



COUNTY OF STAFFORD

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FINANCE AND BUDGET
DEPARTMENT
PROCUREMENT
DIVISION

STANDARD CONTRACT FOR A/E SERVICES

Contract No. 16-4111-P601-GF

This Stafford County Standard Contract for Services ("Standard Contract") is entered into this ____ day of _____, 2020, by and between the Board of Supervisors of Stafford County, Virginia, or its authorized agents, and the architectural or engineering firm identified below for on-call services identified herein, on the following terms and conditions.

1. DEFINITIONS.

As used in this Standard Contract, the term "County" shall mean the Board of Supervisors of Stafford County, Virginia, its officers and employees. As used in this Standard Contract, the term "A/E Contractor" shall mean:

Gannett Fleming, Inc.
4097 Monument Corner Drive, Suite 500
Fairfax, VA 22030

2. CONTRACT DOCUMENTS.

The Contract Documents consist of this Standard Contract, together with exhibits and amendments issued or applicable thereto (collectively, "Contract Documents" or "Contract"). The following exhibit(s) shall be part of the Contract Documents:

- a. Exhibit A: Request for Proposal (RFP) #526163
- b. Exhibit B: Gannett Fleming Proposal dated May 26, 2016
- c. Exhibit C: Gannett Fleming FY2020 Billing Rate Schedule
- d. Exhibit D: A/E Fee Proposal

3. CONTRACT TERM.

The period of the Contract shall be for two years, from August 19, 2019 to August 18, 2021.

4. PROVISION OF A/E SERVICES.

4.1. The A/E Contractor shall provide A/E services in support of the Stafford County Department of Public Works, Utilities Division Treatment Facility and Pump Station Engineering Projects on an "on-call" basis ("A/E Services") as described in Exhibits A and B, and in accordance with provisions below. Development of plans and specifications for projects should be in conformance with the requirements of the Stafford County Department of Public Works and industry standards. No aspect of the A/E Services shall be deemed complete until it is accepted by the using County department ("Department"). For the purposes of the Contract the using Department shall be Stafford County Department of Public Works, Utilities Division.

4.2. Basic A/E Services

The following services are basic A/E Services ("Basic Services") that may be performed during each phase of the requested project. Each task order proposal shall identify the scope of the project and include the Basic Services that are to be excluded from the project.

4.2.1 Study and Preliminary Design Phase

- a. Consult with County to define specific requirements of the assignment and review available data in possession of the County.
- b. In consultation with the County, and on the basis of all information obtained, determine the scope of the project.
- c. Perform all necessary research, field survey work and geotechnical services.
- d. Analyze the County's spatial and functional requirements, planning surveys, site evaluations and comparative studies of prospective sites; provide alternative schemes or solutions for review, approval and/ or selection by the County.
- e. Prepare preliminary design documents consisting of construction plans and specifications.
- f. Prepare all contract documents on forms as approved by the County.
- g. Based on the information contained in the preliminary design documents, submit an opinion of probable project cost including, but not limited to, construction costs and contingencies to the County.
- h. Furnish all such documents, plans and design data as may be required, and assist in the preparation of the required documents so 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 attendance at administrative hearings and meetings as are necessary to obtain such approval.
- i. Prepare and distribute minutes of project meetings or telephonic discussions summarizing discussions, agreements and direction given or received.

4.2.2. Final Design Phase

- a. Upon completion and acceptance by the County of the Preliminary Design Phase and authorization to proceed with the final design, prepare and furnish preliminary design documents and Invitation for Bid documents (drawings, specifications, easement plats, etc.) in conjunction with the County's Procurement Office, and assist in the preparation of other related documents as necessary.
- 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 all such governmental agencies and authorities as have jurisdiction over design criteria and environmental impact applicable to the project. Assist in obtaining such approvals by participating in submissions to and negotiations with appropriate officials and authorities, including administrative hearings involving the project, and attend as many hearings and meetings as are necessary.
- 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 if requested by the County.
- e. Present and review final plans, specifications and all other related documents to the County.

4.2.3. Bidding Phase

- a. Assist County in obtaining bids for each prime contract for construction.
- b. Attend pre-bid conferences as needed.
- c. Answer bidder's questions and prepare any necessary addendums.
- d. Attend the bid opening and check the accuracy of submitted bids.
- e. Consult with and advise County as to the acceptability of approved equals, substitute materials and equipment proposed by bidder.
- f. Assist the County in evaluating bids, negotiating with bidders when applicable, and performing reference checks.
- g. Assist the County in preparing contract documents for review and approval of the County Procurement Office and Department of Public Works prior to forwarding them to the contractor for execution.

4.2.4. Construction Phase

- a. Furnish County with three sets of plans, one half scale set of plans and three sets of specifications at no charge and furnish County's contractor with an additional six sets of plans. Additional sets to be furnished at reproduction cost.
- b. Consult with, advise, and act as normally expected of professional architects and engineers; County's instructions to contractor will be issued by A/E Contractor through the inspector. The A/E Contractor will have the authority to act on behalf of the County to the extent authorized in writing by the County.
- c. Make periodic visits to the site, as necessary, but at least once every month, to observe the progress and quality of the executed work and provide assurance to the County in writing that the completed project will conform to the contract. Written observations should detail the progress of work, guard the County against defects and deficiencies in the work of the contractor whenever possible, notify the County of any observed defects or deficiencies in the work of the contractor, and disapprove or reject work as failing to conform to the contract if necessary.
- d. Review and approve shop drawings, the results of tests and inspections and other data the contractor is required to submit; determine acceptability of substitute materials and equipment proposed by contractor; receive and review maintenance and operating instructions, schedules, guarantees, and certificates of inspection, assembled by contractor in accordance with the contract documents.
- e. Issue instructions to the contractor, review all change proposals presented by the contractor and prepare all change orders as required by the County. The A/E Contractor may, as authorized by the County in writing: require special inspection or testing of the work, site visits, act as interpreter of the requirements of the contract documents, review contractor's scheduling, applications for payment, and note any deficiencies in the performance of the contractor.

4.3 Extra A/E Services

a. A/E Contracting Studies, Analysis and Reports

When the A/E Contractor is directed by the County to prepare, document and submit a study or report related to the construction of a utility project as provided in Exhibit A, the fixed fee amount for the additional A/E Services shall be agreed upon and added by project task order. Such studies, analysis and reports may include:

- i. A/E studies, analysis or reports of the County's wastewater and water systems to forecast system needs and improvements.
- ii. Recommendations for system improvements including but not limited to growth, reliability, redundancy, and replacement of wastewater and water infrastructure and facilities.
- iii. A/E opinions of probable costs for recommended system improvements.
- iv. Assessment of impacts of identified system improvements.
- v. Conduct hydraulic analysis of the County wastewater and water systems.

b. Changes during Design. When, after approval of any stage of the design, it is determined that a substantial change in the overall scheme is advisable, and such change is ordered by the County, the fixed fee amount and revisions to the schedule for the additional A/E Services shall be agreed upon and added to the Contract by change order.

c. Government Application Documents. When the A/E Contractor is directed by the County to prepare applications and supporting documents for government permits, grants, loans, or advances, the fixed fee amount for the additional A/E Services shall be agreed upon and added by change order.

d. County Duties. When the County authorizes or directs the A/E Contractor to provide information or data which is normally the County's responsibility, the fixed fee amount for the additional A/E Services shall be agreed upon and included in the project scope as extra services or added by change order.

e. Changes to Design after Construction. When the County requests changes to drawings and specifications after the work is under construction, the fixed fee amount for the additional A/E Services shall be agreed upon and added by change order.

f. **Delays.** When delinquency, insolvency or failure of the contractor to perform the work requires extraordinary demands on the time of the A/E Contractor and the A/E Contractor has not contributed to such delays, the County may consider compensating the A/E Contractor for some portion of the time, if the A/E Contractor provides the County with written documentation and justification of the additional demands on the A/E Contractor.

g. **Unforeseen Events and Conditions.**

- i. When extra A/E Services are required as a result of damage by fire, unforeseen structural conditions, or other causes beyond the control of the A/E Contractor, the fixed fee amount and schedule for the additional A/E Services shall be agreed upon and added by change order.
- ii. When unforeseen conditions require special or continuous on-site services for an approved period of time, such special or continuous on-site services must be requested and approved in writing by the County in advance.

5. FEES.

When the Department requests a project proposal, the A/E Contractor shall utilize the form set forth in Attachment D. All hourly rates and fees shall be as set forth in Exhibit C.

6. PAYMENT.

Payment will be made by the County to the A/E Contractor (1) after receipt by the Department of an invoice detailing the A/E Services provided, and (2) after said A/E Services have been accepted by the County. All invoices shall reference the solicitation number, this Contract number, task order number, and purchase order number, with date of services aligned with the proposal. The Department will either approve the invoice or require corrections. The County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provisions of the Contract or any subsequent modifications.

7. PURCHASE ORDERS.

County purchases are authorized only if a County Purchase Order is issued in advance of each project task ordered. The A/E Contractor shall not perform any work, or any portion thereof, that has not been authorized by a written purchase order (or change order) executed by the Procurement Office. The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the Director of Procurement or designee ("Procurement Officer"). If the A/E Contractor provides A/E Services without a signed County Purchase Order, it does so at its own risk and expense. The County reserves the right, at its discretion, to issue purchase orders to any A/E Contractor based on its evaluation of each A/E Contractor's qualifications, expertise, capabilities, performance record, current workload, location or distance to the project, and other factors that may be pertinent to a particular project

8. PURCHASE ORDER RESTRICTION AND MAXIMUM FEE LIMITATION.

No individual project exceeding \$100,000 shall be valid unless approved by the Stafford County Board of Supervisors. The sum of all projects during the remaining Contract term shall not exceed the sums set forth in Virginia Code § 2.2-4303.1, as amended.

9. CHANGE ORDERS.

Change orders, authorized by the Procurement Officer, may be issued to add to, delete, or otherwise modify the scope of A/E Services as provided herein. No modification can be made which will increase the original purchase order price by more than twenty-five percent (25%) or \$50,000, whichever is greater, unless said change order is approved by the Board of Supervisors.

10. NON-APPROPRIATION OF FUNDS.

The obligations of the County to pay compensation due to the A/E Contractor pursuant to the Contract or any other payment obligations under any contract or individual project task ordered awarded pursuant to this Contract are subject to appropriations by the Stafford County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such appropriation is not made for any fiscal year, the Contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the Contract beyond the amount appropriated for payment obligations under the Contract. The County will provide the A/E Contractor with written notice of non-appropriation of funds thirty (30) days after action is completed by the Board of Supervisors, but failure to give such notice shall be of no effect and the County shall not be obligated under the Contract beyond the date of non-appropriation.

11. PAYMENT TO SUBCONTRACTORS.

11.1 In accordance with Virginia Code § 2.2- 4354, as amended, the A/E Contractor is obligated to take one of the two following actions within seven days after receipt of amounts paid to the A/E Contractor by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under the Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

11.2 The A/E Contractor is obligated to pay interest to the subcontractor on all amounts owed by the A/E Contractor to the subcontractor that remain unpaid after seven days following receipt by the A/E Contractor of payment from the County for work performed by the subcontractor under the Contract, except for amounts withheld as allowed in subparagraph (b), above. Unless otherwise provided under the terms of the Contract, interest shall accrue at the rate of one percent per month.

11.3 The A/E Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor. The A/E Contractor's obligation to pay an interest charge to a subcontractor pursuant to this paragraph may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

11.4 All contractors, if a proprietorships, partnerships, and/or corporations, shall provide the County with its federal employer identification number, or if an individual contractor, their social security number.

12. EXAMINATION OF RECORDS.

12.1 The A/E Contractor agrees that the County, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy pertinent books, documents, papers, and records of the A/E Contractor involving transactions related to the Contract.

12.2 The A/E Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of the Contract, a provision to the effect that the subcontractor agrees that the County or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy pertinent books, documents, papers and records of such sub-contractor involved in transactions related to such subcontract, or the 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.

12.3 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 the Contract or any subcontract shall continue until any appeals, arbitration, litigation, or claims shall have been finally disposed of.

13. CONFIDENTIALITY.

13.1 A/E Contractor Confidentiality.

a. The A/E Contractor acknowledges and understands that its employees and subcontractors may have access to proprietary, business information, or other confidential information belonging to the County. Therefore, except as required by law, the A/E Contractor will require that its employees and subcontractors will not:

- i. Access or attempt to access data that is unrelated to their job duties or authorizations as related to this Contract;
- ii. Access or attempt to access information beyond their stated authorization; and
- iii. Disclose to any other person, or allow any other person access to, any information related to the County or any of its facilities or any other user of this Contract that is proprietary or confidential. Disclosure of information includes, but is not limited to, verbal discussions, facsimile transmissions, electronic mail messages, voice mail communication, written documentation, "loaning" computer access codes and/or another transmission or sharing of data.

b. The A/E Contractor understands that the County, or others may suffer irreparable harm by disclosure of proprietary or confidential information and that the County may seek legal remedies available to it should such disclosure occur, including termination of the Contract. Further, the A/E Contractor understands that information and data obtained during the performance of this Contract shall be considered confidential, during and following the term of this Contract, and will not be divulged without the Procurement Officer's written consent and then only in strict accordance with prevailing laws. The A/E Contractor shall hold all information provided by the County as proprietary and confidential, and shall make no unauthorized reproduction or distribution of such material.

13.2 County Confidentiality. In addition, the County understands that certain information provided by the A/E Contractor in accordance with Virginia Code § 2.2-4342 (F) during the performance of the Contract may also contain confidential or proprietary information. All such information will be maintained in accordance with the Virginia Freedom of Information Act, Virginia Code § 2.2-3700, et seq.

14. COMPLIANCE WITH LAWS.

The A/E Contractor shall comply with all applicable federal and state laws, and with all County ordinances and requirements.

15. CONTRACTOR STATUS.

The A/E Contractor is an independent contractor and neither the A/E Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants, partners, or agents of the County except for such purposes as may be specifically enumerated herein, nor shall anything contained in the Contract be construed to create any partnership or joint venture between the parties. The A/E Contractor is solely responsible for the employment, selection, management, and supervision of its own participants and for ensuring that its participants abide by all applicable rules for security, safety and general conduct. The A/E Contractor shall maintain exclusive control over its operations. The County will not provide to the A/E Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

16. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH.

An A/E Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. Any business entity described above that enters into a contract with Stafford County shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required by Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. Stafford County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this paragraph.

17. EMPLOYMENT DISCRIMINATION PROHIBITED.

During the performance of the Contract, the A/E Contractor agrees to not discriminate against the Contractor's employees or applicants for employment in accordance with the requirements of Virginia Code § 2.2-4311, as amended, said requirements are incorporated herein as if stated in their entirety.

18. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED.

In accordance with Virginia Code § 2.2-4311.1, as amended, the A/E Contractor acknowledges that it does not, and shall not during the performance of this Contract for services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

19. DRUG-FREE WORKPLACE.

During the performance of the Contract, the A/E Contractor agrees to provide a drug-free workplace for the Contractor's employees in accordance with the requirements of Virginia Code § 2.2-4312, as amended, said requirements are incorporated herein as if stated in their entirety.

20. NONDISCRIMINATION CLAUSE.

In accordance with Virginia Code § 2.2-4343.1, as amended, the County does not discriminate against faith-based organizations. The County does not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law.

21. NO SMOKING.

Smoking in all County and Stafford County Public School (SCPS) buildings is prohibited. The County may designate a smoking area outside County facilities. A/E Contractor shall only use those designated smoking areas. Certain County and SCPS facilities, both inside and outside, may be entirely smoke free. A/E Contractor shall inquire if a facility is entirely smoke free.

22. BACKGROUND CHECKS

22.1 Background checks of A/E Contractor employees and/or subcontractors may be conducted at the discretion of the County after the A/E Contractor identifies those persons who will be working under the Contract and any project task order. When this occurs, the Contractor shall not send any workers to the job site whose information has not been provided for the County's background check. The background checks will be paid for by the County. If it is determined, in the County's sole judgment, that an individual is not suitable due to the results of a background check, the County has right of refusal for that individual. If the A/E Contractor needs to have materials delivered to the job site, deliveries from outside vendors must be approved in advance by the Department.

22.2 In accordance with Virginia Code § 22.1-296.1(c), if the A/E Contractor conducts A/E Services or other activities that require interaction with students on school property during either regular school hours or school sponsored activities, the A/E Contractor must provide certification that all persons who will

provide such A/E Services have not been convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child. The certification documenting compliance with this requirement shall be provided to the Procurement Officer prior to Contract or project task order execution.

23. NON-VISUAL ACCESS.

23.1 All information technology, which is purchased or upgraded by the County under the Contract or project task order, must comply with the following access standards from the date of purchase or upgrade until the expiration of the Contract:

- a. Effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, shall be readily achievable by nonvisual means;
- b. The technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom the blind or visually impaired individual interacts;
- c. Nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and
- d. The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired. A covered entity may stipulate additional specifications in any procurement.

23.2 Compliance with the nonvisual access standards set out in this paragraph is not required if the Board of Supervisors determines that (i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and (ii) nonvisual equivalence is not available.

24. QUALITY OF WORK.

The A/E Contractor is responsible for the professional service provided, including the technical accuracy and coordination of all designs, drawings, specifications, cost estimates, and other A/E Services or materials provided. The project documents submitted by the A/E Contractor shall represent a reasonable, code compliant, and acceptable architectural and/or engineering solution based on the scope of work, "design-not-to-exceed" budget limitations and other constraints of the A/E's project task order. All A/E Services must be in accordance with current criteria, guides, County guidelines and regulations, and shall conform to the professional engineering practices prevailing at the time and location of the Services and under Virginia law ("Standard of Care"). Workmanship shall be neat with all lines and lettering of uniform weight and clarity for complete legibility and satisfactory reproduction. All elements of the A/E Contractor's submittals shall be checked by professional personnel trained in that specific discipline.

25. OWNERSHIP OF DOCUMENTS AND MATERIALS

25.1 Ownership of all materials and documentation including the original drawings, the Plans (including electronic files) and specifications, and copies of any calculations and analyses prepared pursuant to the Contract between the County and the A/E Contractor shall belong exclusively to the County. These materials and documentation, whether completed or not, shall be the property of the County, whether the work for which they are made is executed or not. The A/E Contractor shall not use these materials on any other work or release any information about these materials without the express written consent of the County.

25.2 The A/E Contractor shall provide the following documents to the County at the completion of the A/E Services:

- a. Original sealed and signed drawings
- b. Electronic copy of permit drawings and as-builts in most recent version of AutoCAD and PDF
- c. Original copy of the specifications

- d. Copy of analyses made for the project
- e. Indexed copy of the calculations made by each discipline for the project
- f. Studies, analyses, or technical memoranda performed
- g. The County copy of all shop drawings, submittals, cut sheets, operation and maintenance instructions, parts lists, and other material related to the project.

25.3 The County, as owner of the documents prepared for its projects, has the right to use the project documents as a prototype to demonstrate scope, size, functional relationships, etc., to an A/E Contractor designing a similar project. The A/E Contractor for the original project design shall not be responsible or liable to the Owner for any such use of the documents.

25.4 The A/E Contractor shall provide an electronic copy of the "Final Documents" shall be submitted in the most recent version of AutoCAD and PDF.

26. DESIGN ERRORS AND/OR OMISSIONS

26.1 The A/E Contractor shall be responsible to the County for all damages resulting from its errors, omissions or negligent performance of professional services, and other breaches of the Standard of Care.

26.2 Damages that the County may incur include, but are not limited to:

- a. The County's own costs for labor and other in-house costs;
- b. Any resulting contractor change order costs including the costs for demolition, cutting, patching, repairs, removal, or modification of work that is already in place;
- c. Any contractor or County delay damages; and
- d. Any judgments, fines or penalties against the County resulting from the A/E Contractor's errors, omissions or negligent performance of its professional services and the Standard of Care.

26.3 The A/E Contractor shall be responsible to the County for the actual costs to correct equipment or systems which are incurred as a direct result of the A/E Contractor's errors, omissions or negligence.

26.4 For the purposes of determining the A/E Contractor's share of such costs for work which has not yet been performed, the cost of work performed by contractor's change order shall generally be presumed to be 15% greater than if the work had been included in the contractor's original contract. The A/E Contractor shall have the burden of disproving this presumption.

26.5 When determining the A/E Contractor's contribution for change orders attributed to errors, omissions or the negligent performance of professional services (where the work has not yet been done by the contractor), the County should also take into account the actions and efforts of the A/E Contractor during the construction phase that were above and beyond the scope of its contract to assist the County in obtaining a timely, quality product.

26.6 The County may actively pursue reimbursement of damages resulting from the A/E Contractor's errors, omissions or negligent performance of professional services or breaches of the applicable Standard of Care. Upon determination that there may be A/E Contractor financial responsibility involved, the A/E Contractor may be contacted by the County in writing. The A/E Contractor may be advised of the design deficiency, informed that it is the County's opinion that the A/E Contractor may be financially responsible, and requested to provide a technical solution to the problem, including cost estimate. Upon notification of potential liability, the A/E Contractor should coordinate with the County to determine required technical support and timing to minimize delay costs. Pending final decision by the County, the A/E Contractor may be invited to attend all price negotiations with the contractor for the corrective work. The A/E Contractor shall participate as a non-voting technical advisor to the County's negotiator.

27. INSURANCE.

27.1 In addition to any other forms of insurance or bonds required in the Contract Documents, the A/E Contractor shall provide and maintain the following insurance.

- a. **Workers' Compensation and Employer's Liability:** Workers' Compensation insurance in accordance with statutory requirements, and Employer's Liability insurance in limits of not less than \$500,000 (each employee) or a maximum limit of \$1,000,000, to protect the A/E Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
- b. **Automobile Liability:** A minimum of \$2,000,000 combined single limit for each occurrence for property damage liability and bodily injury liability including death in Automobile Liability coverage. The policy shall cover all persons involved, at any time, and arising out of the ownership, maintenance, or use of owned, non-owned, borrowed, leased, rented, or hired automobiles. In addition, all mobile equipment used by the A/E Contractor in connection with the contracted work, will be insured under a standard Automobile Liability policy. The Garage Keeper's Liability coverage shall also be maintained where appropriate.
- c. **General Liability:** Comprehensive General Liability insurance at a minimum \$1,000,000 per occurrence, written on an occurrence basis, including ongoing and completed operations; contractual liability; and \$2,000,000 general aggregate. In addition, Comprehensive General Liability policy shall include a per project aggregate endorsement. Completed project aggregate endorsement shall continue in force for three years following completion of the Contract.

27.2 A/E Contractor shall also provide and maintain the following insurance:

- a. **Professional Liability:** Professional Liability, Errors and Omissions insurance coverage with a minimum per claim/aggregate limit of \$1,000,000. Professional services shall include, but not be limited to: Accounting, Architecture, Asbestos Design, Inspection or Abatement Contractors, Insurance/Risk Management, Landscape/Architecture, Legal, Professional Engineers, Professional Surveying, and Information Technology (IT) Solutions and Services. Medical services provided by licensed professionals shall provide liability insurance at levels set by the Virginia Code.
- b. **Cyber Liability:** In addition to Professional Liability, Errors and Omissions insurance coverage listed in subsection (iv) immediately above, if any A/E Contractor provides cloud-based IT services and solutions contracts, they must also provide coverage for Cyber Liability Coverage to assist in data loss or security breach in the amount of \$1,000,000 per occurrence.

27.3 Additional insurance provisions that apply to all Contracts include:

- a. **Additional Insured:** The Stafford County Board of Supervisors, its officers, employees, agents, and volunteers shall be named as Additional Insured on the Automobile and Comprehensive General Liability coverage listed above, and it shall be stated on the Insurance Certificate that this coverage "is primary and non-contributory to all other coverage the County may possess."
- b. **Liability Insurance "Claims Made" basis:** If the liability insurance purchased by the A/E Contractor has been issued on a "claims made" basis, the A/E Contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The A/E Contractor must either:
 - i. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the contractor's or sub contractor's work under the Contract, or
 - ii. Purchase the extended reporting period endorsement for the policy or policies in force during the term of the Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
- c. **Excess or Umbrella Liability Policy:** Liability insurance may be arranged by Comprehensive General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying

liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

27.4 The A/E Contractors shall provide thirty days (30) notice of cancellation of any insurance policy. The Automobile, Comprehensive General Liability, Excess/Umbrella and Workers' Compensation policies shall include a waiver of subrogation against Stafford County, its officers, employees, agents and volunteers.

27.5 The insurance specified herein shall be with an insurance company acceptable to the parties hereto and licensed to do business in the Commonwealth of Virginia. All insurance must be obtained before any work is commenced and kept in effect until its completion. If any of the work is sublet, similar insurance shall be obtained by or on behalf of the subcontractor to cover their operation.

27.6 A/E Contractor shall provide current insurance certificates documenting compliance with these coverage requirements shall be provided to the Procurement Officer prior to the award of any Contract.

28. INDEMNIFICATION.

28.1 A/E General Indemnification. A/E Contractor must indemnify, keep and save harmless, and defend the County, its agents, officials, employees, and volunteers against claims that may accrue or arise against the County as a result of the granting a contract, if the claim was caused by the negligence or error, or omission of the Contractor, its employees, its subcontractor, or its subcontractor's employees. As used in this Paragraph 28, a claim includes: injuries, death, damage to property, breach of data security, suits, liabilities, judgments, or costs and expenses. Upon request by the County, the A/E Contractor must, at its own expense: appear, defend, and pay all attorneys' fees and all costs and other expenses related to the claim. If, related to a claim, any judgment is rendered against the County or a settlement reached that requires the County to pay money, the A/E Contractor must, at its own expense, satisfy and discharge the same. A/E Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the County's contractor, does not limit the A/E Contractor's responsibility to indemnify, keep and save harmless, and defend the County as provided in this Contract.

28.2 Intellectual Property Indemnification. In addition to the General Indemnification, A/E Contractor will indemnify the County for and defend the County against third-party claims for infringement of any valid United States patent, trademark or copyright by the A/E Contractor's products, software, services, or deliverables. A/E Contractor must indemnify the County for any loss, damage, expense or liability, including costs and reasonable attorney's fees that may result by reason of any such claim. In the event of a claim covered by this subparagraph, and in addition to all other obligations of A/E Contractor in this Paragraph 28, A/E Contractor must at its expense and within a reasonable time: (i) obtain a right for the County to continue using such products and software, or allow A/E Contractor to continue performing the A/E Services; (ii) modify such products, software, services or deliverables to make them non-infringing; or (iii) replace such products or software with a non-infringing equivalent. If, in the Contractor's reasonable opinion, none of the foregoing options is feasible A/E Contractor must immediately notify the County and accept the return of the products, software, services, or deliverables, along with any other components rendered unusable as a result of the infringement or claimed infringement, and refund to the County the price paid to A/E Contractor for such components as well as any pre-paid fees for the allegedly infringing services, including license, subscription fees, or both. Nothing this paragraph, however, relieves the A/E Contractor of liability to the County for damages sustained by the County by virtue of any breach of contract related to a third-party infringement claim, except for any infringing products, software, services or deliverables which are specifically provided by the County.

28.3 Right to Participate in Defense. The County may, at its sole expense, participate in the defense or resolution of a Claim. A/E Contractor must obtain the County's prior written consent before entering into any settlement or resolution of a claim.

28.4 No Indemnification by the County. The parties agree that under applicable law the County cannot indemnify or defend the Contractor. To the extent any promise or term contained in this Contract, including any exhibits, attachments, or other documents incorporated by reference therein, includes an indemnification or obligation to defend by the County, that promise or term is stricken from this Contract and of no effect.

29. FORCE MAJEURE.

29.1 A party is not liable for failure to perform the party's obligations if such failure is as a result of acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, strikes at national level or industrial disputes at a national level, or strike or industrial disputes by labor not employed by the affected party, its subcontractors or its suppliers and which affect an essential portion of the contracted for works but excluding any industrial dispute which is specific to the performance of the works or this Contract, interruption or failure of electricity or telephone service.

29.2 If a party asserts force majeure as an excuse for failure to perform the party's obligation, that party must immediately notify the other party in writing giving full particulars of the event of force majeure and the reasons for the event of force majeure preventing that party from, or delaying that party in performing its obligations under this Contract and that party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its or their performance of the Contract and to fulfill its or their obligations under the Contract.

29.3 An event of force majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

29.4 A/E Contractor has no entitlement and County has no liability for: (1) any costs, losses, expenses, damages or the payment of any part of the Contract price during an event of force majeure; and (2) any delay costs in any way incurred by the A/E Contractor due to an event of force majeure.

30. TERMINATION FOR CONVENIENCE

30.1 The parties agree that the County may terminate the Contract, the A/E Services or any portion thereof, 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. Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the County Administrator or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

30.2 Upon receipt of such Notice, the A/E Contractor shall:

- a. cease any further deliveries of A/E Services due under the Contract, on the date, and to the extent, which may be specified in the Notice;
- b. place no further orders with any subcontractors except as may be necessary to perform that portion of the Contract not subject to the Notice;
- c. terminate all subcontracts except those made with respect to contract performance not subject to the Notice;

- d. settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Procurement Officer; and
- e. use its best efforts to mitigate any damages which may be sustained by him as a consequence of termination under this clause.

30.3 After complying with the provisions of subparagraph 30.2, above, the A/E Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Procurement Officer.

30.4 The Procurement Officer shall pay from the Department's budget reasonable costs of termination, including a reasonable amount for profit on A/E Services 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 A/E Services not provided. The Contract shall be amended accordingly, and the A/E Contractor shall be paid the agreed amount, but no amount shall be allowed for anticipated profit on unperformed A/E Services.

30.5 In the event that the parties cannot agree on the amount to be paid to the A/E Contractor by reason of termination under this clause, the Procurement Officer shall pay to the A/E Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- a. with respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (i) the cost of A/E Services performed;
 - (ii) the cost of settling and paying any reasonable claims as provided in subparagraph 30.2 (d), above; and
 - (iii) a sum as profit on 30.4(a)(i) determined by the Procurement Officer to be fair and reasonable.
- b. the total sum to be paid under subparagraph 30.5(a) above shall not exceed the Contract price, as reduced by the amount of payments otherwise made, and as further reduced by the Contract price or A/E Services not terminated. In addition, no amount shall be allowed for anticipated profit on unperformed services.

30.6 In the event that the A/E Contractor is not satisfied with any payments which the Procurement Officer shall determine to be due under this clause, the A/E Contractor may dispute any claim in accordance with Paragraph 32 of this Standard Contract concerning Disputes.

30.7 When termination for the convenience of the County is a provision of the Contract, the A/E 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 provisions shall bar the A/E Contractor from any recovery from the County whatsoever for loss or damage sustained by a subcontractor as a consequence of termination for convenience.

31. TERMINATION FOR DEFAULT.

If, through any cause, the A/E Contractor fails to fulfill in a timely and proper manner its obligations under the Contract, or if the A/E Contractor violates any of the covenants, agreements, or stipulations of the Contract, the County shall have the right to terminate the Contract upon five (5) business days' notice. Any such termination shall be effected by mailing or delivery to the A/E Contractor of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the A/E Contractor under the Contract shall, at the option of the County, become the County's property and the A/E Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Termination of

the Contract for Cause does not relieve the A/E Contractor of liability to the County for damages sustained by the County by virtue of any breach of contract by the A/E Contractor until such time as the exact amount of damages due to the County from the A/E Contractor is determined.

32. DISPUTES.

Any dispute concerning a question of fact as a result of the Contract shall be decided by the County Administrator, or designee, who shall render his/her decision in writing and mail or otherwise forward a copy to the A/E Contractor within 90 days of the receipt of the claim. The decision of the County Administrator, or designee, shall be final and conclusive unless the A/E Contractor appeals the decision as provided in the Code of Virginia (1950, as amended). The A/E 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 designee, fails to render such a decision within the time specified. No A/E Contractor shall institute any legal action until all statutory requirements have been met.

The A/E Contractor's contractual claims, whether for money or other relief, shall be submitted in writing to the County Administrator, or designee, no later than 60 days after the final payment; however, written notice of the A/E 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 A/E from submission of an invoice for final payment within a certain amount of time after completion and acceptance of the A/E Services. Pendency of claims shall not delay payment of amounts agreed due in the invoice for final payment.

33. ASSIGNABILITY OF CONTRACT.

It is mutually understood and agreed that the A/E Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Procurement Officer. If the A/E Contractor desires to assign its right to payment of the Contract, A/E Contractor shall notify the Procurement Officer immediately, in writing, of such assignment of right to payment. In no case shall such assignment of the Contract relieve the A/E Contractor from its obligations or change the terms of the Contract.

34. SEVERABILITY.

In the event that any provision shall be adjudged or decreed to be invalid, by a court of competent jurisdiction, such ruling shall not invalidate the entire Contract but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

35. NON-WAIVER.

No waiver of any provision of the Contract shall constitute a waiver of any other provision nor shall any waiver of this Contract constitute a continuing waiver unless otherwise expressly provided.

36. GOVERNING LAW, VENUE, JURISDICTION.

The Contract and its terms, including but not limited to, the parties' obligations, the performance due, and the remedies available to each party, are governed, construed, and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflicts of laws, rules, or provisions that would cause the application of any laws other than those of the Commonwealth of Virginia do not apply. Any and all disputes, claims, and causes of action arising out of or in any way connected with the Contract or its performance must be brought in the applicable court of Stafford County, Virginia, or in the United States District Court for the Eastern District of Virginia, Alexandria Division.

37. ENTIRE AGREEMENT.

The Contract Documents set forth the entire agreement between the County and the A/E Contractor, and supersede any and all previous representations, understandings, discussions or agreements between

County and Contractor. Any and all additional terms and conditions contained in, incorporated into, or referenced in the Contractor's proposal, order, quote, or other standard document shall be deemed invalid unless expressly incorporated into this Contract. This Contract may only be amended by an instrument in writing signed by County and A/E Contractor. In the event of a conflict, the following order of precedence shall apply: this Standard Contract, Stafford County Purchase Order Terms and Conditions, Exhibit A, B, C, and Attachment A. Neither this Standard Contract nor any of the other Contract Documents may be amended unless in writing, signed by the parties hereto, and approved as to form by the County Attorney.

38. NOTICE.

Contract administration of the Contract will be performed by the Procurement Officer. Any questions pertaining to the Contract shall be directed to the Stafford County Procurement Office. Unless otherwise provided herein, all notices and other communications required by the Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

Contact information for the Contractor:

Gannett Fleming, Inc.
Attn: Jessica M. W. Hou
4097 Monument Corner Drive, Suite 500
Fairfax, VA 22030
Phone: (703) 277-9501 Fax: (703) 277-9506
Email: JHou@GFNet.com

Contact information for the County:

Stafford County Central Procurement Division
1300 Courthouse Road
P.O. Box 339
Stafford, Virginia 22555-0339
Phone: 540-658-8610/Fax: 540-658-5370
Email: procurement@staffordcountyva.gov

39. SURVIVAL OF TERMS.

Upon discharge of this Contract, terms and conditions related to Insurance, Indemnification, Disputes, Notice, and Governing Law, Venue, and Jurisdiction shall continue and survive in full force and effect.

40. COUNTERPARTS.

This Standard Contract may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

[Signatures on following page]

GANNETT FLEMING, INC.

By: _____

Name: _____

Title: _____

Date: _____

**STAFFORD COUNTY BOARD OF
SUPERVISORS**

By: _____

Name: Michael T. Smith

Title: Deputy County Administrator

Date: _____