

04. PROCUREMENT POLICIES AND PROCEDURES

4.8. Negotiation with Lowest Responsible Bidder Conditions and Procedures

In accordance with the provisions of § 2.2-4318 of the Code of Virginia (1950, as amended) (“Code”) and the County’s General Terms, Conditions and Instructions to Bidders and Contractors (see Section 33), the Fluvanna County Board of Supervisors hereby adopts the following condition and procedures for negotiation with the lowest bidder as required by § 2.2-4318 of the Code of Virginia.

In accordance with Virginia Code § 2.2-4318, if the bid from the lowest responsive and responsible bidder to an IFB exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds if the solicitation contains substantially the following language:

“The County reserves the right to negotiate with the apparent lowest responsive and responsible bidder pursuant to §2.2-4318 of the Code of Virginia, to obtain a contract price within the funds available if such low bid exceeds the available funds. The conditions and procedures under which such negotiation may be undertaken are that the appropriate County officials shall determine that the lowest responsive and responsible bid exceeds available funds and notify such bidder in writing of the County’s desire to negotiate with the apparent low bidder. Thereafter, negotiations may be held to obtain a contract within available funds involving discussions of reduction of quantity, or other cost saving mechanisms. Any such negotiated contract shall be subject to final approval of the County Board of Supervisors, in the sole discretion of the County Board of Supervisors. The County’s conditions and procedures for such negotiation are as more specifically stated in the County’s Procurement Policy and Procedures Manual, Chapter 8, Virginia Code § 2.2-4318 Negotiation with Lowest Responsible Bidder Conditions and Procedures, Chapter which is incorporated herein by reference as a material part hereof.”

If such bidder decides to negotiate under those circumstances, the decision must be documented in writing in advance of the negotiations. Otherwise, unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted. “Available funds” are generally considered those budgeted by the County or applicable department for the requirement and designated as such prior to the issuance of the IFB. The purpose of this provision is not to force a bidder to take a lower price but rather to negotiate an acceptable change in requirements, including a price agreeable to both parties. Negotiations might include an extended delivery date, reduced quantity, different options/accessories, etc., with a corresponding reduction in price.

Exhibit D