



COUNTY OF PRINCE WILLIAM

1 County Complex Court, (MC460) Prince William, Virginia 22192-9201
(703) 792-6770 Metro 631-1703, Ext. 6770 FAX: (703) 792-4611

FINANCE DEPARTMENT

Purchasing

CONTRACT: 5163NA3

SUBJECT: ADMINISTRATION AND ACTUARIAL SERVICES FOR
RETIREE HEALTH BENEFITS

Between:

PRINCE WILLIAM COUNTY
1 COUNTY COMPLEX COURT (MC460)
PRINCE WILLIAM, VA 22192-9201

703-792-6770 METRO 631-1703 EXT 6770

and the Contractor:

BOLTON PARTNERS, INC.
575 S. CHARLES STREET, SUITE 500
BALTIMORE, MD 21201
Telephone: 800-394-0263
Facsimile: 410-685-1924

This Contract is entered into this 7th day of June, 2005, by and between the Board of County Supervisors of Prince William County, Virginia, or its authorized agents, and the Contractor identified above for services identified herein, on the following terms and conditions. This Contract is prepared in accordance with the Purchasing Regulations of Prince William County, which are incorporated herein by reference.

An Equal Opportunity Employer

TABLE OF CONTENTS

PAGE

SECTION I	2
SPECIAL PROVISIONS	
I.1 Definitions	2
I.2 Contract Period	2
I.3 Incorporation of Documents	2
I.4 Provision of Services	3
I.4.1 Administration of County Credit Program	3
I.4.2 Actuarial Services for County Credit Program and Pre	5
I.4.3 General Actuarial Services	5
I.4.4 Optional Services to Establish an IRS 115 Trust Fund	6
I.4.5 Other Optional Actuarial Services	6
I.5 Task Request Procedure	6
I.6 Contract Amount	8
I.7 Invoicing and Payment	9
I.8 Time of the Essence and Completion	9
I.9 Key Personnel	9
I.10 Inspection and Acceptance	10
I.11 Insurance	10
I.12 Hold Harmless	10
SECTION II	11
GENERAL PROVISIONS	
II.1 Assignability of Contract	11
II.2 Modifications or Changes to the Contract	11
II.3 Employment Discrimination for Contracts	11
Over \$10,000	
II.4 Drug-free Workplace to be Maintained by Contractor . . .	12
for Contracts over \$10,000.00	
II.5 Claims/Disputes	12
II.6 Termination for Convenience of the County	14
II.7 Termination for Default	15
II.8 Termination for Non-Appropriation of Funds	16
II.9 Payments to Subcontractors	16
II.10 Examination of Records	16
II.11 Ethics in Public Contracting	17
II.12 Governing Law	17
II.13 Integration	17

SECTION I

SPECIAL PROVISIONS

I.1 Definitions

"County" shall mean the Board of County Supervisors of Prince William County, Virginia, or the using department identified below and authorized by the Purchasing Regulations or other law to enter into Contracts.

"Using Department" for the purpose of this Contract shall mean Finance Department, Accounting Division.

"Contract Administrator" assigned to administer this Contract for the County is Vivian McGettigan, Accounting Division Chief.

"Contractor" shall mean:

BOLTON PARTNERS, INC.
575 S. CHARLES STREET, SUITE 500
BALTIMORE, MD 21201
Telephone: 800-394-0263
Facsimile: 410-685-1924

whose authorized representative is Bryan D. Avant, ASA, EA, Senior Actuary who is responsible for the performance obligation of the Contractor under this Contract.

I.2 Contract Period

The term for this Contract shall be for two (2) years from June 7, 2005. The County shall have the option to extend the Contract for three (3) additional one-year periods, contingent upon availability of funds for the purpose.

The County shall give the Contractor reasonable written notice of intent to renew prior to the expiration date of the current Contract. Agreement to extend the Contract term shall not be final until the Contractor provides written acknowledgment of the extension.

I.3 Incorporation of Documents

The following documents are hereby incorporated by reference into this Contract:

1. Contractor's Proposal entitled Administration and Actuarial Services for Retiree Health Benefits and dated April 18, 2005.
2. County's Solicitation number RFP050011 entitled Administration and Actuarial Services for Retiree Health Benefits dated MARCH 23,

I.3 (Continued)

2005.

In the event of an inconsistency between the above referenced documents the inconsistency shall be resolved by giving precedence to the following: RFP050011. This Contract shall take precedence over all of the documents referenced above.

I.4 Provision of Services

The Contractor hereby agrees to provide Administration and Actuarial Services for Retiree Health Benefits to the County as described herein. This Provision shall take precedence over the documents set forth in Special Provision I.3, Incorporation of Documents, in the event of inconsistency.

The Contractor shall administer the County Retiree Insurance Credit Program (County Credit Program), provide actuarial services for implementation of Governmental Accounting Standards Board Statements (GASB) 43 and 45 for County Credit Program and the Premium Program, and provide actuarial services by reviewing and advising the County's management on Virginia Retirement System (VRS) pension information and VRS Credit Program information. The Prince William County Park Authority and Prince William County Schools, which are separate legal entities, may utilize this contract as a basis to negotiate independent contracts with the Contractor.

I.4.1 Administration of County Credit Program**A. Maintain Data**

The Contractor shall maintain the individual County Credit information database, which includes retiree name, social security number, address, birthdate, PWC employment date, LOD designation, and VRS Health Credit amount.

B. Communication with Existing Retirees

1. The Contractor is responsible for all retiree interfaces.
2. With County's advice and consent, update/create/mail letters to be sent to Retirees' homes with Contractor's phone numbers to answer all questions anytime the Contractor information changes.
3. With County's advice and consent, update/create as needed annual enrollment forms with instructions for appropriate insurance premium support to be returned as backup by Retirees.
4. Establish staffing for toll-free Retiree phone call inquiries (8:00 a.m. to 5:00 p.m., Monday - Friday) during open enrollment, annual confirmation and routine calls. Contractor's phone number will be the only number provided to Retirees.

I.4.1 (Continued)

Prepare a listing of frequently asked questions and responses for Contractor's telephone staff. This listing should be provided to the County to ensure completeness and agreement with responses to standard questions.

5. Update/create forms for Retirees to send back to authorize ACH deposits into Retirees' bank accounts and to confirm eligibility for the health credit (annual letters as well as new retirees throughout the year).
6. Update/create separate form for Retirees who participate in County's insurance plan, to allow for offset of credits against premiums. Forms will also include banking information for ACH debits.

C. Coordination of Health Credit with Retirees Carrying County Sponsored Health Insurance

1. Coordinate VRS Credit Program with Retiree insurance premiums. Some Retirees' individual credits or debits will need to be established and reconciled for those Retirees who currently pay the County directly for insurance premiums because their VRS benefit is smaller than the insurance premium amounts.
2. Update policy and process for establishing when an employee reaches age 65, as the premium component will no longer apply and benefits in the future will be credit only. The Contractor's system should notify both the County and Retiree when the County-sponsored premium coverage ends at age 65, so any changes related to payment of the health credit amounts can be established.

D. On-Going Data Maintenance and Administration

1. Periodically review the process for determining termination (death) information and update the process as necessary.
2. Prepare monthly reconciliation of unpaid accounts and send notification to Retirees of cancellation due to non-payment of premiums.
3. The County will request a Retiree information file from the VRS each quarter and provide this data to the Contractor. The Contractor shall determine terminations and additions, confirm actuarial data, etc., and ensure that records are updated in a timely manner.

E. Update New Retiree Procedures

1. Periodically review the procedure for handling new Retirees eligible for the credit throughout the year and update the

I.4.1 (Continued)

procedure as necessary.

2. Update forms for Human Resources (HR) to be completed during the exit process to confirm credited years of service. HR would fax forms to the Contractor and the employee will submit the official form with the proof of insurance premiums.

F. Establishment of Financial Arrangement with the County's Finance Department

1. Establish ACH debit to allow Contractor to withdraw contribution amounts from the County's bank account monthly three (3) days prior to distribution to retirees.

I.4.2 Actuarial Services for County Credit Program and Premium Program

- A. Provide annual actuarial reports with financial reporting information in compliance with governmental GAAP.
 1. Provide professional advice on GASB 43 and 45 implementation.
 2. Provide professional advice and recommendations for actuarial assumptions to be used for establishment of programs in compliance with new financial reporting standards.
 3. Determine the unfunded liability amounts for the County Credit Program and the Implicit Rate Subsidy Liabilities as well as the amortization of these unfunded liabilities.
- B. Annually prepare a report presenting the five-year cash and actuarial amounts for the County Credit Program and the Premium Program (Implicit Rate Subsidy) separately by October 31, each year for the upcoming 5 years in the form of a report cohesive with the information supplied pursuant to other deliverables. The report should detail the inputs, the calculations, definitions of terms, the outputs, and any budgeting suggestions consistent with current governmental GAAP and a projection incorporating pending GASB pronouncements. This report will be used for decision making and establishment of the County's five-year budget plan for the County's Credit Program and Premium Program.

I.4.3 General Actuarial Services

- A. Review VRS actuarial report regarding the pension plan annually. Provide a formal report within 8 weeks of receiving the VRS report with an executive summary, a formal analysis, and terms defined in a glossary. Formally estimate next biennial rate with an analysis that can be presented to non-actuaries. Provide five-year projections for rates and costs in a formal report with analysis to be presented to non-actuaries. Formally respond to questions

I.4.3 (Continued)

regarding calculations.

- B. Review the VRS Credit Program actuarial report annually. Provide a formal report within 8 weeks of receiving the VRS report with an executive summary, a formal analysis, and terms defined in a glossary. Formally estimate next biennial rate with an analysis that can be presented to non-actuaries. Provide five-year projections for rates and costs in a formal document with analysis to be presented to non-actuaries. Formally respond to questions regarding calculations.

I.4.4 Optional Services to Establish an IRS 115 Trust Fund

Establish an IRS 115 Trust Fund, including creating legal documents to establish the trust, creating investment policy and assisting in the selection of third party administration of investments.

I.4.5 Other Optional Actuarial Services

As related requirements arise throughout the term of the contract, the Contractor may be asked to provide individual task proposals for these services. These services may include, but are not limited to:

- A. Management, financial, and administrative implications of varying program benefits of the County's Credit Program.
- B. Management, financial, and administrative implications of paying liabilities greater than the annual required contribution for any pension plan or other post-employment benefit plan.
- C. Various scenarios involving actuarial calculations for Retiree insurance programs, GASB 43 and 45, any VRS programs or changes, and any benefits changes.
- D. Management, financial, and administrative implications of various program benefits related to future GASB guidance requiring actuarial analysis.

I.5 Task Request Procedure

As County projects become known, the County shall provide a task request to the Contractor. The Contractor shall submit a task proposal to the County for each project based on the Contractor's Schedule of Rates.

The County may request a meeting with the Contractor to discuss the proposed scope of work. Based upon the request and any subsequent meetings/negotiations, the Contractor shall prepare a written task proposal within ten (10) calendar days from the County's task request.

The Contractor's task proposal should include, but not be limited to, the following:

I.5 (Continued)

1. The detailed scope of work, terms and conditions, other related special conditions, and management plan.
2. Key personnel assigned to the task.
3. The detailed cost of deliverables.
4. The estimated staffing by position title, estimated number of hours for each, billable rates of pay, and total estimated cost for the task. All expenses shall be included in the hourly rate and shall cover salary, benefits, profit, and all other expenses for overhead, insurance, equipment, etc.
5. Identify subcontractors required for the task. Provide detailed information as required in item 4.
6. Reimbursable costs required for the task. Reimbursable costs shall consist of non-employee costs such as postage, copying charges, transportation, etc.
7. A list of any materials or information required from the County to complete the task order scope of services. The Contractor shall be responsible for obtaining information from the County at its own cost and expense for those items that are generally available to the public and are also essential for completion of the task. Those items shall be furnished when available and in the form available.
8. Proposed dates of work commencement and completion.
9. Contractor shall sign and date task proposal.

The Contractor may propose additional subcontractors for disciplines not already identified in the contract. Such subcontractors shall require approval by the Contract Administrator.

The County may request that the Contractor make an oral presentation. Such a presentation may include, but is not limited to, explanations of the proposed approach, workplan, and cost estimate.

No compensation shall be paid to the Contractor for the preparation and delivery of task proposals. The County reserves the right to request from the Contractor additional information as determined necessary prior to commencing with negotiations.

Within seven calendar days from final negotiations, the Contractor shall prepare and deliver the best and final task proposal to the Contract Administrator. The Contractor's final proposal shall be attached and incorporated in the final executed task order and made a part thereof. No work shall begin until the Contractor receives a fully-executed Task Request and Purchase Order.

Additional services required outside the original task order shall be addressed and a cost agreed upon between the County and the Contractor. A Change Order to the Task Order and Purchase Order shall be issued before these services are performed.

I.6 Contract Amount

In return for the services identified above, and subject to the "Non-Appropriation of Funds" clause herein, the County certifies that sufficient funds are budgeted and appropriated and shall compensate the Contractor in the amounts and in accordance with such formula for payments as set forth herein.

SERVICE	FY06	FY07	FY08	FY09	FY10
Administration of Retiree Insurance Credit Program	\$32,400	\$33,600	\$34,800	\$36,600	\$37,800
Actuarial Report and Services for County Credit Program and Premium Program	\$16,000	\$16,750	\$17,500	\$18,250	\$19,000
Annual Report - 5-Year Cash and Accrual Costs-Credit Program and Premium Program	Incl.	Incl.	Incl.	Incl.	Incl.
Review of VRS Report and Professional Analysis of VRS Pension Program***	\$ 9,000	\$ 9,400	\$ 9,800	\$10,200	\$10,600
Review of VRS Report and Professional Analysis of VRS Credit Program***	\$ 6,000	\$ 6,300	\$ 6,600	\$ 6,900	\$ 7,200
Subtotal	\$63,400	\$66,050	\$68,700	\$71,950	\$74,600
Optional Service: IRS 115 Trust Fund	\$ 0	\$ 0	\$33,448*	\$6,490**	\$6,760**
TOTAL	\$53,400	\$66,050	\$102,148	\$78,440	\$81,360

* Create legal documents to establish the trust, create investment policy, and third party administration of investments.

** Investment performance monitoring, including full report and meeting.

*** Includes meeting to present both reports.

If the Optional Service is not commenced in FY08, all the amounts in that row should be shifted to the year of actual commencement with a 4% increase for each amount, for each year of delay. No other amounts on the page will change (except totals).

The following hourly rates apply to task order projects. A "not to exceed" price shall be negotiated and a purchase order approved prior to commencing work.

Changes to the hourly rates will be considered on an annual basis if submitted in writing to the Purchasing Manager at least sixty (60) days prior to June 7th. Annual hourly rate increases shall not exceed 4% except if an individual assigned to this Contract received a promotion and the level of service that individual will provide to the County changes accordingly.

Bryan Avant	\$274.50
Tom Lowman	\$315.00
Marshal Banks	\$157.50
Nate Herbert	\$112.50
Carol Boykin	\$270.00
Don Lybrook	\$202.50
Mike Schooley	\$216.00
Agatha Clark	\$ 72.00

I.7 Invoicing and Payment

Credit Plan Administration will be billed monthly in equal payments. All other projects will be billed upon completion and delivery of product. The Contractor shall submit invoices listing the services performed and completed. The invoice should cite the Purchase Order Number, Contract Number and date of services or delivery of an end product.

The County will make payment to the Contractor, net 30 days or in accordance with discount terms, if offered, after receipt of an acceptable invoice and satisfactory completion of each of the requested services as set forth herein.

I.8 Time of the Essence and Completion

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

I.9 Key Personnel

The Contractor shall assign to this Contract the following key personnel:

Bryan Avant, Senior Actuary (Project Manager)
Marshal Banks

During the period of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contract Administrator within 5 calendar days after the occurrence of any these events and provide the information required by the paragraph below.

I.9 (Continued)

The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contract Administrator. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contract Administrator will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

I.10 Inspection and Acceptance

All tasks and reports shall be conducted and completed in accordance with recognized and customarily accepted industry practices, and shall be considered complete when the deliverables are approved as acceptable by the Contract Administrator in writing. In the event of rejection of any report or deliverable, the Contractor shall be notified in writing and shall have ten (10) working days from date of issuance of notification to correct the deficiencies and resubmit the report/deliverable. Failure to submit acceptable work within the 10 days shall constitute a breach of the contract for which the Contractor may be held in default.

I.11 Insurance

The Contractor shall maintain insurance, in an amount and a form set forth in RFP050011.

I.12 Hold Harmless

The Contractor hereby agrees to indemnify and hold harmless Prince William County, Virginia, its officers, agents and all employees and volunteers, from any and all claims for property damage, bodily injuries and personal injuries to the public, including cost of investigation, all reasonable attorneys fees, and the cost of appeals arising out of any such claims or suits, because of any and all acts of omission or commission of the Contractor, including its agents, Subcontractors, employees and volunteers, in connection with Work under this Contract.

It is understood and agreed that the Contractor is at all times herein acting as an independent Contractor.

SECTION II**GENERAL PROVISIONS****II.1 Assignability of Contract**

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

II.2 Modifications or Changes to the Contract

All modifications and changes to the Contract shall be in writing.

The Head of the Using Department of this Contract, with the concurrence of the Purchasing Manager (except as otherwise provided by the Purchasing Regulations), shall, without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a "Change Order." Such orders shall be limited to reasonable changes in the services to be performed or the time of performance; provided that the Contractor shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.

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

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

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

**II.3 Employment Discrimination for Contracts
Over \$10,000**

1. During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law

II.3 (Continued)

relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every Subcontract or purchase order over \$10,000.00, so that the provisions will be binding upon each Subcontractor or Contractor.

II.4 Drug-free Workplace to be Maintained by Contractor for Contracts over \$10,000.00

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 on 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 over \$10,000.00, so that the provisions will be binding upon each Subcontractor or Contractor.

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

II.5 Claims/Disputes

In accordance with Section 2.2-4363, VA Code Ann., this provision shall be followed for consideration and handling of all claims by the Contractor under this contract. Section 2.2-4365, VA Code Ann., is not applicable to this Contract, and under no circumstances is this paragraph to be construed as an administrative appeals procedure

II.5 (Continued)

governed by Section 2.2-4365, VA Code Ann.

Notice of the intent to submit a claim setting forth the basis for any claim shall be submitted in writing within ten (10) days after the occurrence of the event giving rise to the claim, or within ten (10) days of discovering the condition giving rise to the claim, whichever is later. In no event, shall any claim arising out of this Contract be filed after the submission of the request for Final Payment by the Contractor.

Claims by the Contractor with respect to this Contract shall be submitted in writing in the first instance for consideration by the Contract Administrator. The decision of the Contract Administrator shall be rendered in writing within forty-five (45) days from the receipt of the claim from the Contractor. If the Contractor is not satisfied with the decision or resolution of the Contract Administrator, the Contractor may file a formal dispute with regards to the claim with the Prince William County Director of Finance, which claim shall be received within thirty (30) days of the date of decision of the Contract Administrator. The Director of Finance shall reduce his or her decision to writing and shall mail or otherwise furnish a copy of this decision to the Contractor within forty-five (45) days of the receipt of the claim from the Contractor. The decision of the Director of Finance shall be final on behalf of Prince William County unless the Contractor submits the claim to the County Executive within thirty (30) days of the Director of Finance's decision. The Contractor may submit the claim to the County Executive by mailing or otherwise furnishing the Purchasing Manager a copy of the claim and a request for the County Executive's determination.

The County Executive's decision on the claim shall be rendered in writing to the Contractor within forty-five (45) days of the Purchasing Manager's receipt of the request from the Contractor, and shall be final and binding on behalf of Prince William County, unless the Contractor submits the claim for determination by the Board of County Supervisors by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with a request for determination by the Board within thirty (30) days of the County Executive's decision. The Board shall consider the claim and render a decision within forty-five (45) days of the date on which the Board hears the claim in open meeting. The Board's procedure in considering claims under this Contract shall be the same as that for other decisions of the Board on claims made under Section 15.2-1245 et seq., VA Code Ann. The decision of the Board shall be final.

Should any decision-maker designated under this procedure fail to make a decision within the time period specified, then the claim is deemed to have been denied by the decision-maker.

II.5 (Continued)

Pending a final determination of a claim, the Contractor shall proceed diligently with the performance of the Work under the Contract.

In accordance with the provisions of Section 2.2-4363, VA Code Ann., full compliance with this procedure set forth in the provision shall be a precondition to the filing of any lawsuit by the Contractor against the Board of County Supervisors of Prince William County arising out of this Contract.

II.6 Termination for Convenience of the County

The parties agree that the County may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or in part, whenever the County Executive of Prince William County shall determine that such termination is in the best interests of the County.

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

Upon receipt of such Notice, the Contractor shall:

1. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
2. Place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
3. Terminate all subcontracts except those made with respect to Contract performance not subject to the Notice;
4. Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Purchasing Manager of Prince William County; and
5. Use its best efforts to mitigate any damages which may be sustained by it as a consequence of termination under this clause.

After complying with the foregoing provisions, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of its termination, unless an extension is granted by the Purchasing Manager.

The Purchasing Manager, with the approval of the County's signatory to this Contract, shall pay from the using department's budget reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or completed. In no event shall this amount be greater than the original Contract price, reduced by any

II.6 (Continued)

payments made prior to Notice of Termination and further reduced by the price of the supplies not delivered, or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

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

1. With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - a. Cost of work performed or supplies delivered;
 - b. The cost of settling and paying any reasonable claims as provided in subparagraph (4), above;
 - c. A sum as profit on (a) determined by the Purchasing Manager to be fair and reasonable.
2. The total sum to be paid under (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 of work or supplies not provided.

In the event that the Contractor is not satisfied with any payments which the Purchasing Manager shall determine to be due under this clause, the Contractor may appeal any claim to the Board of County Supervisors in accordance with the "Claims/Disputes" clause of this Contract.

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

II.7 Termination for Default

Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

II.8 Termination for Non-Appropriation of Funds

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

II.9 Payments to Subcontractors

In the event that the Contractor utilizes a subcontractor for any portion of the work under this Contract, the Contractor hereby agrees to:

1. The Contractor shall take one (1) of the two (2) following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by a subcontractor under the Contract.
 - a. Pay a subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by that subcontractor under the Contract; or
 - b. Notify the agency and any subcontractors, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. The Contractor shall be obligated to pay interest to a subcontractor on all monies 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 a subcontractor under the Contract, except for amounts withheld under Subsection 1 b. of this section. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the provisions of this section may not be construed to be an obligation by the County. A contract modification may not be made for the purpose of providing reimbursement for any such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.
3. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.
4. The Contractor is hereby required to include in each of its subcontracts a provision requiring each subcontractor to otherwise be subject to the same payment and interest requirements set forth in subsection 2. and 3. of this section with respect to each lower-tier subcontractor.

II.10 Examination of Records

The Contractor agrees that the County, or any duly authorized

II.10 (Continued)

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

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

II.11 Ethics in Public Contracting

The Contractor hereby certifies that it has familiarized itself with Article 6 of Title 2.2 of the Virginia Public Procurement Act, Sections 2.2-4367 through 2.2-4377, VA Code Ann., and that all amounts received by it, pursuant to this Procurement, are proper and in accordance therewith.

II.12 Governing Law

This Contract and any disputes hereunder shall be governed by the laws of the Commonwealth of Virginia.

II.13 Integration

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

II.13 (Continued)

BOARD OF COUNTY SUPERVISORS OF
PRINCE WILLIAM COUNTY, VIRGINIA

BOLTON PARTNERS, INC.

County Representative

Contractor Representative

Title

Title

ATTEST:

Purchasing Manager

APPROVED AS TO FORM COUNTY ATTORNEY'S OFFICE

_____ Date: _____