



Loudoun County, Virginia

REQUEST FOR PROPOSAL

**ROADWAY AND CIVIL DESIGN SERVICES FOR WESTWIND DRIVE
FROM LOUDOUN COUNTY PARKWAY TO OLD OX ROAD-UPC 111670**

ACCEPTANCE DATE: Prior to 4:00 p.m., December 2, 2019 "Atomic" time

RFP NUMBER: RFQ 78772

ACCEPTANCE PLACE: Department of Finance and Procurement
Division of Procurement
1 Harrison Street, SE, 4th Floor
Leesburg, Virginia 20175

Proposal forms may be picked up at the Division of Procurement at the address above between the hours of 9:00 a.m. and 5:00 p.m. weekdays or by calling (703) 777-0403. Proposal forms can be downloaded from the Loudoun County website at www.loudoun.gov/procurement.

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

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

Issue Date: October 25, 2019

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.

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<u>SECTION/TITLE</u>	<u>PAGE</u>
1.0 PURPOSE AND GENERAL INFORMATION.....	3
2.0 COMPETITION INTENDED	4
3.0 BACKGROUND INFORMATION	4
4.0 OFFEROR'S MINIMUM QUALIFICATIONS	4
5.0 SCOPE OF SERVICES.....	5
6.0 EVALUATION OF PROPOSALS & SELECTION PROCEDURES.....	11
7.0 INSTRUCTIONS TO OFFERORS.....	17
8.0 TERMS AND CONDITIONS.....	35
9.0 PROPOSAL SUBMISSION FORMS.....	37

ATTACHMENTS:

- Attachment 1: Westwind Drive Alignment Concept Study dated February 19, 2016 prepared by Kimley-Horn Associates
- Attachment 2: Certification Regarding Debarment Forms
- Attachment 3: Firm Data Sheet
- Attachment 4: USDOT Standard Title VI/Non-Discrimination Assurances DOT Order 1050.2 Appendix A
- Attachment 5: USDOT Standard Title VI/Non-Discrimination Assurances DOT Order 1050.2 Appendix E
- Attachment 6: Commonwealth of Virginia – Executive Order Number 61 (2017)
- Attachment 7: Minimum DBE & SWAM Requirements for Project Specific Consultant Contracts
- Attachment 8: Subconsultant Solicitation Form [VDOT C-48 PSC]
- Attachment 9: DBE Good Faith Efforts Documentation [VDOT C-49 PSC]
- Attachment 10: Certification of Binding Agreement with DBE Firms
- Attachment 11: VDOT Section 107.15 Use of DBE Program Requirements
- Attachment 12: VDOT Use of DBEs for Project Specific Consultant Projects

Authorized by: s/Cheryl L. Middleton, CPPB Date: 10/25/2019

ROADWAY AND CIVIL DESIGN SERVICES FOR WESTWIND DRIVE FROM LOUDOUN COUNTY PARKWAY TO OLD OX ROAD-UPC 111670

1.0 PURPOSE AND GENERAL INFORMATION

The intent of this Request for Proposal ("RFP") is for the County of Loudoun, Virginia ("County") to obtain proposals from a qualified Consultants to provide roadway and civil design services, and construction support services for Westwind Drive/Ladbrook Drive from Loudoun County Parkway (Route 607) to Old Ox Road (Route 606). This project begins at the intersection of Loudoun County Parkway with Westwind Drive (VA Route 1276) and extends south approximately 6,300 ft. to Route 606 at the intersection of Old Ox Road (Route 606) and Ladbrook Drive (VA Route 1276). A portion of Westwind Drive is existing from Loudoun County Parkway to the intersection with State Place, this segment needs to be modified to meet the design requirements and a traffic signal is needed at the intersection with Loudoun County Parkway; the roadway segment south of State Place to the intersection with Ladbrook Drive will be new construction; the existing segment of Ladbrook Drive to Route 606 needs to be widened to meet design requirements. The project will require a bridge of significant length over Broad Run. With regards to the Revised 2010 Countywide Transportation Plan, this portion of roadway shall be designed for the ultimate condition of 40 mph, but with an urban section median divided with a total of four (4) lanes (U4M) ultimate condition. The Consultant shall work with various entities, including but not limited to affected property owners, developers, Virginia Department of Transportation (VDOT), as well as the County to develop an alignment with access points that are acceptable to all stakeholders as well as maintain the needed functionality and mobility of an urban minor arterial street system. An alignment concept study was prepared for this section of Westwind Drive/Ladbrook Drive in 2016 and is included as Attachment 1.

Anticipated funding for the project include federal, state, regional and local sources, including Smart Scale®, general obligation bonds, and local tax monies. As a result, this project is required to follow the criteria and procedures set forth in VDOT's Locally Administered Projects (LAP) Manual. This includes, but is not limited to preparing, submitting and retaining all documentation required by VDOT for the LAP process, as well as assisting the County with any audits conducted by the state regarding this project. Additionally, the Consultant shall perform all work in compliance with federal guidelines, including, but not limited to, the National Environmental Policy Act (NEPA). Work shall include performing all necessary environmental studies, holding public hearings, and obtaining all necessary clearances and approvals from both federal and state agencies involving the NEPA process.

This scope includes the following services: project inception, field and utility surveys and base mapping, environmental/historic/cultural resource issues, wetland delineation and associated permitting, preparation of a NEPA document, floodplain studies and permitting, site permitting, traffic/warrant studies, geotechnical studies/pavement design, design of roadway and associated appurtenances, development of centerline plan and profile and associated construction drawings, design of erosion/sediment control plans, design of

stormdrain/stormwater management structures, design of culverts and/or bridges, intersection layout and design, signal design, signage and striping layout, development of a transportation management plan and maintenance of traffic (MOT) plans, utility company coordination/relocation, preparation of right of way plats, approvals of all review agencies, development of bid documents and cost estimates, public meeting support, and construction coordination. The Consultant shall address all comments and be prepared to resubmit the drawings for preliminary approval as needed. At the completion of the project, the Consultant shall turn over all files and reports to the County's Dept. of Transportation and Capital Infrastructure.

This project is a Virginia Department of Transportation (VDOT) approved and Locally Administered Project with certain VDOT guidelines involving Disadvantaged Business Enterprises (DBE) requirements, Small, Women and Minority (SWaM) businesses utilization and other various forms and records. Work shall include all necessary environmental/cultural resource studies, holding public hearings, as well as obtaining all necessary clearances and approvals from both federal and state agencies with regards to the NEPA process. It is anticipated that the level of NEPA documentation for this project will be an Environmental Assessment (EA). Additional information can be found below in Section 5.0, entitled Scope of Services. Any modifications to the level of NEPA documentation for this project will be disclosed, via Addendum, by the County.

2.0 COMPETITION INTENDED

It is the County's intent that this RFP permits competition. It shall be the Offeror'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 RFP to a single source. The Purchasing Agent must receive such notification not later than fifteen (15) days prior to the date set for acceptance of proposals.

3.0 BACKGROUND INFORMATION

The Loudoun County Department of Transportation and Capital Infrastructure is seeking Roadway/Civil Design Services and Bidding and Construction Phase Support Services for Westwind Drive from Loudoun County Parkway to Old Ox Road. The roadway shall be designed to be consistent with the Revised 2010 Countywide Transportation Plan with a design speed of 40 mph and an ultimate urban section median divided with a total of four (4) lanes (U4M). A bridge of significant length will be required over Broad Run. The intersection of Westwind Drive will require the installation of a traffic signal.

Due to this project's complexity, the Consultant shall first perform an alignment study and analyze different scenarios as needed, to determine the best route and intersections for the proposed roadway at all access points. The Consultant shall work with various entities, including but not limited to, affected property owners, utility companies, developers, VDOT, and the County to develop an alignment with access points amenable to the majority of stakeholders without compromising the needed functionality and mobility of the roadway. It is anticipated that this project will require a great deal of coordination with property owners as well as utility

companies. The Consultant shall employ the services – either in-house or through a sub consultant – of individuals with experience in working with utility companies. The design and construction of this facility must be in accordance with the laws and ordinances of Loudoun County, and the Commonwealth of Virginia. All work shall be done in accordance with the VDOT Locally Administered Projects (LAP) Manual for a project with federal funding. The County requests proposals to fulfill the general criteria, tasks, and services as described in this RFP.

4.0 OFFEROR'S MINIMUM QUALIFICATIONS

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

In order to be eligible for this contract, Offerors shall meet the following criteria:

4.1 All Offerors shall include with their proposals a list of three (3) comparable projects that have been successfully completed in the last ten (10) years. Provide a detailed summary of the projects to include design completion date, both estimated and actual cost (if available) and photos. Include the names of project managers and designers. These qualifying projects must be contracted to or completed by the Offeror, not subconsultants. Include this information in your proposal response to Section 6.3D.

- Comparable projects would include the final design of collector or arterial roadways and highways, or projects involving public transportation infrastructure of a similar nature. The development of bridging documents for design-build solicitations should not be referenced.
- A successfully completed project shall be defined as:
 - a project completed within the contract time, including any owner approved time extensions;
 - a project completed at or below the contract award amount, including any subsequent owner approved cost change orders; and
 - a project completed in accordance with the contract documents.

4.2 Debarment: By signing and submitting a proposal, Offerors certify that they are not currently debarred by any federal, local or state government. Offerors shall complete Debarment Forms (Attachment 2) and include the forms with their proposal. Regarding the Debarment Forms, if your firm, subconsultant, or any person associated therewith in the capacity of owner, partner, director, officer, or any position involving the administration of federal or state funds:

- Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;

- Does have a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administrative sanctions. Any of the above conditions will not necessarily result in denial of award, but it will be considered in determining Offeror responsibility.

5.0 SCOPE OF SERVICES

All proposals must be made on the basis of, and either meet or exceed, the requirements contained herein. All Offerors must be able to provide professional expertise for which they desire consideration for selection.

The services to be provided by the awarded Consultant will include, but not be limited to, the following:

5.1 General Scope of Services:

- A. A County issued Purchase Order must be issued prior to the start of work. The signed Purchase Order shall constitute the notice to proceed, unless otherwise indicated.
- B. Individual tasks may require supervision, manpower, materials, equipment and supplies necessary to complete any of the services outlined below. All individuals performing work under the resultant Contract must have the appropriate licenses, certifications, or credentials that prove competence in the tasks being performed.
- C. All services shall be performed in compliance with industry standards and all federal, state, and local laws, ordinances, and regulations including but not necessarily limited to Virginia's State Health Department, Virginia Uniform Statewide Building Code (USBC), Virginia Dept. of Environmental Quality (DEQ), Virginia Occupational Safety and Health Agency (VOSHA) and OSHA rules and regulations, Virginia Department of Environmental Quality (DEQ), Virginia Marine Resources Commission (VMRC), Virginia Department of Historic Resources (DHR), the latest Virginia Department of Transportation (VDOT) standards and specifications, the latest VDOT Road Design Manual, the latest Geometric Design Standards for Urban Minor Arterial Street System (GS-6), the Loudoun County, Virginia Subdivision, Zoning, and Land Development Ordinances, and the Loudoun County Facilities Standards Manual.
- D. Offerors shall demonstrate that they have experience in the process of obtaining all approvals for the proposed facility with the appropriate local, state, and federal review agencies. To fulfill this Contract, the Department of Transportation and Capital Infrastructure is looking for firms that have extensive experience

designing collector and arterial roadways and familiar with the approval procedures and processes associated with the VDOT LAP projects, Loudoun County, and the federal NEPA process.

- E. Offerors shall also demonstrate that they have the capability and experience to analyze impacts and develop mitigation/avoidance plans for cemeteries, wells and septic systems, and potential waste sites. Offerors shall show their ability to develop and process floodplain alteration studies, VDOT H&HA's, and FEMA CLOMR's. As part of the NEPA process, Offerors shall exhibit the ability to analyze and develop mitigation plans for noise impacts.
- F. Design drawings shall be prepared in latest version of MicroStation, and shall be in accordance with the latest version of VDOT's CADD Manual. All evaluations, investigations, analysis, reports, studies, recommendations, cost and time estimates, designs, reviews, preparation of documents, field inspections and investigations needed to perform the project and prepare the design drawings shall be included. Project right-of-way and construction plans shall be prepared in English units at a scale of 1" = 25' or 1" = 30'. Format of plans shall be standard VDOT format, however, requirements for plan review by the County Building & Development staff must be included such as storm and utility profiles and topographic information provided as necessary for plan review. VDOT's Road and Bridge Specifications will cover all civil engineering and roadway items included in the project. Any civil engineering or roadway items not covered by the standard specifications shall be noted.
- G. Professional involvement throughout all phases of a project, shall include but not be limited to: planning; development of drawings; preparation of reports; the plan review and approval process; periodic progress reports/meetings; preparation for and participation in briefings and presentations to staff groups, citizen groups, the Loudoun County Board of Supervisors, as well as federal or state agencies; processing of invoices for services; timely processing of project correspondence.
- H. Consultants shall use e-Builder Construction Program Management Software for all project management documentation and correspondence. The County will purchase one (1) license for the Consultant's use and will provide training for the Consultant to ensure proficiency as recommended by e-Builder. The initial training will be provided to the Consultant at no cost. Further training for lacking proficiency will be the responsibility of the Consultant. Consultants shall contact e-Builder for further information at www.e-builder.net or 1-800-580-9322.
- I. The Consultant shall make every effort to keep the personnel assigned to the project consistent throughout the duration of the work. See Section 8.19.

5.2 Fee/rate Schedule:

The County confirms that the type of agreement which will result from this RFP will be a lump sum contract. Under this method, the Consultant performs the services stated in the Memorandum of Agreement (MOA) (otherwise referred to as the Agreement for Service or Contract for an agreed amount as prime compensation. Hourly rates established under the Contract include:

- A. Administrative items such as voice, data, and video services, mailing services, printing services, courier services, and materials required in the preparation of presentations, cost of reports, submittals, and other expenses deemed typical in the conduct of business.
- B. Transportation to and from job sites, vehicles, fuel, vehicle maintenance, cell phones, personal computers, printers, cameras, video equipment, software, general office supplies, home office and administrative support, and all overhead and incidental costs.

5.3 Performance of the Consultant.

- A. During the term of the Contract, the County will review the Consultant operations to determine contractual compliance. The Consultant shall cooperate with and assist County representatives in conducting these reviews. If deficiencies are indicated, remedial action will be implemented immediately by the Consultant. County recommendations and Consultant responses/actions are to be properly documented by the Consultant. No additional compensation shall be allowed for remedial action taken by the Consultant to correct deficiencies identified by the County. Remedial actions and required response times may include but are not necessarily limited to the following:
 - 1. Further subdivide assigned personnel responsibilities, reassign personnel, or assign additional personnel.
 - 2. Immediately replace personnel whose performance has been determined by the Consultant and/or the County to be inadequate. Personnel changes will require written approval from the County. Staff that has been removed for demonstrating unprofessional, unworkmanlike behavior or lack of experience will be replaced by the Consultant within seven calendar days after County notification. Reference is made to RFP Sections 8.19.

5.4 Contract Services Requirements (may include but not be limited to):

The Consultant shall perform roadway/civil design services for Westwind Drive from Loudoun County Parkway to Old Ox Road. To complete this project, it is anticipated that the following services will be required:

- A. Utilities Location/Designation
 - Utility Surveys/Location/Designation

- Coordination of Relocations with Utility Companies
- B. Surveying
 - Property Line Surveying, R/W Plats, Easement Plats, Legal Descriptions, etc.
 - GPS, Horizontal and Vertical Control Surveys
 - Topography, Aerial Photogrammetry, Scanning, Base Mapping Services
- C. Analysis of Zoning and Proffer Issues
- D. Participation/Assistance in Answering Issues Related to Audits to Determine Compliance with State/Federal Regulations as they relate to use of State/Federal Monies.
- E. Transportation Engineering/Studies Related to Road Design Activities including But Not Limited To:
 - Trip Generation Studies
 - Sight Distance Studies
 - Intersection/Signal Warrant Studies
 - Signal Justification Reports
 - Speed Studies/License Plate Studies
 - Roadway Capacity Analysis
 - Alignment Studies
- F. Road Design/Engineering
 - Design of Roadways and Associated Appurtenances
 - Preparation of Plan and Profile and Associated Construction Drawings
- G. Bridge/Culvert Design
- H. Cost Estimating
- I. MOT, Signage/Striping Plans
- J. Stormdrain/Drainage Design
- K. Stormwater Management Design
- L. In-Plan Water and Sewer Relocation Plans
- M. Erosion/Sediment Control Plan Design and VPDES Requirements
- N. Wetland Delineation/Remediation
- O. NEPA Issues
- P. Historical/Archeological services
- Q. Environmental Issues/Studies
 - Air/Noise Quality Issues
 - Endangered Species Studies
 - Hazardous Materials Surveys (Asbestos, Lead Paint, Contaminated Soil, Etc.)
 - Environmental Surveys
 - Environmental Testing/Monitoring

- R. Landscape Architecture Services
- S. Transportation Management Plans (TMPs) and Maintenance of Traffic Plans (MOT)
- T. Lighting Design
- U. Geotechnical Services, including but not limited to:
 - Soils/Materials Testing and Inspection Services
 - GPR/Resistivity Testing
 - Pavement Design
 - Preparation of Associated Reports
- V. Value Engineering Study
- W. Public Meeting Support
 - Preparation of Graphics/Support Documentation
 - Represent Loudoun County at Public Meetings
- X. Support Services
 - Preparation of Bid Documents
 - Preparation of Cost Estimates
 - Preparation of Exhibit Drawings/Reports
- Y. Design Support during Construction Phase
 - Answering RFI's
 - Attendance at Progress Meetings/Preparation of Meeting Minutes
 - Review of Shop Drawings
 - Construction Administration
 - Engineering Design Support during Construction

5.5 Schedule

The project schedule will be finalized at the project kickoff meeting. The Consultant shall strive to meet or exceed the approved project schedule. For estimating purposes, the design phase of this project is expected to take a maximum of thirty (30) months.

5.6 Virginia Department of Transportation Project

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded contracts. A list of certified DBE firms is maintained on the Department of Small Business and Supplier Diversity's web site (www.sbsd.virginia.gov) under the **DBE Directory of Certified Vendors**. Contractors are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the Consultant intends to subcontract a portion of the services on the project, the Consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The Consultant is

encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a Consultant and a DBE firm whereby the DBE firm promises not to provide services to other contractors is prohibited.

VDOT is also required to capture DBE and SWaM payment information on all contracts. The successful prime Consultant will be required to complete C- 63 form for both state and federally funded projects on a quarterly basis.

Any DBE or SWaM firm must become certified (with the Department of Small Business and Supplier Diversity) prior to your response being submitted. If DBE or SWaM firm is the prime contractor, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime Consultants are encouraged to make the same outreach efforts as other contractors. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime Consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime contractor must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE or SWaM certification entitles Consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

Policy and Obligation

Policy -- It is the policy of the Virginia Department of Transportation (Department) and the United States Department of Transportation (DOT) that Disadvantaged Business Enterprises (DBEs), as defined herein and in the federal regulations published at 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this contract.

DBE Obligation -- Offeror agrees to ensure that DBEs have the maximum opportunity to participate in the performance of the Department's contracts and subcontracts. In this regard, the Bidder shall take all necessary and reasonable steps in accordance with these provisions and 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Bidders shall not discriminate on the basis of race, color, sex, or national origin, in the award or performance of DOT-assisted contracts.

DBE Goal

The Department has established a goal for participation by DBEs of 13% of the total contract value.

Only DBEs who meet the definitions contained in these provisions and who have been certified by the Department of Minority Business Enterprise prior to submittal may be credited toward the goal.

Work that is performed by a DBE prime Consultant shall be counted towards the contract goal for DBE participation. In most cases, this means that a DBE offeror on a prime contract will meet the contract goal by virtue of the work it performs on the prime contract with its own forces.

For example, suppose DBE Firm X is the apparent low bidder on a prime contract with a 10 percent contract goal. Firm X will perform 30 percent of the work on the contract with its own forces (the minimum possible if a DBE is to perform a commercially useful function. This means that 30 percent of the contract amount counts toward the DBE contract goal. This exceeds the 10 percent contract goal. Therefore, Firm X meets the contract goal. (In this example, the entire 30 percent DBE participation on the contract would be counted as race-neutral participation, since Firm X obtained the contract solely on the basis of its low bid.)

For the purposes of VDOT contracts, refer to the following method to determine DBE participation. In calculating the total DBE percentage, only the total dollar value either the prime contracts or subcontracts to be awarded to firms owned and controlled by DBEs may be counted towards meeting the DBE goal.

Definitions

The following definitions apply to the terms as used in these provisions.

"Disadvantaged Business Enterprise (DBE)" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$17.4 million over the previous three fiscal years.

"Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted

permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Department pursuant to 49 CFR Part 23.62. Members of the following groups are presumed to be socially and economically disadvantaged:

"Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

"Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

"Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

"Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

"Subcontinent-Asian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; Bhutan, the Maldives Islands, Nepal, or Sri Lanka.

Women, regardless of ethnicity or race.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

"Owned and Controlled" means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.

"Manufacturer" means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

"Regular Dealer" means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and

regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

"Other Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or the Department to meet the social and economic disadvantage criteria described below.

Social Disadvantage

The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

The individual must demonstrate that he/she has personally suffered social disadvantage.

The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.

The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.

The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.

A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

Economic Disadvantage

The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

Bidders' Obligation

Bidders' DBE Commitment -- Bidders shall identify in their Bid (on the LIST OF PROPOSED DBEs), all of the DBEs identified to participate in the project, regardless of their percent of participation. The LIST OF PROPOSED DBEs shall be completed as follows:

The Bidder shall identify how DBE firms will participate in this project. The DBE goal may be satisfied by a commitment to DBE participation in the contract as a subcontractor, trucker, or supplier.

The Bidder shall list the name of each DBE subcontractor, trucker, or supplier, which the Bidder intends to credit toward the DBE goal. The Bidder shall identify, on the form, the complete legal business name of each DBE subcontractor, as it appears on the DBE certification form.

The Bidder shall identify the primary location of business for each DBE subcontractor identified.

The Bidder shall list the items of work to be performed, or materials supplied, by each DBE.

The Bidder shall state each DBE's participation in the contract, expressed as an estimated dollar value.

The Bidder shall state the estimated percent of the total bid for each DBE on the DBE subcontractor form. The percentage allocated for each DBE must be in accordance with the following provisions:

A DBE must perform a commercially useful function, that is, must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and

supervising the work. In light of standard industry practices and other relevant considerations, the DBE must have a necessary and useful role in the transaction, of a kind for which there is a market outside the context of the DBE Program.

Credit for the participation of DBE vendors of materials and supplies is to be counted as follows:

- 60 percent of expenditures for materials and supplies required under the contract and obtained from a "regular dealer" as defined in above.
- 100 percent of expenditures for materials and supplies obtained from a DBE "manufacturer" as defined above, or from a DBE supplier who substantially alters the material before resale.

The following types of fees or commissions paid to DBE contractors, brokers, and packagers may be counted toward the goal, provided that the fee or commission is reasonable and not excessive as compared with fees or commissions customarily allowed for similar services.

- The fees or commissions charged for providing a bona fide service such as professional and technical, or procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract.
- The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials or supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of, or a regular dealer in, the materials and supplies.
- The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract.

The Bidder shall state the total estimated dollar participation for all DBEs.

The Bidder shall state the total estimated participation for all DBEs expressed as a percentage of the total bid price. These totals shall include the sum of the following:

The value of all proposed DBE subcontracts.

The dollar value of all materials and supplies to be provided by DBEs (to be credited as noted above).

Bidders List. Incorporated in the new regulations is the requirement that all vendors, both primes and subcontractors who intend to submit a bid sign a Bidders List. This list must be completed by each vendor in detail as the information is sent to the Federal Highway Administration to better track DBE outreach efforts. A copy of the bidders List is attached to the back of this IFB

DBE Goal Attainment

Bidder must have either:

Met the DBE goal set forth above; or

If the goal was not met, satisfy the Department that it exercised good faith efforts to meet the goal by attaining **a minimum of 70 points** of the good faith efforts listed below.

Documentation of a Bidder's good faith efforts must be submitted to the Department within three working days after request by the Department.

A Bidder shall be deemed to have exercised good faith efforts only if the Bidder satisfies the Department that it literally complied with the good faith efforts enumerated below.

A Bidder shall complete and submit with the Bid, the good faith effort documentation referenced below, if the DBE goal is not met.

Good Faith Efforts --To be determined responsive, a Bidder who fails to meet the DBE goal must present evidence to satisfy the Department that the Bidder has met a minimum of 70 points towards the good faith effort, as enumerated below. Literal compliance in the exercise of these good faith efforts is mandatory. The following are the minimum required good faith efforts, the Department's criteria and assigned point value for each good faith effort, and the types of documentation necessary to evidence such efforts.

Attendance at pre-proposal (pre-bid) meeting(s) scheduled by Department to inform prospective competitors and DBE's of contracting and subcontracting opportunities **(4 points)**;

The Bidder shall have advertised in at least one newspaper of general circulation, at least one trade association publication, **and** at least two minority focused media. The advertisements shall be

placed in the business, classified or request for sub-bid section. The initial advertisement shall appear in these publications no later than twenty calendar days prior to the originally specified bid opening date. A list of minority focus newspapers may be obtained from the Department's Small Business Program.

Advertisements shall include at a minimum the following information:

- project name and location;
- indication of Department as owner;
- location where plans and specifications may be obtained or viewed;
- sub-bid due date;
- trades or scopes of work for which sub-bids are being solicited;
- statement that bid solicitation is in response to the Department DBE Program; and
- statement that Bidder intends to seriously negotiate with DBE firms for participation on the project.

Documentation -- Proof of publication or copies of tear sheets, showing dates and names of publications **(8 points)**.

The Bidder shall have selected portions of the work for which interest from DBEs was solicited in a manner to increase the likelihood of achieving the stated goals. When economically feasible, the Bidder shall have divided work into small tasks or quantities to permit maximum participation of DBE businesses.

To be competitive in the face of a DBE goal specification, a Bidder with total in-house manufacturing capabilities may have to try to subcontract out various functions or components which the Bidder could otherwise do or furnish itself. Good faith effort constitutes comparing prices from DBEs to those of other non-DBEs in the same trade or industry, and not solely to those of the Bidder.

Documentation -- Submit a list of work items and estimated dollar value of each item. Separate work, which the Bidder intends to perform with its own work force apart from areas of work which the Bidder, identified for DBE participation. State whether or not

the Bidder gave consideration to dividing the contract into economically feasible units of work. If this was not done, explain why it could not be done **(13 points)**.

The Bidder shall have extended written invitations to bid to at least (1) DBE no later than 20 calendar days prior to the Department's originally specified bid due date. The Department will credit toward this threshold only the following DBEs:

- DBEs certified by the Department of Minority Business Enterprise on or before the contract/purchase order execution date;

The invitation/solicitation shall provide at least the following information:

- Date of correspondence, invitation/solicitation;
- Project name and location;
- Indication of the Department as owner;
- A description of work for which bids/proposals are being solicited;
- Copies of technical specifications or information where plans and specifications may be obtained or viewed;
- Sub-bid/proposal due date;
- Statement that solicitation is in response to the Department's DBE Program; and
- Statement that Bidder intends to seriously consider and negotiate with capable, competitive DBE firms for participation in the contract.

Documentation -- A list of DBE firms which the Bidder identified to solicit interest in the contract. Identify the source of this list (i.e., DMBE, Minority Contractor Associations, Minority Trade Associations, etc). Copies of letters, Request for Bids/Proposals, mail receipts, addressed postcards sent to DBEs **(18 points)**.

The Bidder shall have followed-up orally or in writing with all DBE firms who were initially sent the invitation/solicitation described in good faith effort above, by evidence of attempting to contact them to

determine with certainty whether they were interested in submitting a sub-bid, quotation, or proposal, and the response by the DBE firms.

Documentation -- A written record of any oral follow-up is required. Records which can be verified to document contact with these DBE firms (e.g., letters; minutes or notes of meetings held with DBE firms; copies of correspondence [including undeliverable mail] to and from DBE's, solicitation call sheets or telephone logs) **(16 points)**. This documentation must reflect the following:

- Name and address of firm contacted.
- Person contacted, telephone number (if follow-up is by phone), and date contacted.
- Response from these firms as to their interest in bidding on the contract.

The Bidder shall have outreached to DBEs through minority and women contractor, trade and professional associations at least 20 calendar days prior to the specified bid opening/proposal submittal date. Notices to these associations shall include at least the same information listed in good faith effort.

- (1) Documentation - Records or correspondence which confirm notification to the associations, and any response thereto **(10 points)**.

The Bidder shall have assisted DBEs, who requested assistance in obtaining lines of credit or bonding, if the Bidder required bonding.

Examples of assistance are:

- contact bonding companies, lenders, on behalf of the DBE firm;
- arrange with sureties incremental or phased bonding for the DBE;
- pay for the cost of the bond;
- waive bonding requirements; and/or
- refer the DBE to Business Development Centers or other resource agencies who may assist DBE in obtaining bonding or lines of credit as referenced in good faith effort 4.4.e. above.

Documentation -- If the Bidder required bonding, etc., provide a list of DBEs who requested assistance in these areas and any assistance provided by the Bidder; or a statement of the Bidder's decision to waive bonding requirements **(6 points)**.

The Bidder shall provide adequate information about plans, specifications, scope of work, and/or contracting.

Documentation – Lists of the DBEs contacted, names of people contacted, and types of information provided to the potential subcontractors **(14 points)**

The Bidder shall have negotiated in good faith with interested, capable and competitive DBEs, not rejecting DBEs as unqualified without sound reasons.

Documentation (11 points):

- Correspondence between the Bidder and DBEs;
- Internal logs, forms, or memoranda used by the Bidder to record communication between the Bidder and DBEs concerning the DBE's participation in the contract, terms and conditions of their participation, the scope of work to be bid by DBEs;
- Telephone quotations and follow-up written subbids from DBEs to confirm their verbal quote.
- A chart summarizing the outcome of the Bidder's efforts to negotiate in good faith with interested DBEs. This chart shall contain the following information for each DBE responding:
 - Name of DBE;
 - Work items or scope of work bid;
 - Dollar amount of bid or proposal;
 - If negotiations were held but no contract resulted, reasons therefore; and
 - If the Bidder rejected sub-bid/proposal, reasons therefore.

DBE Certification

DBE firms need not be certified as of the bid date, but must be certified prior to contract award.

A current DBE list may be obtained on-line at www.DMBE.state.va.us, or by contacting:

Department of Minority Business Enterprise
200-202 9th Street, 11th Floor
Richmond, Va. 23219
(804) 786-8565

This list does not represent all DBEs available in the trade or specialty areas required by this contract, but merely those firms that have applied to the DMBE and have been granted certification.

Application for certification by the DMBE may be obtained by submitting Uniform Certification Application (for individual, business concerns). This form is attached hereto.

Within five (5) working days of request by the Department, a Bidder shall cause each of its purported DBE firms not currently certified by the DMBE to submit to the Department information to confirm DBE status. Each firm applying for certification shall submit Uniform Certification Application with the required supporting documentation.

If the Bidder is a DBE, the firm should have current DBE status with the DMBE.

All DBE certifications must be final by the due date of the bid in order to be counted for DBE goal participation.

"FRAUDS" and "FRONTS" -- Bidders are hereby cautioned against knowingly and willfully using "fronts" to meet the DBE goal of this contract. Only legitimate DBEs are eligible to participate in any federally funded contract. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Any indication of fraud, waste, abuse or mismanagement of federal funds should be immediately reported to the Department or to the Office of Inspector General, U.S. Department of Transportation at (757-455-2529), or to the following field office: FHWA Special Agent-in-Charge, 150 Corporate Blvd, Norfolk, Virginia 23502.

Contractor's Obligation

During the term of the contract/purchase order, the contractor shall continue to make good faith efforts to ensure that DBEs committed to in the bid have

maximum opportunity to successfully perform in the contract, and that the contractor meets the DBE goal. These efforts shall include but not be limited to the following:

Negotiating in good faith to attempt to finalize and execute a subcontract agreement with the DBEs committed to in the Bid.

For contractors who fell short of meeting the DBE goal set for this contract, but who were determined by the Department to have made good faith efforts to meet the goal, exerting efforts that can be documented to seek out and utilize additional DBE suppliers and DBE subcontractors whose participation is less than 1/2 of one percent of the contract value, to make up for the shortfall.

Continuing to provide assistance to DBE subcontractors or suppliers in obtaining bonding, lines of credit, etc., if required by the contractor.

Notifying a DBE in writing of any potential problem and attempting to resolve the problem prior to formally requesting Department approval to substitute for the DBE subcontractor.

As with all subcontractors, timely payment of all monies due and owing to DBE subcontractors and suppliers.

Timely submittal of complete and accurate DBE monthly reports in accordance with the below.

Alerting the Department's Civil Rights Office in a timely manner of any problems anticipated in attaining the DBE participation goal committed to in the bid.

Substitution of Subcontractors -- If a contractor requests a substitution of DBE subcontractors or suppliers, the contractor shall exert good faith efforts to replace a DBE subcontractor with another DBE subcontractor, subject to the approval of the Department.

Contract Compliance Reporting Requirements -- The contractor shall submit monthly progress reports to the Department, in conformance with the currently approved schedule, reflecting its DBE participation. The Summary Subcontracts Award and Paid Report shall be submitted monthly to comply with this reporting requirement.

Change in Contract Amount -- The dollar amount of change orders, or any other contract modifications that increase or decrease the work area in which DBE's participation has been committed to in the bid, shall be commensurately added to, or subtracted from, the total contract base figure used to compute actual dollars paid to DBEs. Revised total contract dollar values shall be reflected in the monthly progress report submitted to the Department and referenced above.

Noncompliance -- Failure to carry out the requirements of these provisions constitutes a breach of contract that may result in termination of the contract by the Department or imposition of other appropriate administrative sanctions. This notice is given pursuant to 49 CFR Part 26.101(a).

As part of this contract, the Contractor shall comply with additional requirements as detailed in Attachments 2 through 14 of this RFP.

A detailed scope of services will be developed with the top ranked offeror following the short list and interview process. Refer to the Selection Procedures described in Section 6.0.

6.0 EVALUATION OF PROPOSALS & SELECTION PROCEDURES

The Instructions for Preparing Proposals set forth criteria which will be used in the receipt of proposals and selection of the successful offeror. In addition, the criteria set forth below will be considered.

6.1 Proposal Analysis Group

The Proposal Analysis Group (PAG) will be made up of representatives from the Department of Transportation and Capital Infrastructure (DTCI).

6.2 RFP Schedule

- | | |
|------------------------------|-------------------|
| • Proposals Due | December 2, 2019 |
| • Shortlist Announcement | January 17, 2020 |
| • Interviews | February 7, 2020 |
| • Final Ranking Announcement | February 21, 2020 |

Note: These dates are tentative and are subject to change.

6.3 Evaluation Process – Failure to provide the following items with your proposal shall be cause for rejection of proposal as non-responsive and/or non-responsible.

The PAG will review and evaluate each proposal and selection will be made on the basis of the criteria listed below. Offerors are to make written proposals that present the offerors qualifications and understanding of the work to be performed. Offerors shall provide each of the following items below in the order presented. Failure to include any of the requested information may cause the proposal to be deemed non-responsive and rejected.

- *Do not include cost information in your proposal. This information will be requested from the top ranked offeror only.*
- *Do not use Federal Government forms such as Standard Form 330; Architect – Engineer Qualifications in your proposal response.*
- *Do not include proposed modifications to the terms and conditions contained in this RFP, in your proposal.*

- *Proposals should be tabbed and printed double-sided.*
- A. Signature Page (Page 60 & 61)
- B. Documents: Include required documents: Proof of Authority to Transact Business Form (Page 62); W-9, certificate of insurance; Attachment 2, Debarment Certification, Addendum and the “How did you Hear” form (Page 63).
- C. Table of Contents
- D. Proven management skills and technical experience. **(15 Points)**
 Include as a minimum:
 (Minimum Qualifications Response for RFP Section 4.1)
 1. Describe in detail three (3) public road design projects comparable to the requirements contained herein that have been successfully completed in the last ten (10) years. These qualifying projects must be contracted to or completed by the Offeror, not subconsultants. The development of bridging documents for design-build solicitations should not be referenced. A successfully completed project shall include: that the project was completed within the contract time, including any owner approved time extensions, that the project was completed at or below the contract award amount, including any subsequent owner approved cost change orders, that the project was completed in accordance with the contract documents. These projects must demonstrate a history of excellent performance in providing well organized, accurate and fully coordinated construction documents. Project descriptions should include:
 - Narrative – Maximum of one (1) page per project with up to two (2) additional pages of graphics.
 - The narrative shall contain a detailed description of the project of sufficient detail to allow determination of project size and scope and the salient features of each project to include a discussion on how the client’s economic, and operational objectives were satisfied. Also include names and locations of projects; design time (contractual/actual), design cost (initial/actual), construction contract cost (if available), design schedule milestones (initial/actual) and the completion date of the design and construction project if available.
 - Identify the project manager and lead designer.
 - Provide a specific example of problems encountered and solutions devised,
 - Consultant shall define the relative percentage of each

project that was completed in-house and by sub-consultants

- Each narrative should also include contact name, phone number, and email address for the main point of contact for each project. (Offeror hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference.)
2. Describe your firm's quality control program and provide an example of how your quality control program saved client funds or improved the quality of the end product.
 3. Provide a list of additional similar projects and a maximum of 1 page of photographs for each which may demonstrate a depth of experience. Provide a brief scope, project costs, and owner's contact information.
 4. Awards and letters of commendation received.
 5. References: All offerors shall include with their proposals a minimum of three (3) current references. This list shall include company name, person to contact, address, telephone number, fax number, e-mail address, and the nature of the work performed. Failure to include references may be cause for rejection of the proposal as non-responsive. Offeror hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference.

E. Proven expertise in bridge design. **(20 Points)**

Include as a minimum:

2. The project team (that can include subconsultants) shall describe in detail three (3) public bridge design projects comparable to the requirements contained herein that have been successfully completed in the last ten (10) years. The development of bridging documents for design-build solicitations should not be referenced. A successfully completed project shall include: that the project was completed within the contract time, including any owner approved time extensions, that the project was completed at or below the contract award amount, including any subsequent owner approved cost change orders, that the project was completed in accordance with the contract documents. These projects must demonstrate a history of excellent performance in providing well organized, accurate and fully coordinated construction documents. Project descriptions should include:
 - Narrative – Maximum of one (1) page per project with up to two (2) additional pages of graphics.
 - The narrative shall contain a detailed description of the bridge project of sufficient detail to allow determination of project size and scope and the salient features of each

project to include a discussion on how the client's economic, and operational objectives were satisfied. Also include names and locations of projects; design time (contractual/actual), design cost (initial/actual), construction contract cost (if available), design schedule milestones (initial/actual) and the completion date of the design and construction project if available.

- Identify the lead bridge designer.
 - Provide a specific example of problems encountered and solutions devised,
 - Consultant/subconsultant shall define the relative percentage of each project that was completed in-house and by sub-consultants
 - Each narrative should also include contact name, phone number, and email address for the main point of contact for each project. (Offeror hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference.)
2. Describe bridge designer's quality control program and provide an example of how the bridge designer's quality control program saved client funds or improved the quality of the end product.
 3. Provide a list of additional similar projects and a maximum of 1 page of photographs for each which may demonstrate a depth of experience. Provide a brief scope, project costs, and owner's contact information.
 4. Awards and letters of commendation received.
- F. Credentials of project team, including: lead designer and major sub-consultant portfolios of related projects, as well as a history of the proposed team working together on past projects.

The entire project team, including the AE Design Firm, its designated lead designer, and all subconsultants who will work on the project, will be evaluated. The lead designer is the individual who will have the primary responsibility for the design of the roadway. Provide the following: **(15 points)**

- Clearly identify the project team, who will be involved, what they will do, and their specific experience in that role. Be precise about the division of responsibility among member firms. Clearly indicate the roles and responsibilities of each firm in the project team. Identify which team members possess the following credentials: Professional Engineer (PE), Professional Land Surveyor, (LS). Proof of licensure shall be provided in the proposal document.

- An organizational chart or staffing plan showing the “chain of command” of the proposed project team, including individuals responsible for pertinent disciplines, proposed on the Offeror’s team. Identify major functions to be performed and their reporting relationships in managing the Project. Organization chart should also identify key member licenses and certifications.
- Project Manager’s resume and portfolio of related projects. Portfolio or related projects is a list of projects, separate from the resume, demonstrating the Project Managers experience on managing projects similar to the scope of work contained in this RFP.
- Lead Designer’s resume and portfolio of related projects including design philosophy, portfolio, awards and resume covering the past ten (10) years to include firm lead designer was with at the time of the designs. Portfolio or related projects is a list of projects, separate from the resume, demonstrating the lead Designers Managers experience designing projects similar to the scope of work contained in this RFP.
- Resumes of key project staff members only to include education and licenses and certifications. Role in project should be identified in the resume.
- Subconsultant’s portfolio of related projects and resumes of key project team members.
- Describe proposed project teams’ previous working experience to include a list of previous projects with subconsultants completed or in progress in the past ten (10) years.

G. Understanding of task and requirements. (15 points)

Include at a minimum:

- Task description to include a statement of key issues and challenges in the project.
- Major elements of project.
- Work-flow diagram and outlined work plan.
- Proposed design schedule inclusive of design review periods and estimated time for administration actions, confirm that the thirty (30) month timeframe to have an approved plan as identified in Section 5.5 is sufficient.
- Task description, how your organization intends to meet or exceed the requirements of this RFP, as outlined in Section 5.4.
- Suggest how best to maintain public involvement, interest, and approval during the design process.
- Demonstrate extensive knowledge of VDOT policies and

procedures (including LAP), Virginia Department of Environmental Quality regulations, policies, and procedures, preparation of construction documents for federally funded construction projects and NEPA requirements.

- Demonstrate experience with NEPA procedures and processes and preparation of construction documents for federally funded construction projects. This is considered to be crucial to this proposal.

H. Key Staff Availability and Project Management. **(15 Points)**

- Identify primary work location (City/town and State) of all team members identified in the proposal.
- Identification of representatives providing construction administrative services during construction and primary office location.

I. Public Outreach and Communications. **(10 points)**

- List comparable projects where public outreach was conducted.
- Identify personnel who will coordinate and lead public hearings and public meetings associated with this project.
- Demonstrate personnel experience conducting public outreach
- Provide examples of exhibits and literature used as part of public outreach.

J. Overall quality and completeness of proposal (and interview, if short listed). **(10 points)**

Proposal will be reviewed for: completeness, attention to detail, clarity and organization, design logic, appearance, inclusion of sustainable projects.

6.4 Development of the Shortlist.

Once the PAG has read and evaluated each proposal, a composite preliminary ranking will be developed which indicates the group's collective ranking of the highest rated proposals in a descending order. The preliminary rating will be used to select offerors for further consideration – the short-list. Thereafter, the PAG will conduct interviews and have discussions with only the top ranked offerors.

6.5 Negotiations with the Top Ranked Firm.

- A. After the interviews and discussions are completed, the PAG will finalize the rankings and select a top ranked firm. A detailed scope of services will be provided only to the top ranked firm.
- B. Final negotiations for a binding estimate of cost will begin after the top ranked firm has reviewed the detailed scope and terms and conditions acceptable to the County have been negotiated.

The Contract with the successful offeror will contain the terms and Conditions from Section 8.0 of the RFP. If the Top Ranked Offeror

intends to take exception to these Terms and Conditions or propose additional or alternative language, they must:

1. Identify with specificity the Terms and Conditions to which they take exception to or seek to amend or replace and provide their additional or alternate terms and conditions to the County within five (5) business days after being notified by or being the Top Ranked Offeror;
2. Failure to both identify with specificity those terms and conditions the Top Ranked Offeror takes exception to or seeks to amend or replace as well as to provide Offeror's additional or alternate terms and conditions may result in termination of negotiations.

While the County may accept additional or different language if so provided during negotiations, the Terms and Conditions marked with an asterisk (*) in Section 8.0 of the RFP, are mandatory and non-negotiable.

- C. Final negotiations with the top ranked offerors for a binding fee/rate schedule.
 1. All firms submitting Proposals must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48 CFR 31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23 CFR 172, "Administration of Negotiated Contracts." All firms selected for contract award must submit its FAR audit data to the County within ten (10) business days, to prevent the County from terminating negotiations, and inviting the next qualified firm to begin negotiations.
- D. The County assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within ten (10) business days of notification of selection when requested by the County. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.
- E. If a contract containing both terms and conditions acceptable to the County and a price considered fair and reasonable by the County cannot be negotiated, negotiations shall be terminated with the top-ranked offeror and negotiations will be conducted with the next-ranked offeror, and so on. The PAG will conduct all subsequent negotiations and will make a recommendation to the Board of Supervisors for the resulting contract award.
- F. VDOT's Assurance and Compliance Office (ACO) will conduct a pre-award evaluation for consultant "*professional services*" cost proposals having a value greater than \$200,000 prior to their execution. The consultant is required to submit a Federal Acquisition Regulations (FAR) audit meeting the requirements of Part 31 of Title

48 of the Code of Federal Regulations when a prime or combined prime and sub-consultant cost proposal has a value of \$200,000 or more. Pre-award evaluations are not required for off right-of-way Transportation Alternatives Projects.

7.0 INSTRUCTIONS TO OFFERORS

7.1 Preparation and Submission of Proposals

- A. Before submitting a proposal, read the ENTIRE solicitation including the Contract Terms and Conditions. Failure to read any part of this solicitation will not relieve an offeror of the Contractual obligations.
- B. All proposals must be submitted to the Division of Procurement in a sealed container. The face of the sealed container shall indicate the RFP number, time and date of opening and the title of the RFP.
- C. All proposals shall be signed in ink by the individual or authorized principals of the firm.
- D. All attachments to the RFP requiring execution by the offeror are to be returned with the proposal.
- E. Proposals must be received by the Division of Procurement prior to 4:00 p.m., local Atomic time on date identified on the cover of this proposal. An atomic clock is located in the Division of Procurement and can also be verified by visiting <http://www.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. Offerors mailing their proposals shall allow for sufficient mail time to ensure receipt of their proposals by the Division of Procurement by the time and date fixed for acceptance of the proposals. Proposals or unsolicited amendments to proposals received by the County after the acceptance date and time will not be considered. proposals will be publicly accepted and logged in at the time and date specified above.
- F. Proposals may be submitted via one of the following options: US Mail to PO Box 7000, Leesburg, Virginia 20177-7000; or hand delivered or private carrier (UPS/FedEx) to the Division of Procurement, 1 Harrison Street, S.E., 4th Floor, Leesburg, Virginia 20175. Faxed and e-mailed proposals will not be accepted. (Please note: offerors choosing to submit proposals via US Mail should allow at least an additional twenty-four (24) hours in the delivery process for internal County mailroom distribution.).
- G. Each offeror shall submit one (1) original and four (4) copies of their proposal to the County's Division of Procurement as indicated on the cover sheet of this RFP.

7.2 Questions and Inquiries

Questions and inquiries, both oral and written, will be accepted from any and all offerors. 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 RFP may result in the disqualification of the offeror. Inquiries pertaining to the RFP must give the RFP number, time and date of opening and the title of the RFP. Material questions will be answered in writing with an Addendum provided, however, that all questions are received **by 5:00 p.m. on November 18, 2019**. It is the responsibility of all offerors to ensure that they have received all Addendums and to include signed copies with their proposal. Addendums can be downloaded from www.loudoun.gov/procurement.

7.3 Addendum and Supplement to Request

If it becomes necessary to revise any part of this request or if additional data are necessary to enable an exact interpretation of provisions of this request, an addendum will be issued. It is the responsibility of the offeror to ensure that it has received all Addenda prior to submitting a proposal. All Addenda can be downloaded from www.loudoun.gov/procurement.

7.4 Inspection of Site

It is strongly recommended that all offerors make an inspection of the location where the work will be performed to become completely familiar with the existing conditions. Failure to comply with this requirement will not relieve the successful offeror of his obligation to carry out the scope of the resulting contract.

7.5 Proprietary Information

Trade secrets or proprietary information submitted by an offeror in connection with this solicitation shall not be subject to disclosure under the Virginia Freedom of Information Act; however, **pursuant to § 2.2-4342 of the Code of Virginia, the offeror 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 Offeror's information.** Offerors shall not mark sections of their proposal as proprietary if they are to be part of the award of the contract and are of a "Material" nature.

7.6 Authority to Bind Firm in Contract

Proposals MUST give full firm name and address of offeror. Failure to manually sign proposal may disqualify it. Person signing proposal should show TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT. Firm name and authorized signature must appear on proposal 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 "manager" must sign if so specified by the Articles of 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 proposal.

7.7 Withdrawal of Proposals

All proposals submitted should be valid for a minimum period of ninety (90) calendar days following the date established for acceptance.

Proposals may be withdrawn on written request from the offeror at the address shown in the solicitation prior to the time of acceptance.

Negligence on the part of the offeror in preparing the proposal confers no right of withdrawal after the time fixed for the acceptance of the proposals.

7.8 County-Furnished Support/Items

The level of support required from County personnel for the completion of each task shall be estimated by position and man-days.

The offeror shall indicate the necessary telephones, office space and materials the offeror requires. The County may furnish these facilities if the County considers them reasonable, necessary, and available for the offeror to complete its task.

7.9 Subconsultants

Offerors shall include a list of all Subconsultants in their proposal. Proposals shall also include a statement of the Subconsultants' qualifications. The County reserves the right to reject the successful Offeror's selection of subconsultants for good cause. If a subconsultant is rejected, the offeror may replace that subconsultant with another subconsultant subject to the approval of the County. Any such replacement shall be at no additional expense to the County, nor shall it result in an extension of time without the County's approval.

7.10 Late Proposals

LATE proposals will be returned to offeror UNOPENED if RFP number, acceptance date and Offeror's return address is shown on the container.

7.11 Rights of County

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

7.12 Prohibition as Subconsultants

No offeror who is permitted to withdraw a proposal 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 proposal was submitted.

7.13 Deviations from Scope of Services

If there is any deviation from that prescribed in the scope of services, the appropriate line in the scope of services shall be ruled out and the substitution clearly indicated. The County reserves the right to determine the responsiveness of any deviation.

7.14 Notice of Award

A Notice of Award will be posted on the County's web site (www.loudoun.gov) and on the bulletin board located in the Division of Procurement, 4th floor, One Harrison St, SE, Leesburg, Virginia 20175.

7.15 Protest

Offerors may refer to §§ 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 Procurement.

7.16 Miscellaneous Requirements

- A. The County will not be responsible for any expenses incurred by an offeror in preparing and submitting a proposal. All proposals shall provide a straight-forward, concise delineation of the Offeror's capabilities to satisfy the requirements of this request. Emphasis should be on completeness and clarity of content, and not on volume or elaborate presentation materials.
- B. Offerors who submit a proposal in response to this RFP may be required to make an oral presentation of their proposal.
- C. The contents of the proposal submitted by the successful offeror as well as this RFP will be incorporated by reference into any contract awarded as a result of the Scope of Services contained herein. The successful offeror will be expected to sign a contract with the County.
- D. The County reserves the right to reject any and all proposals received by reason of this request, or to negotiate separately in any manner necessary to serve the best interests of the County. Offerors whose proposals are not accepted will be notified in writing.

7.17 Debarment

By submitting a proposal, the Offeror thereby certifies it is not currently debarred by the County, or in the case of a procurement involving federal funds, by the Federal Government. A copy of the County's debarment procedure in accordance with § 2.2-4321 of the Code of Virginia is available upon request.

7.18 Proof of Authority to Transact Business in Virginia

An 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. Any 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 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 <http://www.scc.virginia.gov/default.aspx>.

7.19 Form W-9 Required

Each offeror shall submit a completed W-9 form with their offer. 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>.

7.20 Insurance Coverage

Offerors shall include with their proposal a copy of their current Certificate of Insurance that illustrates the current level of coverage the offeror carries. The Certificate can be a current file copy and does not need to include any "additional insured" language for the County.

7.21 Legal Action

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

7.22 Certification by Consultant as to Felony Convictions

No one with a felony conviction may be employed under this Contract and by the signature of its authorized official on the response to this Solicitation; the Consultant certifies that neither the contracting official nor any of the Consultant's employees, agents or sub-Consultants who will work under this Agreement have been convicted of a felony.

8.0 TERMS AND CONDITIONS

While the County may accept additional or different language if so provided during negotiations, the Terms and Conditions marked with an asterisk (*) are mandatory and non-negotiable.

8.1 Procedures

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

8.2 Delays and Delivery Failures

Time is of the essence. The Consultant must keep the County advised at all times of status of Project and parties' Agreement. If delay is foreseen, the Consultant shall give immediate written notice to the Division of Procurement. Should the Consultant 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 Consultant 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 Consultant 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 Consultant from prior transactions, an amount equal to the additional expense incurred by the County as a result of the Consultant's nonperformance shall be deducted from the balance as payment.

8.3 County Reserved Rights

The County reserves the right, at its sole discretion, to issue Requests for Proposal for similar work and other projects as the need may occur. The County also reserves the right to issue Purchase Orders, and to expand or otherwise modify existing Purchase Orders, to other Open-End Consultants based on its sole discretion, in consideration of its knowledge and/or evaluation of each Consultant's qualifications, expertise, capabilities, performance record, current ability to perform, location and/or distance to the project, and any and all other factors as may be pertinent to the particular project and for the convenience of the County.

8.4 Material Safety Data Sheets

By law, the County will not receive any materials, products, or chemicals which may be hazardous to an employee's health unless accompanied by a Material Safety Data Sheet (MSDS) when received. This MSDS will be reviewed by the County, and if approved, the materials, product or chemical can be used. If the MSDS is rejected, the Consultant must identify a substitute that will meet the County's criteria for approval.

8.5 Business, Professional, and Occupational License Requirement

All firms or individuals doing business in Loudoun County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance.

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.

8.6 Payment of Taxes

All Consultants located or owning property in Loudoun County 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 Consultant prior to the award of any Contract or Contract renewal.

8.7 Insurance

- A. The Consultant shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Consultant assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract.
- B. The Consultant and all subconsultants shall, during the continuance of the work under the Contract, provide the following:
 - 1. Workers' Compensation and Employer's Liability to protect the Consultant from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
 - 2. Comprehensive General Liability insurance to protect the Consultant, and the interest of the County, its officers, employees, and agents against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverage for explosion, collapse, and underground hazards, where required.
 - 3. Automobile Liability insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Consultant.
 - 4. Professional Liability against any and all wrongful acts, errors, or omissions on the part of the Consultant resulting from any action or operation under the Contract or in connection with the contracted work.
- C. The Consultant agrees to provide the above referenced policies with the following limits. Liability insurance limits may be arranged by General, Automobile and Professional Liability policies for the full limits required, or by a combination of underlying policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy

1. Workers' Compensation:

Coverage A:	Statutory
Coverage B:	\$100,000
2. General Liability:

Per Occurrence:	\$1,000,000
Personal/Advertising Injury:	\$1,000,000
General Aggregate:	\$2,000,000
Products/Completed Operations:	\$2,000,000
Fire Damage Legal Liability:	\$100,000

GL Coverage, excluding Products and Completed Operations, should be on a Per Project Basis

3. Automobile Liability:

Combined Single Limit:	\$1,000,000
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4. Professional Liability

Per Occurrence:	\$1,000,000
General Aggregate:	\$1,000,000

D. The following provisions shall be agreed to by the Consultant:

1. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five (45) day written notice to the County. The Consultant shall furnish a new certificate prior to any change or cancellation date. The failure of the Consultant to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.
2. Liability Insurance "Claims Made" basis:

If the liability insurance purchased by the Consultant has been issued on a "claims made" basis, the Consultant must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same. The Consultant must either:

 - a. Agree to provide, prior to commencing work under the Contract, certificates of insurance evidencing the above coverage for a period of two (2) years after final payment for the Contract for General Liability policies and five (5) years for Professional Liability policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Consultant's work under this Contract, or

- b. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
- 3. The Consultant must disclose the amount of deductible/self-insured retention applicable to the General Liability, Automobile Liability and Professional Liability policies, if any. The County reserves the right to request additional information to determine if the Consultant has the financial capacity to meet its obligations under a deductible/self-insured plan. If this provision is utilized, the Consultant will be permitted to provide evidence of its ability to fund the deductible/self-insured retention.
- 4.
 - a. The Consultant agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VII.
 - b. European markets including those based in London, and the domestic surplus lines market that operate on a non-admitted basis are exempt from this requirement provided that the Consultant's broker can provide financial data to establish that a market's policyholder surpluses are equal to or exceed the surpluses that correspond to Best's A:VII Rating.
- 5.
 - a. The Consultant will provide an original signed Certificate of Insurance and such endorsements as prescribed herein.
 - b. The Consultant will provide on request certified copies of all insurance coverage related to the Contract within ten (10) business days of request by the County. These certified copies will be sent to the County from the Consultant's insurance agent or representative. Any request made under this provision shall be deemed confidential and proprietary.
 - c. Any certificates provided shall indicate the Contract name and number.
- 6. The County, its officers and employees shall be Endorsed to the Consultant's Automobile and General Liability policies as an "additional insured" with the provision that this coverage "is primary to all other coverage the County may possess." (Use "loss payee" where there is an insurable interest). A Certificate of Insurance evidencing the additional insured status must be presented to the County along with a copy of the Endorsement.

7. Compliance by the Consultant with the foregoing requirements as to carrying insurance shall not relieve the Consultant of their liabilities provisions of the Contract.
- E. Contractual and other Liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the County from supervising and/or inspecting the project as to the end result. The Consultant shall assume all on-the-job responsibilities as to the control of persons directly employed by it.
- F. Precaution shall be exercised at all times for the protection of Persons (including employees) and property.
- G. The Consultant is to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.
- H. Any loss insured under subparagraph 8.7.B.4 is to be adjusted with the County and made payable to the County as trustee for the requirements of any applicable mortgagee clause.
- I. If an "ACORD" Insurance Certificate form is used by the Consultant's insurance agent, the words "endeavor to" and ". . . but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.
- J. The Consultant agrees to waive all rights of subrogation against the County, its officers, employees, and agents.

8.8 Hold Harmless

The Consultant shall indemnify and hold harmless the County, including its officials and employees, from all liability, losses, costs, damages, claims, causes of action, and suits of any nature (specifically including reasonable attorney's fees and defense costs incurred with the defense of third party claims) incidental to or brought as a consequence of any negligent or willful act, error, omission, or breach of the applicable professional standard of care by the Consultant and/or its subconsultants. The Consultant agrees that this clause shall include, but is not limited to, claims involving infringement of patent or copyright. This section shall survive completion of the Contract. The County is prohibited from indemnifying Consultant and/or any other third parties.

8.9 Safety

All Consultants and subconsultants performing services for the County are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also all Consultants and subconsultants shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or

damage to any persons or property within and around the work site area under this Contract.

8.10 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, the 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.

8.11 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 Conflict of Interests Act.

8.12 Employment Discrimination by Consultants Prohibited *

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

A. During the performance of this Contract, the Consultant agrees as follows:

1. The Consultant 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 Consultant. The Consultant agrees to post in

conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, shall state that such Consultant 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 Consultant 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 subconsultant or vendor.

8.13 Drug-free Workplace *

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

During the performance of this Contract, the Consultant agrees to (i) provide a drug-free workplace for the Consultant'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 Consultant'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 Consultant that the Consultant 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 sub-Consultant 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 Consultant 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.

8.14 Faith-Based Organizations *

The County does not discriminate against faith-based organizations.

8.15 Immigration Reform and Control Act of 1986 *

By entering this Contract, the Consultant 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.

8.16 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 Consultant 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 Consultant, and the Consultant 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 Consultant for incorporation in or use on a construction project. Nothing in this section shall prohibit the Consultant from including its own sales tax expense in connection with the Contract in its Contract price.

8.17 Ordering, Invoicing and Payment

Loudoun County will enter into a lump sum contract with the awarded Consultant. All work requested under this Contract shall be placed on a County issued Purchase Order. The Consultant shall not accept credit card orders or payments.

The Consultant shall submit invoices, at the completion of tasks and submission of deliverables; such statement to include a detailed breakdown of all charges for that deliverable.

All such invoices will be paid promptly by the County 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 Consultant shall provide complete cooperation during any such investigation.

All invoices shall be forwarded to the following address:

County of Loudoun, Virginia
Department of Transportation & Capital Infrastructure
Attn: Yuliya Akhremenko, PE
101 Blue Seal Dr., S.E., Suite 102
P.O. Box 7500
Leesburg, VA 20177-7500

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

8.18 Payments to Subconsultants

Within seven (7) days after receipt of amounts paid by the County for work performed by a subconsultant under this Contract, the Consultant shall either:

- A. Pay the subconsultant for the proportionate share of the total payment received from the County attributable to the work performed by the subconsultant under this Contract; or
- B. Notify the County and subconsultant, in writing, of his intention to withhold all or a part of the subconsultant's payment and the reason for non-payment.

The Consultant shall pay interest to the subconsultant on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item B. above.

Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Consultant shall include in each of its subcontracts a provision requiring each subconsultant to include or otherwise be subject to the same payment and interest requirements as set forth above with respect to each lower-tier subconsultant.

The Consultant's obligation to pay an interest charge to a subconsultant pursuant to this provision may not be construed to be an obligation of the County.

8.19 Substitutions

NO substitutions, additions or cancellations, including those of key personnel, are permitted after Contract award without written approval by the Division of Procurement. Where specific employees are proposed by the Consultant for the work, those employees shall perform the work as long as that employee works for the Consultant, either as an employee or subconsultant unless the County agrees to the substitution. Requests for substitutions will be reviewed by the County and approval may be given by the County at its sole discretion. The County shall be notified immediately by the Consultant when the substitution of key personnel or those identified in the proposal may be necessary. The substitution process shall be complete within 14 calendar days of the Consultants notification to the County.

8.20 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 Consultant are personal and may be performed only by the Consultant. 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.

8.21 Termination

Subject to the provisions below, the Contract may be terminated by the County upon thirty (30) days advance written notice to the Consultant; 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 Consultant 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 Consultant 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.

8.22 Contractual Disputes

The Consultant 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 Consultant 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, return receipt requested, 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 via U.S. mail or otherwise forward a copy thereof to the Consultant within thirty (30) days of the County's receipt of the claim.

The Purchasing Agent's decision shall be final unless the Consultant 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 Consultant 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.

8.23 Prime Consultant Responsibilities

The Consultant(s) shall be responsible for completely supervising and directing the work under the resulting Contract(s) and all subconsultants that they may utilize. Subconsultants who perform work under the resulting Contract shall be responsible to the prime Consultant. The Consultant agrees to be fully responsible for the acts and omissions of their subconsultants and of persons employed by them.

8.24 Ownership of Documents

Any reports, specifications, drawings, blueprints, negatives, electronic files or other documents prepared by the Consultant in the performance of its obligations under the Contract shall be the exclusive property of the County, and all such materials shall be returned to the County upon completion, termination, or cancellation of this Contract. The Consultant shall not use,

willingly allow, or cause such materials to be used for any purpose other than performance of all Consultant's obligations under the resulting Contract without the prior written consent of the County. However, the Consultant may retain file copies which cannot be used without prior written consent of the County. The County agrees that the Consultant shall not be liable for damages, loss, or injury resulting from the future use of the provided documents for other than the project specified, when the Consultant is not the firm of record.

8.25 Submissions

All Project correspondence, design/review documents, reports etc., prepared by the Consultant shall be distributed to the County's Construction Manager for each major phase and sub phase of the Project in the quantities as directed. Within thirty (30) days of Project completion of each phase submit a Project completion report with Project close out documents to the County's Construction Manager.

8.26 Responsibility for Claims and Liabilities

The County's review, approval, or acceptance of, or payment for, any services required shall not be construed to operate as a waiver by the County of any rights or of any cause of action arising out of the Contract. The Consultant shall be and remains liable to the County for the accuracy and competency of plans, specifications, or other documents or work and Consultant is responsible to the County for any costs incurred resulting from any errors, acts or omissions in the performance of any services furnished.

8.27 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.

8.28 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, without giving effect to its conflicts of law's provisions. Any judicial action shall be filed in the Commonwealth of Virginia, County of Loudoun or if jurisdiction exists, in the U. S. District Court for the Eastern District of Virginia in Alexandria. Consultant expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia. Consultant 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.

8.29 Notices

All notices and other communications hereunder 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 CONSULTANT:

TBD

TO COUNTY:

County of Loudoun, Virginia

Division of Procurement

Attn: Cheryl L. Middleton, CPPB

Via delivery method (a) or (b)

1 Harrison Street, SE, 4th Floor
Leesburg, VA 20175

Or

Via delivery method (c)

P.O. Box 7000

Leesburg, VA 2017

Notice is deemed to have been received: (i) on the date of delivery if delivered in person; (ii) on the first business day after the date of delivery if sent by same day or overnight courier service; or (iii) on the third business day after the date of mailing, if sent by certified or registered United States Mail, return receipt requested, postage and charges prepaid.

8.30 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 Consultant shall be duly licensed to perform the services required to be delivered pursuant to this Contract.

8.31 Authority to Transact Business in Virginia

A Consultant 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.

8.32 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.

8.33 No Smoking

Smoking in all County buildings is prohibited. The County may designate a smoking area outside County facilities. Contractor shall only use those designated smoking areas. Certain County facilities, both inside and outside, may be entirely smoke free. Contractor shall inquire of the Contract Administrator or designee if a facility is entirely smoke free. Failure to adhere to the County's no smoking policies may lead to removal of Contractor employees and possible Contract termination.

8.34 Confidentiality

A. Consultant Confidentiality

The Consultant acknowledges and understands that its employees may have access to proprietary, business information, or other confidential information belonging to the County. Therefore, except as required by law, the Consultant agrees that its employees will not:

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

The Consultant understands that the County, or others may suffer irreparable harm by disclosure of proprietary or confidential information and that the County may seek legal remedies available to it should such disclosure occur. Further, the Consultant understands that violations of this provision may result in termination of the Agreement.

The Consultant understands that information and data obtained during the performance of this agreement shall be considered confidential, during and following the term of this Agreement, and will not be divulged without the Purchasing Agent's written consent and then only in strict accordance with prevailing laws. The Consultant shall hold all information provided by the County as proprietary and confidential, and shall make no unauthorized reproduction or distribution of such material.

B. County Confidentiality

The County understands that certain information provided by the Contractor during the performance of this Agreement may also contain confidential or

proprietary information. Contractor acknowledges that this Contract and public records (as defined by §2.2-3701 of the Virginia Freedom of Information Act) provided pursuant to this Contract are subject to the Virginia Freedom of Information Act §§2.2-3700 et seq. and the Virginia Public Procurement Act §2.2-4342 of the Code of Virginia.

8.35 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 Consultant 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 Consultant due to an event of force majeure.

8.36 Survival of Terms

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

8.37 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.

8.38 Mandatory Federal-Aid Professional Services Provisions:

General Terms and Conditions

The following provisions shall be incorporated in the Agreement for Services between the Consultant and the County of Loudoun without modification.

COMPLIANCE WITH LAWS AND REGULATIONS

The Consultant shall keep fully informed of all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on this Agreement, or which in any way affect the conduct of the services provided by the Consultant. It shall at all times observe and comply with, and shall cause its agents, subcontractors and employees to observe and comply with, all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the County of Loudoun and its employees and appointees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its agents, subcontractors or employees. If any discrepancy or inconsistency is discovered between this Agreement and any such law, ordinance, regulation, order, or decree, the Consultant shall immediately report the same to the Department in writing.

VIRGINIA PROHIBITED EMPLOYMENT DISCRIMINATION

The Consultant, its agents, employees, assigns or successors, and any person, firm, or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of the Section 2.2- 4311 of the Code of Virginia (1950), as amended. During the performance of this Agreement, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or 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 Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that the Consultant 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.

The Consultant will include the provisions of the foregoing paragraphs "a", "b" and "c" in every subcontract or purchase order of over ten thousand dollars, so that such provisions will be binding upon each subcontractor or vendor.

NON-DISCRIMINATION PROVISION

The Consultant agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, sex or national origin; and further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibit discrimination on the basis of age. Section 49 CFR 21 is incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The Consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia (1950), as amended, the terms of which are incorporated herein by reference.

In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the County of Loudoun shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. withholding of payments to the Consultant under this Agreement until the Consultant complies; and/or
- b. cancellation, termination or suspension of this Agreement, in whole or in part.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest (herein referred to as "the Consultant"), agrees as follows:

- a. Compliance with Regulations: The Consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: The Consultant, with regard to the services provided by it after award and prior to completion of this Agreement, will not discriminate on the grounds of race, religion, color, sex, national origin, age or handicap in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.

Federally Funded Projects

Construction contractors and consultants agree to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e). Title VI of the Civil Rights Act of 1964 declares it to be

the policy of the United States that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments, agencies, and subrecipients to take action to carry out this policy. Title VII of the Civil Rights Act prohibits discrimination against any employee or applicant for employment on the basis of race, religion, color, sex or national origin for employers with 15 or more employees. The contractor/consultant further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibits discrimination on the basis of age and FHWA 1273 required contract provisions for federal-aid construction projects. 49 CFR Parts 21, 23, 26, and 27, and 23 CFR Parts 200, 230, and 633 are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The contractor/consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia, as amended, the terms of which are incorporated herein by reference.

- c. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement.
- d. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and Subconsultants with 15 or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the consultant or Subconsultant is performing in accordance with this Agreement.
- e. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- 1) withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or
 - 2) cancellation, termination or suspension of this Agreement, in whole or in part.
- f. Incorporation of Provisions: The Consultant will include the provisions of paragraphs “a” through “f” in every subcontract of \$10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontractor or procurement as the County of Loudoun or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the County of Loudoun to enter into such litigation to protect the interests of the County of Loudoun and, in addition, the Consultant may request VDOT and the United States to enter into such litigation to protect the interests of the Commonwealth and United States.

CERTIFICATION REGARDING NON-SEGREGATED FACILITIES

By the execution of this Agreement, the Consultant certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The Consultant further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.

DISADVANTAGED BUSINESS ENTERPRISES/SMALL, WOMAN AND MINORITY BUSINESS

The Consultant, its agents, employees, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR Part 26, as amended, which is hereby made part of this Agreement by reference. The Consultant shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Subpart E of 49 CFR 26, Section 26.13 requires each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

If a DBE goal has been established for this project, further, the Consultant agrees to provide the County of Loudoun with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. Therefore, the prime consultant will be required to complete the DBE and SWaM Payment Compliance Report, C-63 form on a quarterly basis.

In the event of the Consultant's noncompliance with the DBE/SWaM participation for the services indicated in Expression of Interest in response to the RFP, Attachment D, Scope of Work and Fee Proposal of this Agreement, the County of Loudoun shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or
- b. cancellation, termination or suspension of this Agreement, in whole or in part.

TDD/TTY EQUIPMENT FOR THE DEAF

When seeking public participation through the maintenance of a toll free hot line number and/or publishing project-related materials, the Consultant agrees to ensure that all citizens have equally effective communication. The Consultant agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The Consultant will provide notice of a TDD/TTY number whenever a standard telephone number is provided.

IMMIGRATION REFORM AND CONTROL ACT OF 1986

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

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The Consultant shall not require any individual employed in the performance of this Agreement to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety as determined under the Occupational Safety and Health Standards promulgated by the United States Secretary of Labor. This provision shall be made a condition of any subcontract entered into pursuant to this Agreement.

In addition, the Consultant shall abide by the Virginia Occupational Safety and Health Standards adopted under Section 40.1-22 of the Code of Virginia (1950), as amended, and will fulfill the duties imposed under Section 40.1-51.1 of the Code of Virginia. Any violation of the aforementioned requirements or duties which is brought to the attention of the Consultant by any person shall be immediately abated.

CERTIFICATION REGARDING DEBARMENT

By the execution of this Agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; and have not been convicted of any violations of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

CORRECTION OF ERRORS

The Consultant shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The Consultant will be required, without additional compensation, to correct any errors, including but not

limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this Agreement, and shall also reimburse the County of Loudoun for any costs incurred. Acceptance of the plans or reports by the County of Loudoun shall not relieve the Consultant of the responsibility of subsequent correction of errors.

PAYMENT TO SUBCONTRACTORS

In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4342 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subcontractors within seven (7) days after receipt of payment from the County of Loudoun, or shall notify the County of Loudoun and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment.

In the event payment is not made as noted, the Consultant shall pay interest at the rate of one percent per month to the subcontractor, unless otherwise provided in this Agreement, on all amounts that remain unpaid after seven (7) days except for the amounts withheld according to this Agreement.

The County of Loudoun does not require retainage to be withheld by the Consultant on any subcontracts. If the Consultant elects to withhold retainage on subcontracts, prompt payment of the retainage shall be made to the subcontractors within the later of 60 days after the final billing is received by the Consultant from the subcontractor or the satisfactory acceptance of the services by the Department. The County of Loudoun will notify the Consultant and the subcontractor in writing when the services have been satisfactorily accepted. If the retainage is not promptly paid, the Consultant shall notify the Department and the subcontractor in writing as to the reasons for not making payment.

These same requirements shall be included in each subcontractor agreement and shall be applicable to each lower-tier subcontractor.

COMPLIANCE WITH LOBBYING RESTRICTIONS

By signing this Agreement, the Consultant certifies that:

- a. Since promulgation of the federal requirements implementing Section 319 of PL 101-121, no federal appropriated funds have been paid and none will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- c. The Consultant shall require that the language of this certification be included in all subcontracts at all tiers, and that all subcontractors shall certify and disclose accordingly.

RECORDS

The Consultant and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the Consultant's offices at all reasonable times and will be subject to audit and inspection by the County of Loudoun, VDOT or any authorized representatives of the Federal Government.

Evidence of costs incurred by a subcontractor shall be made available at its office at all reasonable times during the contract period between the Consultant and the subcontractor and for three years after written acceptance by the Consultant, for audit and inspection by the County of Loudoun, VDOT or any authorized representatives of the Federal Government. It shall be the Consultant's responsibility to notify the County of Loudoun, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the Consultant's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.

DRUG-FREE WORKPLACE

During the performance of this contract, the Consultant agrees to:

- a. Provide a drug-free workplace for the consultant's employees
- b. 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 consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition
- c. State in all solicitations or advertisements for employees placed by or on behalf of the consultant that the consultant maintains a drug-free workplace
- d. 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 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 consultant, 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 the contract.



Loudoun County, Virginia

Department of Finance and Procurement
Division of Procurement
One Harrison Street, 4th Floor
Leesburg, Virginia 20175

9.0 ROADWAY AND CIVIL DESIGN SERVICES FOR WESTWIND DRIVE FROM LOUDOUN COUNTY PARKWAY TO OLD OX ROAD-UPC 11670

THE FIRM OF: _____

Address: _____

FEIN _____

Hereby proposes to provide the requested services as defined herein.

I understand that the omission of any items listed below from this proposal may be cause for rejection of the proposal as non-responsive. I have ensured that I have received and acknowledged any and all Addenda.

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

ITEM:	INCLUDED: (X)
-------	---------------

- | | |
|---|-------|
| 1. W-9 Form (7.19): | _____ |
| 2. Certificate of Insurance (7.20): | _____ |
| 3. Addenda, if any (Informality) (7.2 & 7.3): | _____ |
| 4. One (1) original and four (4) copies (7.1G) | _____ |
| 5. Firm Data Sheet (5.7 & Attachment 3) | _____ |
| 6. Certification Regarding Debarment Forms (4.2 & Attachment 2) | _____ |

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

ITEM:	INCLUDED: (X)
-------	---------------

- | | |
|--|-----------------------------|
| 1. Addenda, if any (7.2 & 7.3): | _____ |
| 2. Payment Terms: | _____ Net 30 or _____ Other |
| 3. Proof of Authority to Transact Business in Virginia Form (Page 62): | _____ |
| 4. Response to RFP Section (6.3): | _____ |

Person to contact regarding this proposal: _____

Title: _____ Phone: _____ Fax: _____

E-mail: _____

Name and title of person authorized to bind the Firm (7.6):

Name: _____ Title: _____

Signature: _____ Date: _____

By signing and submitting a proposal, your firm acknowledges and agrees that it has read and understands the RFP documents.



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

PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

***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.***

A. _____ Bidder/offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

B. _____ Bidder/offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

C. _____ Bidder/offeror does not have an Identification Number issued to it by the SCC and such bidder/offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

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 REQUEST FOR PROPOSAL?

RFQ 78772

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

<input type="checkbox"/> Associated Builders & Consultants	<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"/> RAPID	<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"/>

☐ Other _____

SERVICE RESPONSE CARD

RFQ 78772

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: Patty Cogle • Procurement •
PO Box 7000 • Leesburg, VA 20177**