



Loudoun County, Virginia

INVITATION FOR BID

PURCHASE OF STREAM MITIGATION CREDITS FOR CROSSTRAIL BOULEVARD SEGMENT C

ACCEPTANCE DATE: Prior to 4:00 p.m., May 15, 2024 "Local Atomic Time"

IFB NUMBER: RFQ 647814

ACCEPTANCE PLACE: Department of Finance and Procurement
Division of Procurement
1 Harrison Street, SE, 1st Floor, Procurement Bids and Proposals
Drop Box
Leesburg, Virginia 20175

Due to security restrictions, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, Virginia 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

ALL HAND DELIVERED BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 P.M. Bids will be opened and announced by the Procurement Division staff via audio/video teleconference at 4:15 p.m. (Atomic time) on the Acceptance Date. To participate in the audio portion of the opening, please dial the number provided in the Instruction to Bidders and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using Microsoft Teams Meeting with the instructions included in the Instructions to Bidders

Please contact the Contracting Officer or Assistant Purchasing Agent designated on the front cover of the solicitation with any questions regarding this process. Bidders are strongly encouraged to check the County's website routinely for updates.

The terms and conditions contained in this Invitation for Bid are not negotiable.

Requests for information related to this Invitation should be directed to:

Kristy D. Varda, NIGP-CPP, CPPO, CPPB
Contracting Officer
Office:(571) 258-3144
Fax: (703) 771-5097
E-mail: kristy.varda@loudoun.gov
This document can be downloaded from our web site:
www.loudoun.gov/procurement

This document can be downloaded from our web site: www.loudoun.gov/procurement

Issue Date: April 15, 2024

IF YOU NEED ANY REASONABLE ACCOMMODATION FOR ANY TYPE OF DISABILITY IN ORDER TO PARTICIPATE IN THIS PROCUREMENT, PLEASE CONTACT THIS DIVISION AS SOON AS POSSIBLE

INVITATION FOR BID
PURCHASE OF STREAM MITIGATION CREDITS FOR CROSSTRAIL
BOULEVARD SEGMENT C

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ATTACHMENT 1: Virginia Department of Environmental Quality, State Programmatic General Permit, No. WP3-22-1588

Prepared By: Kristy D. Varda, NIGP-CPP, CPPO, CPPB
Contracting Officer

Date: April 15, 2024

PURCHASE OF STREAM MITIGATION CREDITS FOR CROSSTRAIL BOULEVARD SEGMENT C

1.0 PURPOSE

The County of Loudoun, Virginia (County), is soliciting bids from Virginia Department of Environmental Quality (DEQ) approved stream mitigation banks for the purchase of 1,318 Unified Stream Methodology (USM) stream mitigation credits or 2,350 Stream Conditions Units (SCU). Mitigation credits must be located within the Middle Potomac River Watershed, Hydrologic Unit Code (HUC) 02070008, and are associated with the County's Crosstrail Boulevard Segment C project located in Loudoun County, Virginia. The credits will provide compensatory mitigation for proposed impacts to jurisdictional features due to construction.

NOTE: Bids may contain multiple mitigation bank locations. Bidders shall use one line per bank location on the Bid Form. Bidders shall only submit **ONE (1) unit price per mitigation bank location**. Bidders submitting several unit prices for the same mitigation bank will be rejected as non-responsive.

Bidders SHALL NOT submit multiple bids. Bidders submitting multiple bids will be rejected as non-responsive.

2.0 COMPETITION INTENDED

It is the County's intent that this Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the Purchasing Agent in writing if any language, requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by the Purchasing Agent or appointed designee not later than fifteen (15) days prior to the date set for bids to close.

3.0 DISCREPANCIES

Should a bidder find discrepancies in the plans and/or specifications or be in doubt as to the meaning or intent of any part thereof, the bidder shall request clarification from the County in writing, not later than ten (10) working days prior to the bid opening. Any changes to the IFB that result from such a clarification request, will be communicated through a written addendum and posted on the Procurement home page at www.loudoun.gov/procurement. Failure to request such a clarification is a waiver of any claim by the bidder for additional expenses because its interpretation was different than the County's.

4.0 BIDDER'S MINIMUM QUALIFICATIONS

Bidders must demonstrate that they have the resources and capability to provide the materials and services as described herein. *All bidders must submit the documentation indicated below with their bid. Failure to provide any of the required documentation shall be cause for bid to be deemed non-responsive and/or non-responsible and rejected.*

Only those bidders who satisfy the following criteria shall be eligible for this contract and considered for further evaluation:

- 4.1 Bidders shall be the owner or authorized representative of a stream or wetland mitigation bank that is approved by the United States Army Corps of Engineers (USACE) and Department of Environmental Quality (DEQ). The mitigation bank shall be active and operating in compliance with applicable federal and state permits, laws, and regulations and be in good regulatory standing.
- 4.2 The mitigation bank must have within its approved Primary Service Area HUC of 02070008, which covers a portion of the land within Loudoun County, Virginia, and includes the proposed construction sites of the Capital Projects referenced in this IFB. A copy of the bank's Geographic Service Area Map or equivalent must be provided with the bid submission.
- 4.3 The mitigation bank shall have released for sale by the USACE/DEQ and available for contract purchase at the time of bid submission the required number of stream and wetland credits specified herein. A copy of the mitigation bank's current ledger must be provided with the bid submission as proof of the number of credits available and approved for sale by the USACE/DEQ.
- 4.4 The mitigation bank shall include with its bid submission the Bank's typical Agreement for Credit Purchase & Sale. This agreement is subject to review and approval by the County.
- 4.5 Any additional authorizations or approvals required by the Mitigation Bank's Interagency Review Team (IRT) or other regulating agencies regarding the use or availability of mitigation bank credits must be completed prior to the date of bid submission and included with the bid submission.

5.0 SPECIFICATIONS

- 5.1 The County intends to purchase 1,318 stream credits as compensation for proposed permanent impacts resulting from the construction of the Crosstrail Boulevard Segment C project located within Loudoun County, Virginia within the Middle Potomac River Watershed HUC 02070008. Stream credits offered shall be in accordance with the Unified Stream Methodology (USM) or equivalent method approved by the USACE and DEQ.
- 5.2 Stream credits offered shall be in accordance with the USM or equivalent method approved by the USACE and DEQ. If the stream credits offered are not USM, the Bidder shall provide an explanation in the bid submission of the USACE-approved equivalent.
- 5.3 The County intends to award contracts to the lowest responsive and responsible bidders based on unit cost. The County reserves the right to award multiple contracts in order to be able to obtain the quantity of stream and wetland credits needed.

Unit Cost is defined as one stream credit using the Unified Stream Methodology (USM) or 3.107 Stream Condition Units (SCUs).

- 5.4 Bidders must furnish along with the bid submission:

- A. A copy of the bank's Primary Service Area Map or equivalent;
 - B. A copy of the current mitigation bank ledger;
 - C. The mitigation bank's typical Agreement for Credit Purchase & Sale;
 - D. Documentation of any approvals or authorizations required from the mitigation bank's IRT or other regulating organizations regarding the use or availability of mitigation bank credits;
 - E. For offers of stream credits that are not USM compensation credits, an explanation of the USACE-approved equivalent is required.
- 5.5 Within seven (7) calendar days after receipt of the purchase order, the Contractor(s) shall provide:
- A. A written letter of credit availability stating that the number of mitigation credits required by this IFB have been reserved for use by the County;
 - B. The mitigation bank's executed purchase agreement for sale of the credits, the form and format of which has been pre-approved by the County;
 - C. An updated bank ledger or other proof of credit availability acceptable to the County; and
 - D. An invoice for the credit purchase.
- 5.6 Within ten (10) calendar days after receipt of payment for the invoice, the Contractor(s) shall provide the County with a Bill of Sale for the number of credits purchased and a copy of the letter transmitted by the Contractor to the DEQ verifying the sale and conveyance of the mitigation credits to the County.

6.0 TERMS AND CONDITIONS

The Contract with the successful bidder will contain the following Terms and Conditions. **These Terms and Conditions are not negotiable.**

6.1 Procedures

The extent and character of the services to be performed by the Contractor shall be subject to the general control and approval of the Director of the Department of Transportation and Capital Infrastructure or his/her authorized representative(s). The Contractor shall not comply with requests and/or orders issued by other than the Director of the Department of Transportation and Capital Infrastructure or his/her authorized representative(s) acting within their authority for the County. Any change to the Contract must be approved in writing by the Division of Procurement and the Contractor.

6.2 Delays and Delivery Failures

Time is of the essence. The Contractor must keep the County advised at all times of status of parties' agreement. If delay is foreseen, the Contractor shall give immediate written notice to the Division of Procurement. Should the Contractor fail to deliver the proper item(s)/service(s) at the time and place(s) contracted for, or within a reasonable period of time thereafter as agreed to in

writing by the Division of Procurement, or should the Contractor fail to make a timely replacement of rejected items/services when so required, the County may purchase items/services of comparable quality and quantity in the open market to replace the undelivered or rejected items/services. The Contractor shall reimburse the County for all costs in excess of the Agreement price when purchases are made in the open market; or, in the event that there is a balance the County owes to the Contractor from prior transactions, an amount equal to the additional expense incurred by the County as a result of the Contractor's nonperformance shall be deducted from the balance as payment.

6.3 Business, Professional, and Occupational License Requirement

All firms or individuals located or doing business in Loudoun County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance during the initial term of the Contract or any renewal period.

Wholesale and retail merchants without a business location in Loudoun County are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Office of Commissioner of Revenue, telephone (703) 777-0260.

6.4 Payment of Taxes

All Contractors located or owning property in Loudoun County during the initial term of the Contract or any renewal period shall assure that all real and personal property taxes are paid.

The County will verify payment of all real and personal property taxes by the Contractor prior to the award of any Contract or Contract renewal.

6.5 Hold Harmless

The Contractor shall indemnify, defend, and hold harmless the County from loss from all suits, actions, or claims of any kind brought as a consequence of any act or omission by the Contractor. The Contractor agrees that this clause shall include claims involving infringement of patent or copyright. For purposes of this paragraph, "County" and "Contractor" includes their employees, officials, agents, and representatives. "Contractor" also includes subcontractors and suppliers to the Contractor. The word "defend" means to provide legal counsel for the County or to reimburse the County for its attorney's fees and costs related to the claim. This section shall survive the Contract. The County is prohibited from indemnifying Contractor and/or any other third parties.

6.6 Notice of Required Disability Legislation Compliance

The County is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990.

Specifically, Loudoun County, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all state and local governments. It

extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of state and local governments, including those that do not receive federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

6.7 Ethics in Public Contracting

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

The above-stated provisions supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia State and Local Government Conflict of Interests Act.

6.8 Employment Discrimination by Contractors Prohibited

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

- A. During the performance of this Contract, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
 - 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.
- B. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

6.9 Drug-Free Workplace

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

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

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

6.10 Faith-Based Organizations

The County does not discriminate against faith-based organizations.

6.11 Immigration Reform and Control Act of 1986

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

6.12 Exemption from Taxes

Pursuant to Va. Code § 58.1-609.1, the County is exempt from Virginia State Sales or Use Taxes and Federal Excise Tax, therefore the Contractor shall not charge the County for Virginia State Sales or Use Taxes or Federal Excise Tax on the finished goods or products provided under the Contract. However, this exemption does not apply to the Contractor, and the Contractor shall be responsible for the payment of any sales, use, or excise tax it incurs in providing the goods required by the Contract, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project. Nothing in this section shall prohibit the Contractor from including its own sales tax expense in connection with the Contract in its Contract price.

6.13 Ordering, Invoicing, and Payment

All work requested under this Contract shall be placed on a County issued Purchase Order. The Contractor shall not accept credit card orders or payments.

Upon delivery and acceptance of the service, the Contractor shall submit an invoice detailing the appropriate charges.

Invoices shall be submitted to:

County of Loudoun, Virginia
Department of Transportation and Capital Infrastructure
Attn: Yuliya Esmond
101 Blue Seal Drive, SE
Suite 102
PO Box 7500
Leesburg, VA 20177-7500

Upon receipt of invoice and final inspection and acceptance of the service, the County will render payment within forty-five (45) days unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Contractor shall provide complete cooperation during any such investigation. Unless invoice items are questioned, the interest shall accrue at the rate of one percent (1%) per month for any late payments.

Individual Contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide their federal employer identification number on the pricing form.

6.14 Payments to Subcontractors

In the event that the Contractor has not received payment from the County for work performed by a Subcontractor under this Contract, the Contractor shall be liable for the entire amount owed to such Subcontractor and to pay such Subcontractor within 60 days of the receipt of an invoice following satisfactory completion of the work for which the Subcontractor has invoiced. The Contractor shall not be liable for amounts otherwise reducible due to the Subcontractor's noncompliance with the terms of the Contract. However, in the event that the Contractor withholds all or a part of the amount invoiced by the Subcontractor under the terms of the Contract, the Contractor shall notify the Subcontractor within 50 days of the receipt of such invoice, in writing, of his intention to withhold all or a part of the Subcontractor's payment with the reason for nonpayment, specifically identifying the contractual noncompliance, the dollar amount being withheld, and the lower-tier Subcontractor responsible for the contractual noncompliance. Payment by the County shall not be a condition precedent to payment to any lower-tier subcontractor, regardless of that Contractor's receiving payment for amounts owed to that Contractor. Any provision in the Contract contrary to this section shall be unenforceable.

Within seven (7) days of receiving payment from the County for work performed by the Subcontractor under the Contract, the Contractor shall take one (1) of the two (2) following actions:

- 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 that Contract; or
- B. Notify the County and subcontractor, in writing, of Contractor's intention to withhold all or a part of the Subcontractor's payment with the reason for nonpayment.

The Contractor shall provide the County with its social security number, if an individual, or its federal identification number if a corporation, partnership, or proprietorship.

The Contractor shall pay interest to the Subcontractor 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 as allowed in item B. above. Unless otherwise provided under the terms of the Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments and interest payments, to his sub-Subcontractors according to all the same payment and interest requirements as provided in this Section 6.14.

The Contractor's obligation to pay an interest charge to a Subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the County. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

The County may, upon written request, furnish to any subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the County on account of Work done by such subcontractor.

Neither the County nor the A/E shall have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law.

No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the County, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

6.15 Assignment

The Agreement may not be assigned in whole or in part without the prior written consent of the Division of Procurement. The rights and obligations of the Contractor are personal and may be performed only by the Contractor. Any purported assignment that does not comply with this provision is void. This Agreement is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.

6.16 Termination

Subject to the provisions below, this Contract may be terminated by the County upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the Contract may be extended upon written approval of the County until said work or services are completed and accepted.

A. Termination for Convenience

The County may terminate this Contract for convenience at any time in which the case the parties shall negotiate reasonable termination costs.

B. Termination for Cause

In the event of Termination for Cause, the thirty (30) days advance notice is waived, and the Contractor shall not be entitled to termination costs.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years

If funds are not appropriated or otherwise made available to support continuation of the performance of this Contract in a subsequent fiscal year, then the Contract shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract.

6.17 Contractual Disputes

The Contractor shall give written notice to the Purchasing Agent of intent to file a claim for money or other relief within ten (10) calendar days of the occurrence giving rise to the claim or at the beginning of the work upon which the claim is to be based, whichever is earlier.

The Contractor shall submit its invoice for final payment within thirty (30) days after completion or delivery.

The claim, with supporting documentation, shall be submitted to the Purchasing Agent by US Mail, courier, or overnight delivery service, no later than sixty (60) days after final payment. If the claim is not disposed of by agreement, the Purchasing Agent shall reduce his/her decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of the County's receipt of the claim.

The Purchasing Agent's decision shall be final unless the Contractor appeals within thirty (30) days by submitting a written letter of appeal to the County Administrator, or his designee. The County Administrator shall render a decision within sixty (60) days of receipt of the appeal.

No Contractor shall institute any legal action until all statutory requirements have been met. Each party shall bear its own costs and expenses resulting from any litigation, including attorney's fees.

6.18 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 Agreement 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.

6.19 Governing Law/Forum

This Agreement shall be governed and construed in all respects by its terms and by the laws of the Commonwealth of Virginia. Any judicial action shall be filed in the appropriate court in the County of Loudoun, Virginia or if jurisdiction exists, in the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.

6.20 Notices

All notices and other communications made pursuant to the Contract Documents and not required to be made through e-Builder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to 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:

TO CONTRACTOR:

TO COUNTY:

County of Loudoun, Virginia
Division of Procurement
P.O. Box 7000
1 Harrison Street, S.E.
Leesburg, VA 20177

If sent via (a) or (b)

County of Loudoun, Virginia
Division of Procurement

ATTN: Purchasing Agent

1 Harrison Street, S. E., 1st Floor
Procurement Bids and Proposals
Drop Box
Leesburg, VA 20175

If sent via (c)

County of Loudoun, Virginia
Division of Procurement
PO Box 7000

ATTN: Procurement Bids and Proposals

Leesburg, VA 20177

Notices shall be deemed received (i) if hand delivered, when received, (ii) if given by overnight delivery service, the first business day after being sent prepaid by such overnight delivery service, or (iii) if given by certified mail, return receipt requested, postage prepaid, two (2) days after posting with the United States Postal Service. Either party may change its address by notifying the other party in a manner described above.

Due to security restrictions, public access to County facilities is extremely limited. The mailing or delivery by an agent of notices is preferred. However, if a notice is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, Virginia 20175 ONLY in the Drop Box labeled: **Procurement Bids and Proposals** between the hours of 8:30 a.m. and 5:00 p.m.

6.21 Licensure

To the extent required by the Commonwealth of Virginia (see e.g., 54.1-1100 *et seq.* of the Code of Virginia) or the County, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.

6.22 Authority to Transact Business in Virginia

A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so, required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300 *et seq.* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so, required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

6.23 Counterparts

This Contract and any amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Contract or any amendment or renewal. A signature by any party to this Contract provided by facsimile or electronic mail is binding upon that party as if it were the original.

6.24 Force Majeure

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.

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 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.

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.

The 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 Contractor due to an event of force majeure.

6.25 Survival of Terms

Upon discharge of this Agreement, Sections (Notice, Hold Harmless, Governing Law/Forum, and Contractual Disputes) of these Terms and Conditions continue and survive in full force and effect.

6.26 Non-Waiver

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

7.0 INSTRUCTIONS TO BIDDER

7.1 Preparation and Submission of Bids

- A. Before submitting a bid, read the **ENTIRE** solicitation including the Contract Terms and Conditions. Failure to read any part of this solicitation will not relieve a bidder of the Contractual obligations.
- B. Pricing must be submitted on IFB pricing form only. Include other information, as required.
- C. All bids must be submitted to the Division of Procurement in a sealed container. The face of the sealed container shall indicate the IFB number, time and date of opening and the title of the IFB as well as "Division of Procurement".
- D. All bids should be signed in ink by the individual or authorized principals of the firm.
- E. All attachments to the IFB requiring execution by the bidder are to be returned with the bids.
- F. Bids must be received by the Division of Procurement prior to 4:00 p.m., local atomic time on the cover of this IFB. The time can be verified by visiting <https://time.gov/> and selecting Eastern Time. Requests for extensions of this time and date will not be granted, unless deemed to

be in the County's best interest. Bidders mailing their bids or using a private carrier shall allow for sufficient mail time to ensure receipt of their bids by the Division of Procurement by the time and date fixed for acceptance of the bids. Do not rely on overnight delivery capabilities of private carriers to guarantee timely delivery of bids. Bids or unsolicited amendments to bids received by the County after the acceptance date and time will not be considered. Bids will be publicly accepted and logged in at the time and date specified above.

- G. The County is implementing increased security measures at the Government Center and other County buildings. Please allow ample time for unexpected delays when entering the building to drop of your bids.
- H. Bids must be submitted via one of the following options:

US Mail to:

County of Loudoun, Virginia
Division of Procurement
PO Box 7000
Leesburg, Virginia 20177-7000.

or

Hand delivered to:

County of Loudoun, Virginia
Division of Procurement
1 Harrison Street, S.E., **1st Floor,**
Procurement Bids and Proposals Drop Box
Leesburg, Virginia 20175

or

Private carrier (UPS/FedEx) to:

County of Loudoun, Virginia
Division of Procurement
1 Harrison Street, S.E.

ATTN: PROCUREMENT BIDS & PROPOSALS
Leesburg, Virginia 20175

Faxed and e-mailed bids will not be accepted.

Please note: Bidders choosing to submit bids via US Mail or UPS/FedEx should allow at least an additional twenty-four (24) hours in the delivery process to ensure bids are received on time.

Due to security restrictions, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, Virginia 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

NOTE: Bids delivered in person or via private carrier services will not be able to obtain a signature. Please ensure that the requirement is removed from the package to avoid delays or rejection of the package.

ALL BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 P.M. Failure by a bidder to address and label their bids in accordance with the requirements of this section may result in bid being delivered to an incorrect location which will ultimately result in bid rejection for late submission.

- I. Each firm shall submit one (1) original of their bid and *one (1) electronic copy (in PDF format) on a USB flash drive* to the County's Division of Procurement as indicated on the cover sheet of this Invitation for Bid.
- J. A public bid opening will be held virtually using Microsoft Teams at approximately 4:15 P.M. on the Acceptance date. See the Microsoft Teams log in information provided below. To participate in the audio portion of the opening, please dial the number provided below and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using Microsoft Teams with the instructions provided below. Bidders may not participate in the bid opening in-person at this time.

[Join the meeting now](#)

Meeting ID: 236 534 288 58

Passcode: tjiAQk

Dial-in by phone

[+1 757-600-4923,,357541654#](#) United States, Virginia Beach

[Find a local number](#)

Phone conference ID: 357 541 654#

7.2 Questions and Inquiries

Questions and inquiries, both oral and written, will be accepted from any and all bidders. However, when requested, complex oral questions shall be submitted in writing. The Division of Procurement is the sole point of contact for this solicitation unless otherwise instructed herein. Unauthorized contact with other Loudoun County staff regarding the IFB may result in the disqualification of the bidder. Inquiries pertaining to the Invitation for Bid must give the IFB number, time and date of opening and the title of the IFB. Material questions will be answered in writing with an Addendum provided, however, that all questions are received **by 4:00 p.m. April 30, 2024**. It is the responsibility of all bidders to ensure that they have received all Addendums and to include signed copies with their bid. Addendums can be downloaded from www.loudoun.gov/procurement.

7.3 Exceptions/Additions

No exceptions or additions to the Specifications/Scope of Work or Contract Terms and Conditions shall be permitted. Any questions or concerns regarding any part of the IFB shall be submitted to the Division of Procurement prior to the date specified in the Questions and Inquiries

section above. Bids containing any exceptions to the Specifications/Scope of Work or Contract Terms and Conditions or submitting additional Terms and Conditions shall be deemed non-responsive and rejected. Exceptions or additions proposed after bid submission by the successful bidder shall not be accepted.

7.4 Firm Pricing for County Acceptance

Bid price must be firm for County acceptance for a one hundred and twenty days (120) days from bid opening date. "Discount from list" bids are not acceptable unless requested.

7.5 Unit Price

Bid unit price on quantity specified, extend and show total. In case of errors in extension, unit prices shall govern.

7.6 Proprietary Information

Trade secrets or proprietary information submitted by a bidder in connection with this solicitation shall not be subject to disclosure under the Virginia Freedom of Information Act; however, **pursuant to Section 2.2-4342 of the Code of Virginia, the bidder must invoke the protections of this section prior to or upon submission of the data or other materials, and must clearly identify the data or other materials to be protected and state the reasons why protection is necessary. Failure to abide by this procedure may result in disclosure of the bidder's information.** Bidders shall not mark sections of their bid as proprietary if they are to be part of the award of the contract and are of a "Material" nature.

7.7 Authority to Bind Firm in Contract

Bids MUST give full firm name and address of bidder. Failure to manually sign bid may disqualify it. Person signing bid will show TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT. Firm name and authorized signature must appear on bid in the space provided on the pricing page. Those authorized to sign are as follows:

If a sole proprietorship, the owner may sign.

If a general partnership, any general partner may sign.

If a limited partnership, a general partner must sign.

If a limited liability company, a "member" may sign or a "manager" must sign if so specified by the articles or organization.

If a regular corporation, the CEO, President or Vice-President must sign.

Others may be granted authority to sign but the County requires that a corporate document authorizing him/her to sign be submitted with bid.

7.8 Correction or Withdrawal of Bids and Cancellation of Awards

Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted at the County's discretion. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent. No bid may be withdrawn

when the result would be to award the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent (5%). If a bid is withdrawn, the lowest responsive and responsible remaining bid shall be deemed to be the low bid. If the Purchasing Agent, the Using Agency, or a designee of such, denies the withdrawal of a bid, he shall notify the bidder in writing stating the reasons for his decision.

7.9 Incidental and Consequential Damages

No bidder may require contractual language limiting or eliminating liability for incidental and consequential damages.

7.10 Late Bids

LATE bids shall be returned to bidder **UNOPENED**, if IFB number, opening date and bidder's return address is shown on the container.

7.11 Rights of County

The County reserves the right to reject all or any part of any bid, waive informalities, and award the contract to the lowest responsive and responsible bidder to best serve the interest of the County. Informality shall mean a minor defect or variation of a bid from the exact requirements of the Invitation to Bid which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.

7.12 Prohibition as Subcontractors Under Competitive Sealed Bidding

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

7.13 Vendor Preference in Tie Bids

The Division of Procurement and all other departments of the County making purchases of goods, services or construction shall give preference to goods, services or construction sold by County and state vendors, in that order, in all cases of tie bids, quality and service being equal.

7.14 Anti-Trust Violations

Tie bids may cause rejection of bids by the Division of Procurement and/or prompt an investigation for Anti-Trust violations.

7.15 Basis for Award

The County intends to award contracts to the lowest responsive and responsible bidders based on unit cost by type of mitigation bank credit, either stream or wetland mitigation bank credits. The County reserves the right to award multiple contracts in order to be able to obtain the quantity of stream and wetland credits needed. If the unit cost of the lowest responsive and responsible bid does not contain the number of credits required, the County intends to award a contract to the next lowest unit cost responsive and responsive bid, and so on until the required amount of stream and wetland mitigation bank credits is obtained. Stream Credit Unit Cost is defined as one

stream credit using the Unified Stream Methodology (USM) or 3.107 Stream Condition Units (SCUs).

Whenever the lowest responsive and responsible bidder is a resident of a state other than Virginia and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest bidder is a resident contractor of a state with an absolute preference, the bid preference shall not be considered.

No bid shall stipulate that the County is required to purchase the total amount of quantities the Bidder is offering or any other minimum ordering quantity.

7.16 Negotiation with the Lowest Responsible Bidder

Unless all bids are cancelled or rejected, the County reserves the right granted by § 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available whenever such low bid exceeds the available funds. Negotiations with the low bidder may include both modifications of the bid price and the specifications/scope of work to be performed.

7.17 Notice of Award

A Notice of Award will be posted on the County's web site (www.loudoun.gov/procurement).

7.18 Protest

Bidders may refer to Sections 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process. Protests shall be submitted to the Director, Finance and Budget.

7.19 Debarment

By submitting a bid, the bidder is certifying that bidder is not currently debarred by the County, or in a procurement involving federal funds, by the Federal Government. A copy of the County's debarment procedure in accordance with Section 2.2-4321 of the Code of Virginia is available upon request.

7.20 Proof of Authority to Transact Business in Virginia

A bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee. The SCC may be reached at (804) 371-9733 or at <https://scc.virginia.gov/>.

7.21 Acknowledgement of Contract

By submitting a bid, the bidder acknowledges that it understands and agrees to the Terms and Conditions contained herein.

7.22 W-9 Form Required

Each bidder shall submit a completed W-9 form with their bid. In the event of contract award, this information is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

7.23 Legal Action

No vendor or potential vendor shall institute any legal action until all statutory requirements have been met.



Loudoun County, Virginia

Division of Procurement
1 Harrison Street, 4th Floor,
Leesburg, Virginia 20175

PURCHASE OF STREAM MITIGATION CREDITS FOR CROSSTRAIL BOULEVARD SEGMENT C

8.0 Pricing Page

THE FIRM OF: _____

Address: _____

FEIN: _____

NOTE: Bids may contain multiple mitigation bank locations. Bidders shall use one line per bank location in the table below. **BIDDERS SHALL SUBMIT ONLY ONE (1) UNIT PRICE PER MITIGATION BANK LOCATION.** Bidders submitting several unit prices for the same mitigation bank will be rejected as non-responsive.

BIDDERS SHALL NOT SUBMIT MULTIPLE BIDS. Bidders submitting multiple bids will be rejected as non-responsive.

8.1. Pricing Schedule

The following required services shall be provided according to the contract terms and conditions contained herein. For each bank, Bidders shall indicate the total number of credits available for that bank and unit price per credit.

Stream Credit Mitigation Bank Name	Number of Credits	Unit Cost	Unit of Measure (Circle one)	Extended Price
		\$	1 USM or 3.107 SCU	\$
		\$	1 USM or 3.107 SCU	\$
		\$	1 USM or 3.107 SCU	\$

Stream Credit Unit Cost is defined as one stream credit using the Unified Stream Methodology (USM) or 3.107 Stream Condition Units (SCUs)

8.2 Mitigation Bank Information

The following information is required as part of the bid. Bidders shall provide the information for each bank listed in the table above.

Bank Name: _____

Physical Location/Address: _____

Bank Owner Name: _____

Bank Owner Address: _____

Bank Name: _____

Physical Location/Address: _____

Bank Owner Name: _____

Bank Owner Address: _____

Bank Name: _____

Physical Location/Address: _____

Bank Owner Name: _____

Bank Owner Address: _____

8.3 Required Items

- A. Return the following with your bid. If bidder fails to provide with their bid, items shall be provided within twenty-four (24) hours of bid opening.

ITEM:

INCLUDED: (X)

- | | |
|--|-------|
| 1. W-9 Form: | _____ |
| 2. Addenda, if any (Informality): | _____ |
| 3. One (1) electronic copy of the bid on a USB flash drive | _____ |

- B. Failure to provide the following items with your bid shall be cause for rejection of bid as non-responsive and/or non-responsible. It is the responsibility of the bidder to ensure that it has received all addenda and to include signed copies with their bid (7.2).

ITEM:

INCLUDED: (X)

- | | |
|---|---------------------------|
| 1. Addenda, if any: | _____ |
| 2. Payment Terms: | _____net 30 or _____Other |
| 3. Proof of Authority to Transact
Business in Virginia Form: | _____ |
| 4. Minimum Qualification Documentation: | _____ |
| a. Bank's Primary Service Area Map or equivalent | _____ |
| b. Current bank ledger showing available credits | _____ |
| c. Bank's Agreement for Credit Purchase & Sale | _____ |
| d. Credits Available for Purchase | _____ |
| e. Additional Authorizations or Approvals (If required) | _____ |

Person to contact regarding this bid:

Title: _____ Phone: _____ Fax: _____

E-mail

Name of person authorized to bind the Firm (7.7):

Signature: _____ Date: _____

By signing and submitting a bid, your firm acknowledges and agrees that it has read and understands the IFB documents and agrees to the Contract Terms and Conditions as contained herein.



Loudoun County, Virginia

www.loudoun.gov/procurement

Department of Finance and Procurement

Division of Procurement

1 Harrison Street, S.E., 4th Floor, Leesburg, VA 20175

THIS FORM MUST BE SUBMITTED WITH YOUR BID/PROPOSAL. FAILURE TO INCLUDE THIS FORM SHALL RESULT IN REJECTION OF YOUR BID/PROPOSAL

Pursuant to Virginia Code §2.2-4311.2, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid/ proposal the identification number issued to it by the State Corporation Commission ("SCC"). Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the offeror is not required to be so authorized. Any bidder/offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee.

If this bid/proposal for goods or services is accepted by the County of Loudoun, Virginia, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information. **PLEASE**

NOTE: The SCC number is NOT your federal ID number or business license number. The Bidder:

- ☐ 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 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 bidder's out-of-state location) **-OR-**
- ☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those 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.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC 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 SCC identification number after the due date for bids (The County reserves the right to determine in its sole discretion whether to allow such waiver): ☐

Please attach additional sheets of paper if you need to explain why such bidder/offeror is not required to be authorized to transact business in Virginia.

Legal Name of Company (as listed on W-9)

Legal Name of Bidder/Offeror

Date

Authorized Signature

Print or Type Name and Title

HOW DID YOU HEAR ABOUT THIS INVITATION FOR BID?

RFQ 647814

Please take the time to mark the appropriate line and return with your bid.

<input type="checkbox"/> Associated Builders & contractors	<input type="checkbox"/> Loudoun Times Mirror
<input type="checkbox"/> Bid Net	<input type="checkbox"/> Our Web Site
<input type="checkbox"/> Builder's Exchange of Virginia	<input type="checkbox"/> NIGP
<input type="checkbox"/> Email notification from Loudoun County	<input type="checkbox"/> The Plan Room
<input type="checkbox"/> Dodge Reports	<input type="checkbox"/> Reed Construction Data
<input type="checkbox"/>	<input type="checkbox"/> Tempos Del Mundo
<input type="checkbox"/> India This Week	<input type="checkbox"/> Valley Construction News
<input type="checkbox"/> LS Caldwell & Associates	<input type="checkbox"/> Virginia Business Opportunities
<input type="checkbox"/> Loudoun Co Small Business Development Center	<input type="checkbox"/> VA Dept. of Minority Business Enterprises
<input type="checkbox"/> Loudoun Co Chamber of Commerce	<input type="checkbox"/> RAPID

☐ Other _____

SERVICE RESPONSE CARD

RFQ 647814

Date of Service: _____

How did we do?

Please let us know how we did in serving you. We'd like to know if we are serving you at an acceptable level.

How would you rate the way your request for this document was handled?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

Did you have contact with Procurement staff? ☐

How would you rate the manner in which you were treated by the Procurement staff?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

How would you rate the overall response to your request?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

COMMENTS: _____

Thank you for your response!

We can better assess our service to *you* through feedback from *you*.

Your Name: _____

Address: _____

Phone: _____ (day) _____ evening

**Please return completed form to: • Tresha Taylor • Tresha.taylor@loudoun.gov • Procurement •
PO Box 7000 • Leesburg, VA 20177**