bodily Injury Liability and Property Damage Liability Combined for five (5) years after payment  | \$500,000 Each Occurrence<br>\$1,000,000 Aggregate   |
| Contractual Bodily Injury Liability and Property Damage Liability Combined in accordance with Agreement between Owner and Contractor<br>Personal Injury with Employee's Exclusion C deleted                         | \$500,000 Each Occurrence<br>\$1,000,000 Aggregate<br><br>\$1,000,000 Aggregate  |
| Automobile Bodily Injury Liability and Property Damage Liability Combined covering all automobiles, trucks, tractors, trailers, or other automobile equipment, whether owned, non-owned, or hired by the Contractor | \$500,000 Per Accident   |
| Umbrella/Excess Liability   | \$1,000,000 Each Occurrence<br>\$1,000,000 Aggregate   |
| Professional Liability Insurance  | \$1,000,000 Limit of Liability   |

1. The Contractor shall purchase and maintain insurance coverage on his tools, equipment and machinery and shall waive subrogation to the County for damage thereto.

2. The County reserves the right to require insurance of any Contractor in greater amounts provided notice of such requirements is stated in the Solicitation.

**18. Assignment of Contract**

The contract shall not be assignable by the Contractor in whole or in part without the written consent of the County.

**19. Execution**

All work performed shall be in accordance with all local, state and federal codes, laws and regulations, including but not limited to: Virginia Conflict of Interest Act, Virginia Fair Employment Contracting Act, Virginia Freedom of Information Act, Virginia Prompt Payment Act, and the Virginia Public Procurement Act.

**20. No Waiver**

Any failure of the County to demand rigid adherence to one or more of this Agreement's provisions in the contract, on one or more occasions, shall not be construed as a waiver nor deprive the County of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

**21. Termination and Cancellation**

The County shall have the unilateral right to terminate this contract for default, in the event that any one or more of the following events of default occur or continue during the term of this agreement: (a) the Contractor shall fail to deliver the equipment or services required by this contract or, (b) the Contractor shall repeatedly fail to respond to request for maintenance or other services within the time limits set forth in the contract or, (c) the Contractor shall breach any of the other cures after receiving a "Show Cause Notice" identifying the failure, then providing the Contractor ten (10) days to cure the failure/nonperformance.

If the Contractor fails to answer the cure notice, or does not correct the deficiencies noted, the County may immediately terminate the agreement for default. In such event the County will only be liable for cost incurred to the date of termination. All costs of de-installation and return of the equipment will be at the Contractor's expense. The County's failure to exercise its right to terminate for default under this provision shall not be construed as a waiver of its right to terminate, rescind or revoke this contract in the event of any subsequent breach of any provisions of this agreement.

The County has the right to terminate the agreement in whole or in part of convenience and shall require no breach of contract by the offeror as a condition of termination. This right of termination for convenience may be exercised at the sole unconditional discretion of the County. If the contract is terminated in whole or in part for the convenience of the County, the Contractor shall be paid for the service done and the remaining buyout of the lease to the date of termination, but shall not be paid any other fees or lost profits.

**22. Work Site Damages**

Any damages, including damage to finished surfaces, resulting from the performance of this contract shall be repaired to the satisfaction of the County at the Contractor's expense.

**23. Choice of Law**

To ensure uniformity of the enforcement of this Contract, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to her principles of conflicts of law.

**24. Forum Selection**

The parties hereby submit to the personal jurisdiction and venue of any state or federal court located within the Commonwealth of Virginia for resolution of any and all claims, causes of action or disputes arising out of or related to this Contract and agree that service by registered mail to the addresses set forth in Paragraph 20 of this Appendix shall constitute sufficient service of process for any such action. The parties further agree that any claims, causes of action or disputes arising out of, relating to or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Caroline or in the U.S. District Court, Eastern District of Virginia.

**25. Severability**

If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

**26. Notices**

All requests, notices and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or (b) transmitted by hand delivery, telegram, telex, telecopy or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the County shall be sent to:

Mr. Charles Culley,  
County Administrator  
Caroline County  
P.O. Box 447  
Bowling Green, VA 22427

Benjamin W. Emerson, Esquire  
Sands Anderson PC  
1111 E. Main Street, Suite 2300  
Richmond, VA 23219

**27. Contractual Claims Procedure**

- A. Contractual claims or disputes, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that Contractor shall give the County written notice of its intention to file a claim or dispute

within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Contractor files such written notice, Contractor shall proceed with the work as directed. If Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.

- B. The County, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice.
- C. If the Contractor disagrees with the decision of the County concerning any pending claim, the Contractor shall promptly notify the County by written notice that the Contractor is proceeding with the work under protest. Any claim not resolved, whether by failure of the Contractor to accept the decision of the County or under a written notice of Contractor's intention to file a claim or a detailed claim not acted upon by the governing body of the County, shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- D. The decision on contractual claims by the governing body of the County shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court.

**ATTACHMENT A**

**PROPOSAL SIGNATURE SHEET**

**Page 1 of 2**

My signature certifies that the proposal as submitted complies with all requirements specified in this Request for Proposal ("R.F.P.").

My signature also certifies that by submitting a proposal in response to this R.F.P., the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

|   |
|---|
| LEGAL NAME OF OFFEROR (DO <u>NOT</u> USE TRADE NAME): |
|   |
| ADDRESS:  |
|   |
|   |
| SIGNATURE:  |
| NAME OF PERSON SIGNING (print):                       |
| TITLE:  |
| TELEPHONE:  |
| FAX:  |
| E-MAIL ADDRESS:                                       |
| DATE:   |

ATTACHMENT A

PROPOSAL SIGNATURE SHEET

Page 2 of 2

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

PLEASE SPECIFY YOUR BUSINESS CATEGORY BY CHECKING THE APPROPRIATE BOX(E.S.) BELOW.

(Check all that apply.)

- SMALL BUSINESS
- WOMEN-OWNED BUSINESS
- MINORITY-OWNED BUSINESS
- SERVICE-DISABLED VETERAN
- EMPLOYMENT SERVICES ORGANIZATION
- NON-SWaM (Not Small, Women-owned or Minority-owned)

**SUPPLIER REGISTRATION** – The County of Caroline encourages all suppliers interested in doing business with the County to register with eVA, the Commonwealth of Virginia's electronic procurement portal, <http://eva.virginia.gov>.

eVA Registered?  Yes  No

If certified by the Virginia Minority Business Enterprises (DMBE), provide DMBE certification number and expiration date.

\_\_\_\_\_ NUMBER \_\_\_\_\_ DATE

**DEFINITIONS**

For the purpose of determining the appropriate business category, the following definitions apply:

**"Small business"** means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

**"Women-owned business"** means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

**"Minority-owned business"** means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

**"Minority individual"** means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.
2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.
3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.
4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

**"Service disabled veteran business"** means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

**"Service disabled veteran"** means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

**"Employment services organization"** means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department of Aging and Rehabilitative Services.

**ATTACHMENT B**

**VIRGINIA STATE CORPORATION COMMISSION (S.C.C.)**  
**REGISTRATION INFORMATION**

**The Bidder or Offeror:**

- is a corporation or other business entity with the following SCC identification number:  
\_\_\_\_\_ **-OR-**
  
- is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**
  
- is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Bidder/Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offer or's out-of-state location) **-OR-**
  
- is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder' s/Offeror's current contacts with Virginia and describes why whose contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

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