

Request for Proposal
Community First Choice
Nurse Monitoring
Wicomico/Worcester/Somerset County Health Departments
RFP # 0304-2024

The Wicomico, Worcester, and Somerset County Health Departments are seeking an agency to provide RN Nurse Monitoring services for clients in the Community First Choice program as set forth in COMAR 10.09.84 beginning July 1, 2024. To participate in the program as a Nurse Monitoring provider under Regulation .20 of COMAR 10.09.84 a provider shall be designated by the Department through a process approved by the Centers for Medicare and Medicaid Services in accordance with § 1915(b)(4) of the Social Security Act; employ or contract with registered nurses who hold a current professional license to practice in Maryland; agree to accept all referrals from the Department; and agree to be monitored by the Department. The agency must be licensed as a Residential Service Agency under COMAR 10.07.05, a Home Health Agency under COMAR 10.07.10, Nursing Referral Service Agency under COMAR 10.07.07, or a Nursing Staff Agency under COMAR 10.07.03.

Relevant Terms and Definitions

Activities of Daily Living (ADLs) -Tasks or activities which include, but are not limited to: bathing and completing personal hygiene routines; toileting; mobility; eating; dressing and changing clothes.

CPAS- Community Personal Assistance Services; Level of Care that includes Personal Assistance Services, Nurse Monitoring, and Supports Planning only.

COMAR- Code of Maryland Regulations available on-line at www.dsd.state.md.us

Community First Choice (CFC)- A program created by Section 2401 of the Patient Protection and Affordable Care Act that allows states the option to offer community-based services as a state plan benefit to individuals who meet an institutional level of care.

COW- Community Options Waiver; provides community services and supports to enable older adults and people with physical disabilities to live in their own home.

Instrumental Activities of Daily Living (IADLs)- Instrumental activities of daily living (IADLs) are not necessary for fundamental functioning, but they let an individual live independently in a community. Examples include cleaning and maintaining the house, managing money, moving within the community, preparing meals, shopping for groceries and necessities, and taking prescribed medications.

LHD- Local Health Department

MDH or the Department- Maryland Department of Health.

Nurse Monitor- A registered nurse who assesses participants and evaluates the delivery of care.

Participant- Has been determined to meet the qualifications for participation in Community First Choice and is enrolled to receive Medicaid services.

Personal assistance services- Assistance specific to the functional needs of a participant with a chronic illness, medical condition, or disability and includes assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

Reportable Event (RE)- an allegation or actual occurrence of an incident that adversely affects or has the potential to negatively affect the welfare of an individual.

Unit of Service- A fifteen (15) minute increment of service that is approved by the Department and rendered to a participant by a qualified Nurse Monitor.

Request for Proposals
Community First Choice
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RFP # 0304-24

Introduction and Overview

The Wicomico, Worcester, and Somerset County Health Departments are seeking an agency to contract with to provide RN Nurse Monitoring services for a projected 400 participants in the Community First Choice program who are served in the tri-county area beginning July 1, 2024. The grant is renewable annually provided funding is available. The grant period is normally July 1 to June 30. The selected provider will bill for services rendered using the Maryland Department of Health (MDH) web-based tracking system called the LTSS Maryland tracking system.

Target Population

Nurse Monitoring services will be provided for a projected 400 participants in the tri-county area who are enrolled in the Community First Choice (CFC) program. Section 2401 of the Patient Protection and Affordable Care Act (PPACA), created a program called Community First Choice (CFC), which provides states the option to offer certain community based services as a state plan benefit to individuals who meet an institutional or CPAS level of care.

Services

The proposed Agency shall:

1. Be licensed as a Residential Service Agency under COMAR 10.07.05, a Home Health Agency under COMAR 10.07.10, Nursing Referral Service Agency under COMAR 10.07.07, or a Nursing Staff Agency under COMAR 10.07.03.
2. The Nurse Monitor will provide Nurse Monitoring Services as defined in COMAR 10.09.84.20:
 - a. Instruct the individual providing personal assistance services concerning the services required under the participant's provider instructions, and about conditions which should be brought to the attention of the supports planner, nurse monitor, or personal physician.

- b. Be available to give instructions to and answer questions from the provider.
 - c. Comply with MDH's reportable events policy.
 - d. Maintain an up-to-date client profile in the LTSS database.
- 3. Nurse Monitoring Services shall be performed in accordance to the following schedule:
 - a. Contact with the participant for the purpose of evaluating participant status at an interval established by the LHD assessor or at a minimum of every 6 months in the event the client opts to waive the Nurse Monitoring service.
 - b. Additional Nurse Monitoring services in accordance with COMAR 10.27.09 and 10.27.11 at a frequency established in conjunction with the participant, and the representative when applicable, based on the participant's medical condition or clinical status.
- 4. The Nurse Monitor shall have the ability to perform home and workplace visits:
 - a. The Nurse Monitor shall use the home or workplace visit for the following purposes:
 - 1) To assess the participant's condition.
 - 2) To assess the quality of personal assistance services.
 - 3) To provide instruction to the individual providing personal assistance services.
 - 4) To alert the LHD to the possible need for discharge from personal assistance services or referral to other services.
 - b. The Nurse Monitor shall assess the quality of personal assistance services by:
 - 1) Reviewing the provider instructions
 - 2) Observing the interactions and relationship between the participant and the individual providing personal assistance services.
 - 3) Observing the performance of the individual providing personal assistance services as appropriate.

Payment for Services

The selected provider will bill for services at a rate of \$96.00 per hour in 15 (fifteen) minute increments (\$ 24.00 rate per unit) using the Maryland Department of Health's web-based tracking system called the "LTSS Maryland Based Tracking System".

Method of Payment

Invoices should include the Contractor's name and address and Federal Tax Identification Number or Social Security Number, service provided, location of services and total amount due. Contractor shall obtain payment by invoicing each individual LHD on a weekly basis.

Terms of Contract

The contract shall remain in effect from the award date through June 30, 2028. This contract will remain in effect for 5 (five) years beginning July 1, 2024, and extended through June 30, 2028. This contract may be renewed for 3 (three) additional years in 1 (one) year increments through June 30, 2031, based on the same terms and conditions, and solely at the discretion of the three Local Health Departments. The contract may be terminated by either party prior to contract expiration by providing 30 (thirty) days written notification.

Description of Proposal

The proposal shall adhere to the following format. Pages shall be numbered and each section shall be divided and labeled including the following sections:

- Section 1** Program Summary- a one page summary of how the organization will provide the services and implement the proposal. This summary should include the services to be provided and an estimate of how many clients will be served.
- Section 2** Scope of Services and Service Delivery Plan
- A. Describe in detail the specific population to be served and how the services will be provided. The service description should include the following: service delivery, population to be served, estimated number of individuals to be served, performance indicators, outcome evaluations, internal reporting mechanisms, and quality improvement measures.
 - B. Participants in CFC have the right to choose their own personal assistance provider. The participant must choose a provider who is employed by an Agency. Describe how the organization will provide conflict free Nurse Monitoring services when monitoring personal assistance providers who are employed by other organizations.
 - C. Where applicable, list quantifiable and measureable performance objectives with detailed action steps and time frames. Performance objectives should have the capacity to be measured monthly.
- Section 3** Service and System Integration
- Describe specific requirements of any formal or informal agreements, proposed or currently in existence, which are made with other agencies in order to facilitate accomplishment of services. A copy of any coordination agreement (formal or informal) should be included with the proposal submission.
- Section 4** Organizational and Capacity Statement

- A. Include the organizational history, nature, and scope of business activities, and organizational structure.
- B. If incorporated, provide a copy of the most current articles of incorporation. Additionally provide a roster of all members of the organization's Board of Directors, including addresses and telephone numbers.
- C. Include an organizational chart depicting the relationship of the project to the current organization.
- D. Describe experience and relevant former activities of the organization, which demonstrate an ability to provide the specific services of the proposed project.
- E. Provide the date of licensure as a Residential Service Agency, a Home Health Agency, Nursing Referral Service Agency, or a Nursing Staff Agency. Include the approval status, approval time period and any program improvement plans.

Section 5 Staffing

Provide a list of staff and their qualifications. Include position descriptions and the total number of full-time equivalent (FTE) and part-time (PT) positions. Include a statement indicating that recruitment, training, and supervision procedures are in compliance with the Equal Employment Opportunity (EEO) guidelines; and the Americans with Disabilities Act ADA).

I. Instructions to Bidders

A. Submission of Proposals :

One original proposal packet bearing signature of authorized signers of the agency/organization and (5) five copies are to be submitted in a sealed envelope. **ON THE ENVELOPE CLEARLY IDENTIFY:" RFP # 0304-2024 COMMUNITY FIRST CHOICE /NURSING MONITORING."**

Each proposal must include:

- A completed cover sheet
- Technical Proposal

B. Delivery of Proposals :

Proposals are due on or before April 22, 2024 at 3:00 p.m. EST. Proposals should be mailed or hand carried to Hope Balam, Wicomico County Health Department 108 E. Main Street, Salisbury, MD 21801, prior to the stated deadline. Proposals received after the deadline will be returned unopened. It is the full responsibility of the bidder to insure that the proposal is received on time. No telegraphic or facsimile proposals will be accepted. The Wicomico County Health Department is not responsible for failure of a public carrier to promptly deliver proposal documents.

C. RFP Time Line :

Advertising in Local Paper	Thursday, March 7, 2024, Thursday, March 14th, 2024
Pre-Proposal Meeting	Wednesday, March 13 th , 2024 Fritz Building (Auditorium)
Proposal Submissions Due	Monday, April 22, 2024 @ 3:00 p.m. EST
Tentative Award Date	Wednesday May 8 th , 2024

D. Pre- Proposal Meeting:

A pre-proposal meeting will be held on Wednesday, March 13th at 10:00 a.m. at the Fritz Building located at 300 W. Carroll Street Salisbury, MD. The pre-proposal meeting is used to discuss the proposal criteria and answer any questions regarding submission of information. This meeting is not mandatory but is recommended for vendors in order to review criteria in the proposal specifications.

II. General Terms and Conditions

A. Bid Bond

No performance or bid bond is required.

B. Right to Reject

The Wicomico County Health Department reserves the right to reject any, and/or all proposals or to waive any technicality it deems in the best interest of the agency.

C. Maryland Law Prevails

The Provisions of this proposal/contract shall be governed by the laws of the State of Maryland.

D. Non- Appropriation

All funds for payment by the Wicomico County Health Department under this contract are subject to the availability and approval of an appropriation or granting agency. Future funding is therefore, not guaranteed and the Health Department is not liable for any cost incurred by proposers or the awarded vendor in responding to this RFP.

E. Errors in Proposal

The Wicomico County Health Department will not be liable for any errors in vendor proposals. Vendors will not be allowed to alter proposal documents after the deadline for proposal submission. The Health Department reserves the right to make corrections or amendments due to errors identified in proposals by the Health Department or vendor. This type of correction or amendment will only be allowed for such errors as typing, transposition, or any other obvious errors. Any changes must be coordinated in writing with, authorized by, and made by, the Purchasing Supervisor. Vendors are liable for all errors or omissions contained in their proposals.

F. Evaluation

Each proposal will be evaluated utilizing the criteria outline in the proposal packet.

G. Basis for Award

This contract will be awarded to responsible parties deemed to have the most advantageous and beneficial offers as set forth in the proposal. The awards will be contingent upon the approval of the Evaluation Committee. Awards will be tentatively announced on Wednesday, May 8th, 2024.

H. Term of Contract

Contract shall remain in effect from award date through June 30, 2026

I. Termination of Contract

The Wicomico County Health Department has the right to rescind the administering agency's contract immediately upon receipt by contacting the agency with written notice. Termination of the contract is at the sole discretion of the Health Department.

Proposal Format and Evaluation Criteria

Application will be disqualified if all points of format are not followed. Number all pages and clearly specify attachments. Proposal must include the following items in the state order.

- A. Cover Sheet (Attached) – completed and signed
- B. Criteria for Selection - This is a competitive bid process. A review committee will evaluate proposals on the basis of the following criteria :
 - 1. Does the proposal indicate an understanding of the services and needs of the client population to be served? (15 pts)
 - 2. Does the proposal demonstrate experience and capability in serving the target population? (15pts)
 - 3. Does the proposal reveal a comprehensive, innovative, well-developed approach in response to the needs of the target population? (15pts)
 - 4. Does the proposal demonstrate the existence of or plan the strong linkages with a range of community-based service providers and adequate referral mechanisms to ensure that clients will receive needed services? (15pts)
 - 5. Does the proposal indicate that the agency is capable of providing Nurse Monitoring services to both Agencies employed and Independent providers? (20 pts)
 - 6. Does the proposal indicate that the Agency has the capacity and the staffing to provide Nurse Monitoring services for the projected amounts of participants in the tri-county area? (20 pts)

Community First Choice

Nursing Monitoring

RFP # 0304-2024

Wicomico, Worcester & Somerset County Health Departments

COVER SHEET

(Please complete this page and submit with proposal.)

Name of Organization: _____

Name of Facility/Program Director: _____

Contact Person (if different from above): _____

Mailing Address: _____

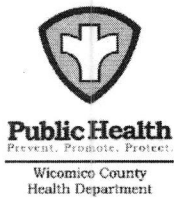
Telephone Number: _____ Fax Number: _____

E-mail Address: _____

I hereby declare that the information submitted on this proposal is accurate and correct to the best of my knowledge. If the application is approved, I will be responsible for keeping necessary records and completing a progress and final report of the program.

Applicant's Signature

Date



Wicomico County Health Department

108 East Main Street • Salisbury, Maryland 21801

Matthew McConaughy, MPH, Health Officer



Attachment A

VENDOR'S AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT:

I, _____ am the _____
(Printed Name) (title)

And the duly authorized representative of the Vendor of

_____ whose address is
(name of corporation)

And that I possess the legal authority to make this affidavit on behalf of myself and the Vendor for which I am acting.

Except as described in paragraph 3 below, neither I nor the above Vendor, nor the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute, bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State "none" or, as appropriate, list any conviction, plea or admission described in paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the Vendor, and the sentence or disposition, if any.)

I acknowledge that this affidavit is to be furnished to the County, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the County may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Sign for Identification

Printed Name

NON-COLLUSIVE AFFIDAVIT

_____ being first duly sworn, deposes and says that:

1. He/She is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Vendor that has submitted the attached Bid Documents;
2. He/she is fully informed respecting the preparation and contents of the attached Bid Document and of all pertinent circumstances respecting such Bid Documents;
3. Such Bid Document is genuine and is not a collusive or sham Bid Document;
4. Neither the said Vendor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Vendor, firm, or person to submit a collusive or sham Bid Document in connection with the Work for which the attached Bid Document has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Vendor, firm, or person to fix the price or prices in the attached Bid Document or of any other Vendor, or to fix any overhead, profit, or cost elements on the Bid Document price or the Bid Document price of any other Vendor, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Work;
5. The price or prices quoted in the attached Bid Document are fair and proper and are not tainted by an collusion, conspiracy, connivance, or unlawful agreement on the part of the Vendor or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

Witness

By: _____
Signature

Witness

Printed Name

Title

EXHIBIT A
Wicomico County Maryland
Standard Terms and Conditions

The provisions below are applicable to all Wicomico County ("County") contracts. These provisions are not a complete agreement. The provisions must be attached to an executed document that identifies the work to be performed, compensation, term, incorporated attachments, and any special conditions.

This document and other contract documents are intended to be complementary. If the terms and conditions and the other contract documents conflict, then these Standard Terms and Conditions will prevail.

The term "Contract" includes documents entitled "agreement" or other title denoting a contract and these Standard Terms and Conditions. "Contractor" refers to the party or parties with which the County has contracted. The Wicomico County Executive is the person authorized to enter contracts for Wicomico County.

Amendment. This Contract is the entire agreement between the parties. All other prior communications related to this Contract are superseded by this Contract. No amendment to this Contract is binding unless in writing and signed by the parties.

Bankruptcy. Upon the filing of bankruptcy proceeding by or against the Contractor or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors:

- A. The Contractor must notify the County immediately; and
- B. The County may cancel the Contract or affirm the Contract and hold the Contractor responsible for damages.

Compliance with Law. The Contractor warrants that:

- A. The executed Contract will be a valid obligation enforceable in accordance with its terms;
- B. Contractor will perform in a workmanlike manner and in accordance with applicable professional standards;
- C. Contractor is qualified to do business in the State of Maryland and that it will remain qualified;
- D. Contractor is not behind in the payment of any obligations due to the County and that it will not become behind during the term of this Contract;
- E. Contractor will comply with all applicable federal, State, and local laws, regulations, and ordinances and
- F. Contractor will obtain, at its expense, all licenses, permits, insurance, and governmental approvals needed to perform its obligations under this Contract.

Contingent Fee Prohibition. The Contractor warrants that it has not directed anyone, other than its employee or agent, to solicit this Contract and that it has not promised to pay anyone a commission, percentage, brokerage fee, contingent fee, or other consideration contingent on the making of this Contract.

Counterparts and Signatures. This Contract may be executed in several counterparts, each of which may be an original and all of which will constitute the same instrument. Unless otherwise specified by the County, this Contract may be signed in writing or by electronic signature, including by email. An electronic signature, a

facsimile copy, or computer image of this Contract will have the same effect as an original signed copy.

Force Majeure. The performance of this agreement by either party is subject to acts of God, government authority, disaster, epidemic or other emergencies, fire, or riot, any of which make it illegal or impossible to provide the goods, facilities and/or services to be provided by a party under this contract. If one or more of such circumstances occur, then performance under this agreement may be delayed or terminated for any one or more of such reasons by written notice from one party to the other, in which case, neither party shall have any liability to the other, including any direct, consequential, compensatory, special, incidental, liquidated or other damages of any nature whatsoever, by reason of such delay or termination.

Governing Law. This Contract is governed by the laws of the State of Maryland and Wicomico County.

Indemnification. The Contractor will indemnify the County, its officers, agents and employees for all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, or judgments (including Attorney's fees) resulting from injury to or death of any person on damage to property of any kind, which injury, death, or damages arises out of, or is in any way connected with the performance of the work or failure to perform its obligations under this Contract.

This obligation applies to any acts, omissions, or negligent conduct, including acts or omissions of Contractor's agents or employees, except that it is not applicable to injury, death, or damage to the property arising from the sole negligence of Wicomico County, its officers, agents, or employees.

Independent Contractor.

- A. Contractor is an "Independent Contractor". Although the County may determine the delivery schedule for the work and evaluate the quality of the work, the County will not control the means or manner of the Contractor's performance. The Contractor will comply promptly with County requests relating to the emphasis to be placed on aspects of the work, but Contractor is responsible for determining the appropriate means and manner of performing the work.
- B. Contractor warrants that Contractor is not an employee of the County, is not currently employed by the Federal Government, and is not an officer, employee, or agent of the County.
- C. Contractor is responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation paid to Contractor.
- D. Contractor agrees to immediately provide the County notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without the County's written consent, any obligation of the County to indemnify Contractor for any actions under this Contract.

Insurance Requirements.

- A. Contractor must obtain and keep in effect Commercial General Liability Insurance in the amounts listed below for its activities and operations. The insurance must include coverage for personal injury, discrimination, and civil rights violation claims. All insurance must name County, its employees, and agents as "ADDITIONAL INSURED". A copy of the certificate of insurance must be filed with the County prior to the time this Contract is executed, providing coverage in the amount of \$1,000,000 per

occurrence, \$2,000,000 general aggregate, and \$500,00 for property damage, or such greater amount as agreed upon by the parties. Coverage must be written on an occurrence form.

- B. Contractor must obtain and keep in effect, automobile insurance on all vehicles used in this Contract to protect Contractor against claims for damage resulting from bodily injury, including wrongful death, and property damage that may arise from the operations of any owned or hired automobiles used by Contractor in connection with the Contract. All insurance must name County, its employees, and agents as "ADDITIONAL INSURED".
- C. Contractor must provide the County with a certification of Workers' Compensation Insurance, with employer's liability in the minimum amount required by Maryland law in effect for each year of this Contract.
- D. All insurance policies must have a minimum 30 days' notice of cancellation. The County must be notified immediately upon cancellation or restriction by the insurance company of any insurance policy referred to in this section.
- E. When insurance coverage is renewed, Contractor must provide new certificates of insurance prior to expiration of current policies.

Nondiscrimination. Contractor may not discriminate against any worker, employee, or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, perceived disability or other characteristic protected by law. Contractor agrees that this provision will be incorporated in all subcontracts related to this Contract.

Ownership of Documents and Materials; Intellectual Property.

- A. The Contractor agrees that all documents, including reports, drawings, studies, specifications, estimates, map, photographs, designs, graphics, mechanicals, artwork, or computations prepared for this Contract will be available to the County upon request and become the exclusive property of the County upon termination of this service. The County has the right to use the documents without restriction or without additional compensation to the Contractor. The County will be the owner of the documents for the purposes of copyright, patent, or trademark registration.
- B. If the contractor obtains, uses, or subcontracts for any intellectual property, then it must provide an assignment to the County of ownership or use of the intellectual property.
- C. The Contractor indemnifies the County from all claims of infringement relating to the use of any patented design, *device*, materials, or process, or any trademark or copyright, and must indemnify the County, its officers, agents, and employees with respect to any claim, action, costs, or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment, or services covered by this Contract.

Payments. Payments to the Contractor pursuant to this Contract will be within 30 days of the county's receipt of a proper invoice from the Contractor.

Records. Contractor must maintain all fiscal records relating to the Contract in accordance with generally accepted accounting principles. Contractor's must maintain any other records pertaining to this Contract in a manner that clearly documents Contractor's performance. Contractor agrees that the County and its agents can access or copy all records of the Contractor that are relevant to this Contract. All relevant records must be

retained by Contractor and kept accessible for at least three years after final payment, termination of this Contract, or until the conclusion of any audit, controversy, or litigation related to this Contract, whichever is later. All subcontracts must comply with these provisions.

Remedies.

- A. Corrections of errors, defect and omissions.** Contractor agrees to perform work necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delays and without cost to the County. The County's acceptance of the work will not relieve the Contractor of the responsibility of subsequent corrections of errors.
- B. Set Off.** the County may deduct from any amounts payable to the Contractor any back-charges, penalties, or damages sustained by the County, its agents, or employees caused by Contractor's breach. Contractor will not be relieved of liability for any damages, penalties, fines, expense or costs caused by a failure to satisfactorily perform the services.
- C. Cumulative.** These rights and remedies of County are cumulative and without waiver of any other rights or remedies.

Responsibility of Contractor.

- A.** The Contractor must perform the services with the standard of care, skill and diligence normally provided by a Contractor in the performance of services similar to the services.
- B.** Notwithstanding any review, approval, acceptance or payment for the services by the County, the Contractor will be responsible for the accuracy of any work, design, drawings, specifications and materials furnished by the Contractor under this Contract.
- C.** If the Contractor fails to perform the services in conformance with the standard set forth in subparagraph A above, then it must, if required by the County, perform at its own expense any service necessary for the correction of any deficiencies or damages resulting from the Contractor's failure. This obligation is in addition to any other remedies available to the County.

Severability/Waiver. If a court finds any term of this Contract to be invalid, the validity of the remaining terms will not be affected. The remaining terms will be constructed as if the Contract did not contain the invalid term. The failure of either party to enforce any term of this Contract is not a waiver by the party.

Substance Abuse and Drug Testing. Contractors and its employees are subject to the County's policy on substance abuse and drug testing for the use, possession, or sale of drugs or alcohol while performing County business or while in a County facility. Violation or refusal to cooperate may result in a ban from County facilities or from participating in County operations.

Survival. The terms, conditions, representations, and all warranties contained in this Contract survive the termination or expiration of this Contract.

Termination. If the Contractor violates any provision of this Contract, the County may terminate the Contract by written notice to the Contractor. The notice will specify the cause for termination. All finished or unfinished work provided by the Contractor will, as the County's option, become the County's property. The County will pay the Contractor fair compensation for satisfactory performance that occurred before termination less the amount

of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages.

Termination of Contract for Convenience. Upon written notice, the County may terminate the Contract, in whole or in part, when the County determines termination is in the County's best interest. Termination for convenience is effective on the date specified in the County's written notice. The County will only be responsible and pay for reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. The County will only be responsible and pay for reasonable costs allocable to the Contract for work or costs incurred by the Contractor up to the date of termination. The Contractor will not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

Termination of Multi-Year Contract. If funds are not available for any fiscal period of this Contract after the first fiscal period, then this Contract will be terminated automatically as of the beginning of the unfunded fiscal period. The County will only be responsible and pay for reasonable costs allocable to the contract for work or cost incurred by the contractor up to the date of termination. The Contractor will not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. The County will notify the Contractor if it has knowledge that funds are not available for the continuation of this Contract for a fiscal period beyond the first period.

Third Party Beneficiaries. The County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives any benefit or right to third persons unless individually identified by name and expressly described as intended beneficiaries of the terms of this Contract.

Time is of the essence. Time is of the essence in Contractor's performance of each and every obligation and duty under this Contract.

Use of County Facilities. Contractor and its employees or agents have the right to use only those facilities of the County that are necessary to perform the services under this Contract. County has no responsibility for the loss, theft, disappearance of or damage to equipment, tools, materials, supplies, or other personal property of Contractor or its employees, subcontractors, or agents which may be stored on County premises.

Whole Contract. This Contract constitutes the complete and exclusive statement of the Contract between the parties relevant to the purpose described and supersedes all prior agreements or proposals, oral or written, and all other communications between the parties relating to the subject matter of this Contract.