



Loudoun County, Virginia

INVITATION FOR BID

CONSTRUCTION OF TRAFFIC SIGNAL AT TALL CEDARS PARKWAY AND STONE SPRINGS BOULEVARD

ACCEPTANCE DATE: Prior to 4:00 p.m., January 16, 2020 "Atomic" Time

IFB NUMBER: RFQ 132782

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

PLEASE NOTE:

Bid 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 call (703) 777-0403 and may be downloaded from our web site: www.loudoun.gov/procurement. The plans and specifications are contained on a CD that can be obtained by contacting the Division of Procurement or the Contracting Officer. There is no cost for the CD. Each CD contains a geotechnical report. **A Geotechnical Report Release form must be signed by an individual authorized to bind the firm into a contract and submitted prior to obtaining a CD.**

A **Pre-Bid Conference** will be held **November 26, 2019 at 1:00 p.m.** at the Loudoun County Department of Transportation and Capital Infrastructure Offices located at 101 Blue Seal Drive, Suite 102, Leesburg, Virginia 20177-7500 for clarification of any questions on the drawings, specifications, and site conditions.

The terms and conditions contained in this Invitation for Bid and in the County-Contractor Agreement are not negotiable.

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

Delphine Lambert
Contracting Officer
(703) 771-5438

E-mail address: delphine.lambert@loudoun.gov

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

Issue Date: November 12, 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 .

CONSTRUCTION OF TRAFFIC SIGNAL AT TALL CEDARS PARKWAY AND STONE SPRINGS BOULEVARD

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Attachments:

Attachment 1.a:	Proposed County – Contractor Agreement
Attachment 1.b:	Escrow Agreement (contained herein)
Attachment 2:	Geotechnical Report Release Form (contained herein)
Attachment 3:	Loudoun County Revisions to the 2016 VDOT Road & Bridge Specifications Division I - General Provisions
Attachment 4:	Plans & Specifications (on CD)
Attachment 5:	Schedule of Bid Items (on CD)
Attachment 6:	Geotechnical Report (on CD)
Attachment 7:	Special Provision Copied Notes, Special Provisions and Supplemental Specifications (on CD)
Attachment 8:	VDOT C-104
Attachment 9:	VDOT C-105

Authorized By: s/Delphine G. Lambert, CPPB
Contracting Officer

Date: November 12, 2019

CONSTRUCTION OF TRAFFIC SIGNAL AT TALL CEDARS PARKWAY AND STONE SPRINGS BOULEVARD

1.0 PURPOSE AND PROJECT DESCRIPTION

- 1.1 The Intent of this Invitation for Bid (IFB) is for the County of Loudoun, Virginia (County) to obtain the services of a qualified General Contractor to construct a traffic signal and associated roadway improvements at the intersection of Tall Cedars Parkway (Route 2200) and Stone Springs Boulevard (Route 2625), per the plans and specifications prepared by Vanasse Hangen Brustlin, Inc. (VHB), and as reviewed and approved by Loudoun County and the Virginia Department of Transportation (VDOT). The Project consists of constructing and installing four mast arm traffic signals at the intersection of Tall Cedars Parkway and Stone Springs Boulevard. This project also includes but is not limited to: the installation of new traffic signal pole foundations, poles, mast arms, controller, all associated wiring and junction boxes, four pedestrian signals, electrical transformer pad, curb ramps and pedestrian trails to interface with existing trails, milling and overlay of surface mix pavement, maintenance of traffic, installation of signage, pavement markings, removal of existing signs and wiring, and all other items as shown on the aforementioned Plans and Contract. The Project also requires complete compliance with all applicable permits and other regulations, to include a VDOT LUP-A permit. Once complete, this Project shall be inspected and accepted by VDOT for maintenance as per contract requirements. Therefore, all materials and work to be used for this project shall be in accordance with these documents and VDOT 2016 Road & Bridge Specifications and Standards.

Concurrent to this IFB, VHB is designing the foundations for the mast arm signal poles for in all four quadrants and is pending submission to VDOT for approval. The initial design has shown drilled foundations with possible embedment for signal poles A, C and D (northwest, southeast, and southwest quadrants) and pole B (northeast quadrant) as a spread footing. VHB has included approximations for the quantities in the Schedule of Bid Items and once approved any variation in quantities will be provided to the Contractor. Due to the proximity of the utilities and the residential area, no blasting shall be permitted.

- 1.2 Type of Contract: This is a **Unit Price Contract.**
- 1.3 Utilities: It is the responsibility of the Contractor to schedule and coordinate all the utility work to meet Project Milestones, Phasing, and the completion date of the Project. The Loudoun County Construction Manager and Utility Engineer shall be made aware of any meetings, potential issues and coordination and any associated cost shall be considered incidental to other Pay Items.
- 1.4 VDOT Bonds: In addition to bid bond, payment, and performance bonds required by the County of Loudoun and prior to the issuance of the County's Notice to Proceed, the successful bidder will be required to obtain a VDOT

LUP-A Permit, and post a bond with VDOT for the estimated value of the work that is to be constructed in the VDOT right of way. The successful bidder will be required to post any post-construction bond mandated by VDOT.

- 1.5 Project Administration: The County will require the Contractor to use e-Builder for the administration of this Project. The County will provide the Contractor one or two licenses for its use and provide training for the Contractor. Basic training will be required and provided by the County at no cost to the Contractor. This level of training is at the recommendation of e-Builder and should provide proficiency. If the Contractor does not demonstrate proficiency with the software following this training, additional training required for complete proficiency will be at the Contractor's cost. Additional licenses may also be purchased at the Contractor's cost.

2.0 COMPETITION INTENDED

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

3.0 BIDDER'S MINIMUM QUALIFICATIONS

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

In order to be eligible for this Contract, bidders shall meet the following criteria:

- 3.1 Debarment: By signing the Pricing Page contained in the IFB, bidders are certifying that bidder is not currently debarred by any local or state government or the federal government. Bidders shall provide in their bid, documentation related to all debarments that occurred within the last ten (10) years.
- 3.2 Contractor License: Bidders, whether resident or nonresident of the Commonwealth of Virginia, shall possess a valid Virginia Class A Contractor license. Bidders shall include a copy of the Class A Contractor license in their bid.
- 3.3 Experience requirements for the General Contractor.
- A. The General Contractor submitting a bid must demonstrate extensive successful experience in the construction of traffic signal and roadway projects similar in scope and size to the project as shown in the plans and specifications contained herein. The General Contractor shall have successfully completed a minimum of four comparable (4) projects within (7) seven years from the date of this IFB. Comparable projects includes traffic signal construction, electrical and fiber optic installation, trenching, controller installation, paving, concrete curb ramps, pavement markings, signage, sidewalk/trail construction,

grading, erosion and sediment control, underground utility coordination and other improvements for projects of similar size and scope to the Traffic Signal at Tall Cedars Parkway and Stone Springs Boulevard project.

For each project, bidders shall provide reference including the name and location of the project, project description of sufficient detail to allow determination of projects size and scope, contract costs, contract schedule milestones, photographs of sufficient quality to demonstrate the scope of the work, and name, address, current phone number, and e-mail addresses of architects and owners. Bidder hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference.

- B. A successfully completed project shall mean: 1) that the project was completed within the contract time, including any owner-approved time extensions, 2) that the project was completed at or below the contract award amount, including any subsequent owner-approved cost change orders, and 3) that the project was completed in accordance with the contract documents.

3.4 Experience requirements for the Superintendent:

Superintendent shall have at least five (5) years' experience on similar size and type of projects and have at the time of bid submission an OSHA 10-hour certification.

Bidders shall include in their bids the resume of the Superintendent and provide the following information.

- A. Biographical sketch, education and construction related certifications and licenses related to the type of work they will be performing.
- B. Project list for past and current projects that include a brief description of the project, role related to the project and completion date of the project to demonstrate five (5) years construction experience for the work they will be performing of similar size and type.

By submitting a bid, the bidder agrees that the Superintendent identified in their bid shall be the Superintendent assigned to the project for the duration of the project by the bidder unless they are no longer employed by the applicant or the County has approved a substitution.

- 3.5 Verification of Bonding Capability: Bidder shall include in their bid a letter from a surety or insurance company (with a Best's Financial Strength Rating of A or better and Financial Size Category VII or higher by A.M. Best Co.) stating that the Bidder is capable of obtaining a performance and payment bond based on the bidder's estimated contract value for the Project which bonds will cover the Project and any warranty periods. The letter of surety shall clearly state the rating categorization noted above and reference the estimated contract value as identified herein, in a manner similar to the notation provided below:

“As surety for [the above named Contractor], [XYZ Company] with A.M. Best Financial Strength Rating [rating] and Financial Size Category [Size Category] is capable of obtaining 100% Performance Bond and 100% Labor and Materials Payment Bond in the amount of the anticipated cost of construction, and said bonds will cover the Project and any warranty periods as provided for in the Contract Documents on behalf of the Contractor, in the event that such firm be the successful bidder and enter into a contract for this Project.” This letter shall also state the Bidder’s per project and total bonding program limits and that the Surety is authorized/licensed to do business in the Commonwealth of Virginia.

4.0 SPECIFICATIONS

4.1 The work to be performed as a result of this IFB shall be in accordance with the following:

- The work to be performed as a result of this IFB shall be in accordance with the plans and specifications prepared by VHB dated July 2019. The complete PDF copies of the plans (and any subsequent revisions) will be the official construction plans.
- 2016 VDOT Road & Bridge Specifications and 2016 VDOT Road & Bridge Standards (including all revisions issued through the date of Advertisement)
- Loudoun County Revisions to the 2016 VDOT Road and Bridge Specifications Division I General Provisions
- 2011 Edition of the Virginia Work Area Protection Manual and 2009 Edition for Manual on Uniform Traffic Control Devices, and 2011 Virginia Supplement to the Manual on Uniform Traffic Control Devices
- Latest Virginia Department of Environmental Quality (DEQ) Erosion and Sediment Control Handbook, Erosion & Sediment Control Inspector and Responsible Land Disturber Certifications
- VDOT Land Use LUP-A Permits Entrance Permits and all other applicable permits
- Supplemental Specifications, Special Provisions and Special Provision Copied Notes contained herein.
- Loudoun County Facilities Standards Manual

4.2 Coordination of Plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, and Special Provision Copied Notes

The plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, Special Provision Copied Notes, and other Contract Documents are part of the Contract. A requirement occurring in one Contract Document shall be as binding as though occurring in all. The Contract Documents are intended to be complementary, and to include, describe and provide all items necessary for the Contractor’s proper and complete performance of the Work.

In case of a discrepancy, the following order of priority will apply, with the highest governing item appearing first and the least governing item appearing last:

- Loudoun County – Contractor Agreement
- Loudoun County Invitation for Bid, including all attachments and addenda
- Loudoun County Revisions to 2016 VDOT Road & Bridge Specifications Division 1 General Provisions
- Special Provisions, Copied Notes. The Contract items, units and unit prices listed in the Contract's Schedule of Items have the same status as Special Provision Copied Notes
- Special Provisions
- Plans
- Supplemental Specifications
- Specifications (including all revisions issued through the date of Advertisement)
- Standard Drawings (including all revisions issued through the date of Advertisement). Calculated dimensions, unless obviously incorrect, will govern over scaled dimensions.

The Contractor shall not take advantage of any obvious or apparent ambiguity, conflict, error, or omission in the plans or the Contract. If after beginning work the Contractor discovers an ambiguity, conflict, error, or omission in the Contract, he shall immediately notify the engineer and before proceeding further with the affected work. The engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract.

5.0 DISCREPANCIES

Should a bidder find discrepancies in the plans and/or specifications or be in doubt as to the meaning or intent of any part thereof, the bidder shall request clarification from the County in writing, no later than ten (10) working days prior to the bid opening. Any changes to the IFB that result from such a clarification request, will be communicated through a written addendum and posted on the Procurement home page at www.loudoun.gov/procurement. Failure to request such a clarification is a waiver of any claim by the bidder for additional expenses because its interpretation was different than the County's.

6.0 BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSE REQUIREMENT

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

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

7.0 PAYMENT OF TAXES

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

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

8.0 NOTICE OF REQUIRED DISABILITY LEGISLATION COMPLIANCE

The County is required to comply with state and federal disability legislation: The Rehabilitation Act of 1873 Section 504, The Americans with Disabilities Act (ADA) for 1890 Title II and The Virginians with Disabilities Act of 1890.

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 101-321773, 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 1873 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 1890 follows the Rehabilitation Act of 1873 Section 504.

9.0 ETHICS IN PUBLIC CONTRACTING

The provisions contained in §§ 2.2-4217737 through 2.2-4377 of the Virginia Public Procurement Act as set forth in the 1850 Code of Virginia, as amended, shall be applicable to all Contracts solicited or entered into by the County. A copy of these provisions may be obtained from the Purchasing Agent upon request.

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

10.0 EMPLOYMENT DISCRIMINATION BY CONTRACTORS PROHIBITED

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

- A. During the performance of this Contract, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin,

age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.

B. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

11.0 DRUG-FREE WORKPLACE

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

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

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

12.0 FAITH-BASED ORGANIZATIONS

The County does not discriminate against faith-based organizations.

13.0 EXEMPTION FROM TAXES

Pursuant to Va. Code § 58.1-609.1, the County is exempt from Virginia State Sales or Use Taxes and Federal Excise Tax, therefore the Contractor shall not charge the County for Virginia State Sales or Use Taxes or Federal Excise Tax on the finished goods or products provided under the Contract. However, this exemption does not apply to the Contractor, and the Contractor shall be responsible for the

payment of any sales, use, or excise tax it incurs in providing the goods required by the Contract, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project. Nothing in this section shall prohibit the Contractor from including its own sales tax expense in connection with the Contract in its Contract price.

14.0 CONSTRUCTION CONTRACT PERFORMANCE AND PAYMENT BONDS

Within fifteen (15) calendar days after the effective date of the County – Contractor Agreement, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the Contract:

- A A performance bond satisfactory to the County, executed by a surety company authorized to do business in Virginia in accordance with the laws of Virginia and the regulations of the State Corporate Commission; with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the faithful performance of the Contract in strict conformity with the plans, specifications and conditions of the Contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract; and
- B A payment bond satisfactory to the County, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the Contract. Labor and materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract.
- C. The amount of the performance and payment bonds shall increase without the necessity of any action by the County, to the same extent the Contract Price increases due to changes.
- D. All sureties providing bonds shall give written notice to the County at least thirty (30) days prior to the expiration or termination of the bond(s).
- E. If at any time, any surety or sureties become insolvent or are determined by the County to be unable to adequately secure the interests of the County, the Contractor shall within thirty (30) days after such notice from County to do so, substitute an acceptable bond(s) in such form and sum and signed by such other sureties as may be satisfactory to County. The premium on such bond(s) shall be paid by the Contractor at no additional cost to the County provided reasonable justification can be provided by the County for its determination.
- F. A prime Contractor shall not be precluded from requiring each subcontractor to furnish a payment bond with surety thereon in an amount equal to one hundred percent (100%) of the Contract with such subcontractor.

- G. To be considered properly executed, the bonds shall include authorized signatures and titles. The successful bidder's failure to furnish to the County acceptable bonds, within 15 days after the effective date of the County – Contractor Agreement shall be considered just cause for cancellation of the award and forfeiture of the construction contract bid security. In such event, the proposal guaranty shall become the property of the County, not as a penalty but in liquidation of damages sustained.

15.0 CONSTRUCTION CONTRACT BOND FORMS AND COPIES; ALTERNATIVE FORMS

In lieu of a payment or performance bond, the Contractor may furnish a certified check or cash escrow in the face amount required for the bond. If approved by the County Attorney, a Contractor may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords the same protection to the County equivalent to the corporate surety bond.

16.0 CONSTRUCTION CONTRACT RETAINAGES

The Contractor shall be paid ninety-five percent (95%) of the earned sum when payment is due, with not more than five percent (5%) being retained to assure faithful performance of the Contract. All amounts withheld may be included in the final payment. Any subcontract which provides for similar progress payments shall be subject to the same limitations.

17.0 ESCROW ACCOUNT FOR RETAINED FUNDS

Provided the Bid price exceeds \$200,000.00 and subject to the provisions of §2.2-4334 of the Virginia Public Procurement Act, the bidder shall have the option to request use of an escrow account procedure for utilization of funds retained by the County, and may request use of this option by so indicating in the space provided on the Bid Form. If the Contractor elects to use the escrow account procedure, the "Escrow Agreement" form included with this bid shall be executed by the Contractor and submitted to the Purchasing Agent within fifteen (15) calendar days of notification by the County that its bid has been accepted. If the "Escrow Agreement" is not submitted within the fifteen (15) day period, the Contractor shall forfeit such rights to the use of the escrow account procedure.

In order to have retained funds paid to an escrow agent, the Contractor, the escrow agent and the surety shall execute an Escrow Agreement form and submit same to the County for approval. The Contractor's escrow agent shall be a trust company, bank, or savings and loan institution with its principal office located in the Commonwealth of Virginia. The Escrow Agreement form shall contain the complete address of the escrow agent and surety, and an executed escrow agreement will be authority for the County Administrator, or his designee, to make payment of retained funds to the escrow agent. After approving the Escrow Agreement, the County will pay to the escrow agent the funds retained as provided herein except that funds retained for lack of progress or other deficiencies on the part of the Contractor will not be paid to the escrow agent.

The escrow agent may, in accordance with stipulations contained in the Escrow Agreement, invest the funds paid into the escrow account and pay earnings on such investments to the Contractor or release the funds to the Contractor provided such funds are fully secured by approved securities.

Retained funds invested and securities held as collateral for retainage may be released only as and when directed by the County Administrator, or his designee. When the final pay application is released for payment, the County will direct the escrow agent to settle the escrow account by paying the Contractor or the County monies due to them as determined by the County Administrator, or his designee. The County reserves the right to recall retained funds and to release same to the surety upon receipt of written requests from the Contractor or in the event of default.

18.0 AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

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

19.0 INSTRUCTIONS TO BIDDERS

19.1 Preparation and Submission of Bids

- A. Before submitting a bid, read the ENTIRE solicitation including the Terms and Conditions. Failure to read any part of this solicitation will not relieve a bidder of the Contractual obligations.
- B. Pricing must be submitted on Invitation for Bid pricing form only. Include other information, as requested or required.
- C. All bids must be submitted to the Division of Procurement in a sealed container. The face of the sealed container shall indicate the IFB number, time and date of opening and the title of the IFB.
- D. All bids shall be signed in ink by the individual or authorized principals of the firm.
- E. All attachments to the Invitation for Bid requiring execution by the firm are to be returned with the bids.
- F. Bids must be received by the Division of Procurement prior to 4:00 p.m., local Atomic time on date identified on the cover of this IFB. An atomic clock is located in the Division of Procurement. Requests for

extensions of this time and date will not be granted, unless deemed to be in the County's best interest. Bidders mailing their bids shall allow for sufficient mail time to ensure receipt of their bids by the Division of Procurement by the time and date fixed for acceptance of the bids. Bids or unsolicited amendments to bids received by the County after the acceptance date and time will not be considered. Bids will be publicly accepted and logged in at the time and date specified above.

- G. Bids may be submitted via one of the following options: US Mail to PO Box 7000, Leesburg, Virginia 20177-7000; or hand delivered, private carrier, or overnighted to (UPS/FedEx) to 1 Harrison Street, S.E., 4th Floor, Leesburg, Virginia 20175. Faxed and e-mailed bids will not be accepted. (Please note: Bidders choosing to submit bids via US Mail should allow *at least* an additional twenty-four (24) hours in the delivery process for internal County mailroom distribution.).
- H. Each firm shall submit one (1) original of their bid to the County's Division of Procurement as indicated on the cover sheet of this Invitation for Bid.

19.2 Questions and Inquiries

Questions and inquiries, both oral and written, will be accepted from any and all bidders. However, when requested, complex oral questions shall be submitted in writing. The Division of Procurement is the sole point of contact for this solicitation unless otherwise instructed herein. Unauthorized contact with other Loudoun County staff regarding the IFB may result in the disqualification of the bidder. Inquiries pertaining to the Invitation for Bid must give the IFB number, time and date of opening and the title of the IFB. Material questions will be answered in writing with an Addendum provided, however, that all questions are received by **5:00 p.m. on January 8, 2020**. It is the responsibility of all bidders to ensure that they have received all Addendums and to include signed copies with their bid. Addendums can be downloaded from www.loudoun.gov/procurement.

19.3 Exceptions/Additions

No exceptions or additions to the Specifications/Scope of Work or Terms and Conditions shall be permitted. Any questions or concerns regarding any part of the IFB shall be submitted to the Division of Procurement prior to the date specified in the Questions and Inquiries section above. Bids containing any exceptions to the Specifications/Scope of Work or Terms and Conditions or submitting additional terms and conditions shall be deemed non-responsive and rejected. Exceptions or additions proposed after bid submission by the successful bidder shall not be accepted.

19.4 Inspection of Site

All bidders must make an on-site 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 bidder of his obligation to carry out the scope of the resulting contract. The Project

site is open for inspection by bidders from 9:00 a.m. to 5:00 p.m., Monday through Friday.

19.5 Firm Pricing for County Acceptance

Bid price must be firm for County acceptance for a minimum of ninety (90) days from bid opening date.

19.6 Proprietary Information

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

19.7 Authority to Bind Firm in Contract

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

If a sole proprietorship, the owner may sign.

If a general partnership, any general partner may sign.

If a limited partnership, a general partner must sign.

If a limited liability company, a "member" may sign or "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 bid.

19.8 Withdrawal of Construction Contract Bid Due to Error

A bidder for a construction Contract may withdraw its bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing of its claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

19.9 Late Bids

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

19.10 Rights of County

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

19.11 Prohibition as Subcontractors under Competitive Sealed Bidding

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

19.12 Vendor Preference in Tie Bids

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

19.13 Anti-Trust Violations

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

19.14 Basis for Award

Contract award will be made to the lowest responsive and responsible bidder based upon the "total cost" (Attachment 5).

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

19.15 Notice of Award

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

19.16 Protest

Bidders may refer to §§ 2.2-4357 through 2.2-4217734 of the Code of Virginia to determine their remedies concerning this competitive process. Protests

shall be submitted to the Chief Financial Officer, Department of Finance and Budget.

19.17 Construction Contract Bid Security

Bid security is required for this Project. Bid security shall be a bond provided by a surety company selected by the bidder and authorized to do business in Virginia, or the equivalent in cash, or otherwise supplied in a form satisfactory to the County. **Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid.** Non-compliance with this provision requires that the bid be rejected unless it is determined that the bid fails to comply in a non-substantial manner the security requirements.

The apparent low bidder's Contract Bid Security shall be subject to forfeiture if the apparent low bidder withdraws his bid prior to award, or fails to sign and return the County – Contractor Agreement. The Contract Bid Security shall be forfeited according to the forfeiture provisions in Code of Virginia (§ 2.2-4336) and the proposal guaranty.

19.18 Construction Contract Bond Forms and Copies; Alternative Forms

In lieu of a bid, payment or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords the same protection to the County equivalent to the corporate surety bond.

19.19 Debarment

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

19.20 Proof of Authority to Transact Business in Virginia

A bidder 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 bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder is not required to be so authorized. Any bidder 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>.

19.21 W-9 Form Required

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

19.22 Insurance Coverage

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

19.23 Acknowledgement of Contract

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

19.24 Legal Action

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

19.25 Unit Price

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

19.26 Survival of Terms

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

19.27 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.

19.28 Audits:

- A. The Consultant shall maintain books, records and documents of all costs and data in support of the services provided. Loudoun County or its authorized representative shall have the right to audit the books, records and documents of the Consultant under the following conditions:
 - 1. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;
 - 2. In the event of a disagreement between the Consultant and the County on the amount due the Consultant under the terms of this contract.

3. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Consultant's efficiency or effectiveness under this contract; and,
 4. If it becomes necessary to determine the County's rights and the Consultant's obligations under the contract or to ascertain facts relative to any claim against the Consultant that may result in a charge against the County.
- B. These provisions for an audit shall give Loudoun County unlimited access during normal working hours to the Consultant's books and records under the conditions stated above.
 - C. Unless otherwise provided by applicable statute, the consultant, from the effective date of final payment or termination hereunder, shall preserve and make available to Loudoun County for a period of three (3) years thereafter, at all reasonable times at the office of the Consultant but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.
 - D. Loudoun County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Consultant shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subconsultants in their subcontracts, for any portion of the work.
 - E. Should the Consultant fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Loudoun County's rights hereunder, the Consultant shall be liable to Loudoun County for all reasonable costs, expenses and attorney's fees which Loudoun County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to Loudoun County from said persons under this clause. Such audit may be conducted by Loudoun County or its authorized representative.

19.29 Workmanship, Inspection, Employee Conduct

- A. All work under this Agreement shall be performed in a skillful and workmanlike manner. In the event the Consultant provides services that do not conform to the Contract Documents, the Consultant will re-perform such services at no additional cost to the County. The Consultant will be given an opportunity to correct the deficiencies in work. If the deficiency persists beyond thirty (30) days, the County may exercise its rights to terminate the Agreement pursuant to Section 8.22 of this RFP; provided, however, that if the Consultant is diligently pursuing a correction, the County may extend the time for the Consultant to cure the deficiency.

Additionally, the County may, from time to time, make inspections of the work performed under the resulting Agreement. Any inspection by

the County does not relieve the Consultant of any responsibility in meeting the resulting Agreement requirements, and shall not constitute approval or acceptance of any work or deliverable.

- B. The Consultant and its employees shall be professional and courteous at all times. The County reserves the right to require the Consultant to remove any Consultant employee from County service who the County deems unfit for service for any reason, not contrary to law. The County will provide written notice to the Consultant identifying the employee(s) to be removed and the date by which they must be removed from the project. The Consultant shall provide an approved replacement within thirty (30) days after such notice. This right is non-negotiable and the Consultant agrees to this condition by accepting the resulting Agreement. The parties agree to work in good faith to address impacts to the project schedule as a result of the removal of project personnel.
- C. The Consultant shall provide all of its employees working at County sites with photo identification (frontal face). This identification must be prominently displayed at all times. No one with a felony conviction may be employed under this Agreement. The Consultant **MUST** remove any employee from County service who is convicted of a felony during his or her employment.



Loudoun County, Virginia

Division of Procurement
One Harrison Street, 4th Floor, MSC #41C
Leesburg, Virginia 20175

20.0 PRICING PAGE AND BID FORMS

CONSTRUCTION OF TRAFFIC SIGNAL AT TALL CEDARS PARKWAY AND STONE SPRINGS BOULEVARD

The firm of _____ hereby offers to achieve final completion of Traffic Signal at Tall Cedars Parkway and Stone Springs Boulevard Project in accordance with this Invitation for Bid within two hundred and seventy (270) calendar days after the date of the Notice to Proceed.

Attention bidders: Do not take any exceptions or make any qualifications to your bid.

1. Construction of Traffic Signal at Tall Cedars Parkway and Stone Springs Boulevard

Bidders shall complete Attachment 5 "Schedule of Bid Items" and enter the "Total Cost" from Attachment 5 below. Bidders shall submit Attachment 5 with their bid.

Total Cost = \$ _____

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

ITEM:	INCLUDED: (X)
1. W-9 Form (19.21):	_____
2. Certificate of Insurance (19.22):	_____
3. Addenda, if any (Informality):	_____
4. Geotechnical Report Release Form (Attachment 2):	_____

3. Failure to provide the following items with your bid shall be cause for rejection of bid as non-responsive and/or non-responsible. It is the responsibility of the bidder to ensure that it has received all addenda and to include signed copies with their bid (19.2).

ITEM:	INCLUDED: (X)
1. Addenda, if any:	_____
2. Payment Terms:	_____ net 30 or _____ Other

3. Proof of Authority to Transact Business
in Virginia Form (Page 23): _____
4. Bid Bond (19.17): _____
5. Minimum Qualifications (3.0)
 - a. Debarment History, if required (3.1) _____
 - c. Virginia Contractor Class A license (3.2):
(Include copy of certificate with bid) _____
 - d. Experience Requirements for the General Contractor (3.3) _____
 - e. Verification of Bonding Capacity (3.5) _____
 - e. Key Project Personnel Resumes (3.4):
Superintendent _____
6. Schedule of Bid Items (Attachment 5) _____
7. VDOT C-104 form (Attachment 8) _____
8. VDOT C-105 form (Attachment 9) _____

Person to contact regarding this bid: _____

Title: _____ Phone: _____ Fax: _____

E-mail Address: _____

Name of person authorized to bind the Firm (19.7): _____

Signature: _____ Date: _____

Address: _____

By signing and submitting a bid, your firm acknowledges and agrees that it has read and understands the IFB documents, to include the general Conditions of the Construction Contract and agrees to the Terms and Conditions as contained herein and that your Firm is not currently Debarred by a local or state government or the Federal Government.



Loudoun County, Virginia

www.loudoun.gov/procurement

Department of Finance and Budget

Division of Procurement

1 Harrison Street, S.E., 4th Floor, MSC#41C, 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 INVITATION FOR BID?

RFQ 132782

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

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

☐ Other _____

SERVICE RESPONSE CARD

RFQ 132782

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 •

(Proposed)

COUNTY-CONTRACTOR AGREEMENT**ATTACHMENT 1.a:**

THIS AGREEMENT for the Construction of Traffic Signal at Tall Cedars Parkway and Stone Springs Boulevard project, hereinafter referred to as the "Project", executed in three (3) originals, effective this _____ day of _____ 2019, is by and between **COUNTY OF LOUDOUN, VIRGINIA** (herein referred to as the "County"), and _____ (herein referred to as the "Contractor").

In consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby agreed to between the County and Contractor.

This Agreement consists of and incorporates by reference the following Contract Documents:

Attachment 1	The County's Invitation for Bid No. RFQ 132782 dated November 12, 2019, including all attachments and any addenda
Attachment 4	Loudoun County Revisions to 2016 VDOT Road & Bridge Specifications, Division I - General Provisions.
Attachment 5	Contract Plans and Specifications.
Attachment 6	The Contractor's bid dated _____.
Attachment 8	Special Provision Copied Notes, Special Provisions and Supplemental Specifications.

In the event that Attachment 6 contradicts or limits this Agreement or Attachments 1, 4, 5, and 8, this Agreement and Attachments 1, 4, 5, and 8 shall prevail.

Article 1**ARCHITECT/ENGINEER**

1.1 The Architect/Engineer (hereinafter referred to as the "A/E and as defined in the Contract Documents) shall be Vanasse Hangen Brustlin, Inc., whose address is 1775 Greensboro Station Place, Suite 200, Tysons, VA 22102. Provided, however, that the County may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its A/E and so advising the Contractor in writing, at which time the person or organization so designated shall be the A/E for purposes of this Contract.

Article 2

TIME OF COMMENCEMENT AND COMPLETION

- 2.1 The Contractor shall commence the Work upon the date established in the Notice to Proceed.
- 2.2 The Contractor shall achieve Final Completion, as defined in Section 105.01, Contract Time, Notice of Contract Execution and Notice to Proceed of the Loudoun County Revisions to the 2016 VDOT Road & Bridge Specifications, Division I - General Provisions, within two hundred and seventy (270) days from the date of the Notice to Proceed. This time period shall be designated the Contract Time. The Notice to Proceed is intended to be issued thirty (30) days after the execution of this Agreement. The Contractor agrees that the time for completion of the Work as described in the Contract Documents shall govern unless specifically amended in writing by the County, and that no claims for early completion are allowed to be presented by the Contractor to the County.
- 2.3 The County specifies that time is of the essence under this Agreement. Time being of the essence, it is essential to the County that Contract Work will be completed within the Contract Time. The County and the Contractor agree that damages for failure to complete the Work within the Contract Time are not susceptible to exact determination but that \$600 per day is in proportion to the actual loss that the County would suffer from such delay. Therefore, the Contractor will pay the County on demand \$600 per day for each and every day beyond the two hundred and seventy (270) days, or modified date of completion, that the County determines that the Work is not complete, as damages caused by such delay and not as a penalty. The County shall be entitled to offset liquidated damages against any sum owed by the County to the Contractor under this Agreement. Reference 108.06 - Failure to Complete on Time/Liquidated Damages of the Loudoun County Revisions to the 2016 VDOT Road and Bridge Specifications Division I General Provisions.
- 2.4 Liquidated Damages, if assessed, may be assessed cumulatively at the discretion of the County. This provision for liquidated damages does not bar County's right to enforce other rights and remedies against Contractor, which are otherwise legally enforceable, including but not limited to, specific performance or injunctive relief.
- 2.5 The Contractor hereby waives any defense as to the validity of any liquidated damages stated in this Agreement as they may appear on grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

Article 3

CONTRACT AMOUNT

- 3.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the County shall pay to the Contractor, in current funds and at the times and in the installments hereinafter specified, the amount of _____ Dollars (\$_____) (herein referred to as the "Contract Amount").

Article 4

PROGRESS PAYMENTS

- 4.1 The Contractor shall provide a Payment Schedule as referred to in Section 109 of the Loudoun County Revisions to the VDOT Division I - General Provisions.
- 4.2 The Contractor hereby agrees that on or about the first day of the month for every month during the performance of the Work he will deliver to the A/E a Payment Request Application in accordance with the provisions of 109.08 – Partial Payments of the Loudoun County Revisions to the VDOT Division I – General Provisions. This date may be changed upon mutual agreement, stated in writing, between the County and Contractor. Payment under this Agreement shall be made as provided in the Loudoun County Revisions to the VDOT Division I – General Provisions. An updated progress schedule shall be submitted with each Payment Request Application.
- 4.3 The Construction Progress Schedule shall be utilized by County, A/E, and Contractor for submission, review and approval of monthly Payment Request. The schedule must be updated by Contractor monthly with each progress payment application and submitted to the County and A/E for review with the progress payment application. County shall not be required to process and review Contractor's Application for Payment if Contractor has failed or refused to provide the progress scheduling update information required herein.

Article 5

OTHER REQUIREMENTS

- 5.1 The Contractor shall submit the Performance Bond and Labor and Material Payment Bond as described in section 14.0 of the IFB and a Warranty Bond as described in the Loudoun County Revisions to VDOT Division I - General Provisions Section 109.08 and a Certification of Insurance as required by the Contract Documents.

- 5.2 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 of Loudoun, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.
- 5.3 A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300 *et seq.* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the contract. The County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- 5.4 The Contractor shall complete and acquire a VDOT Land Use Permit. This permit will require the Contractor to post a bond with VDOT for the estimated value of the Work that is to be constructed in the VDOT right-of-way. The Contractor will be required to post any post-construction latent defect bond required by VDOT.
- 5.5 Contractor warrants to County that the construction, including all materials and equipment furnished as part of this Project, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents, and free of defects in materials and workmanship.
- 5.6 It shall be the responsibility of the Contractor to comply with County Ordinances by securing the necessary permits to include a grading permit. All required permits, including Commonwealth of Virginia permits and trade permits, will be the responsibility of the Contractor. The County shall waive any fees involved in securing County permits.

Article 6

IMMIGRATION REFORM AND CONTROL ACT OF 1886

- 6.1 By entering this Agreement, the Contractor 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 1886, which prohibits employment of illegal aliens.

Article 7

ENTIRE AGREEMENT AND SEVERABILITY

- 7.1 This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or

agreements, either written or oral. The Agreement may be amended or changed only by an Amendment or Modification. Nothing contained in the Contract Documents shall create any Contractual relationship between the County, or any agent, consultant, or independent Contractor employed by the County and any subcontractor, sub-subcontractor, supplier, or vendor of the Contractor, but the County shall be entitled to performance of all obligations intended for its benefit, and to enforcement thereof.

- 7.2 In the event that any provision of this Agreement 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.

Article 8

GOVERNING LAW/FORUM

- 8.1 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 laws provisions. Any judicial action shall be filed in the appropriate court in the County of Loudoun, Virginia or in the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia or the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.

Article 9

COUNTERPARTS

- 9.1 This Agreement 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.

Witness the following signatures:

COUNTY OF LOUDOUN, VIRGINIA

Division of Procurement
One Harrison Street, S.E.
Leesburg, VA 20175

Phone: (703) 771-5438
Fax: (703) 771-5097

By: _____

Name: Delphine G. Lambert, CPPB

Title: Contracting Officer

Date: _____

CONTRACTOR

Phone: _____
Fax: _____

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Theresa J. Fontana
Assistant County Attorney

ESCROW AGREEMENT

ATTACHMENT 1.b:

THIS ESCROW AGREEMENT, made this _____ day of _____, 2019, among the **COUNTY OF LOUDOUN, VIRGINIA** ("County") and _____ ("Contractor") and _____ a _____ trust company, bank, or savings and loan institution with its principal office located in Virginia ("hereinafter referred to collectively as "Bank"); and

("Surety"), provides:

I.

The County and the Contractor have entered into a Contract with respect to Project Name _____ Project No. _____ ("Contract"). This Escrow Agreement is pursuant to, but in no way amends or modifies, the Contract. Payments made hereunder or the release of funds from escrow shall not be deemed approval or acceptance of performance of the Contractor.

II.

In order to assure full and satisfactory performance by the Contractor of its obligations under the Contract, the County Treasurer is required thereby to retain certain amounts otherwise due the Contractor. The Contractor has, with the approval of the County, elected to have these retained amounts held in escrow by the Bank. This agreement sets forth the terms of the escrow. The Bank shall not be deemed a party to, bound by, or required to inquire into the terms of the Contract or any other instrument or agreement between the County and the Contractor.

III.

The County shall from time to time pursuant to the Contract pay to the Bank amounts retained by it under the Contract. Except as to amounts actually withdrawn from escrow by the County, the Contractor shall look solely to the Bank for the payment of funds retained under the Contract and paid by the County to the Bank.

The risk of loss by the diminution of the principal of any funds invested under the terms of the Contract shall be solely upon the Contractor.

Funds and securities held by the Bank pursuant to this escrow agreement shall not be subject to levy, garnishment, attachment, lien, or other process whatsoever. Contractor agrees not to assign, pledge, discount, sell, or otherwise transfer or dispose of its interest in the escrow account or any part thereof, except to the Surety.

IV.

Upon receipt of checks or warrants drawn by the County Treasurer and made payable to it as escrow agent, the Bank shall promptly notify the Contractor, negotiate the same deposit or invest and reinvest the proceeds in approved securities in accordance with the written instructions of the Contractor. In no event shall the Bank invest the escrowed funds in any security not approved.

V.

The following securities, and none other, are approved securities for all purposes of this Agreement:

- (1) United States Treasury Bonds, United States Treasury Notes, United States Treasury Certificates of Indebtedness or United States Treasury Bills.
- (2) Bonds, notes and other evidence of indebtedness unconditionally guaranteed as to the payment of principal and interest by the United States,
- (3) Bonds or notes of the County of Loudoun,
- (4) Bonds of any political subdivision of the Commonwealth of Virginia, if such bonds carried, at the time of purchase by the Bank or deposit by the Contractor, a Standard and Poor's or Moody's Investors Service rating of at least "A," and
- (5) Certificates of deposit issued by commercial Banks located within the Commonwealth of Virginia, including, but not limited to, those insured by the Bank and its affiliates,
- (6) Any bonds, notes or other evidences of indebtedness listed in Sections (1) through (3) may be purchased pursuant to a repurchase agreement with a bank, within or without the Commonwealth of Virginia having a combined capital, surplus and undivided profit of not less than \$25,000,000, provided the obligation of the Bank to repurchase is within the time limitations established for investments as set forth herein. The repurchase agreement shall be considered a purchase of such securities even if title, and/or possession of such securities is not transferred to the Escrow Agent, so long as the repurchase obligation of the Bank is collateralized by the securities themselves, and the securities have on the date of the repurchase agreement a fair market value equal to at least 100% of the amount of the repurchase obligation of the Bank, and the securities are held by a third party, and segregated from other securities owned by the Bank.

No security is approved hereunder which matures more than five (5) years after the date of its purchase by the Bank or deposit by the Contractor.

VI.

The Contractor may from time to time withdraw the whole or any portion of the escrowed funds by depositing with the Bank approved securities in an amount equal to,

or in excess of, the amount so withdrawn. Any securities so deposited or withdrawn shall be valued at such time of deposit or withdrawal at the lower of par or market value, the latter as determined by the Bank. Any securities so deposited shall thereupon become a part of the escrowed fund.

Upon receipt of a direction signed by the Loudoun County Purchasing Agent, the Bank shall pay the principal of the fund, or any specified amount thereof, to the Treasurer of Loudoun County for deposit to the appropriate fund and account within the County's approved accounting structure. Such payment shall be made in cash as soon as is practicable after receipt of the direction.

Upon receipt of a direction signed by the Loudoun County Purchasing Agent, the Bank shall pay and deliver the principal of the fund, or any specified amount thereof, to the Contractor, in cash or in kind, as may be specified by the Contractor. Such payment and delivery shall be made as soon as is practicable after receipt of the direction.

VII.

For its services hereunder, the Bank shall be entitled to a reasonable fee in accordance with its published schedule of fees or as may be agreed upon by the Bank and the Contractor. Such fee and any other costs of administration of this Agreement shall be paid from the income earned upon the escrowed fund and, if such income is not sufficient to pay the same, by the Contractor.

VIII.

The net income earned and received upon the principal of the escrowed fund shall be paid over to the Contractor in quarterly or more frequent installments. Until so paid or applied to pay the Bank's fee or any other costs of administration, such income shall be deemed a part of the principal of the fund.

IX.

The Surety undertakes no obligation hereby but joins in this Agreement for the sole purpose of acknowledging that its obligations as surety for the Contractor's performance of the Contract are not affected hereby.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures, all as of the day and year first above written.

COUNTY OF LOUDOUN, VIRGINIA

CONTRACTOR

Chief Financial Officer, Department of
Finance & Budget

Officer, Partner or Owner

Bank

SURETY

Title

Title

Address

Address

ATTACHMENT 2
CONSTRUCTION OF THE TRAFFIC SIGNAL AT TALL CEDARS
PARKWAY AND STONE SPRINGS BOULEVARD
Geotechnical/Geophysical Release Form

This form shall be signed and submitted prior to obtaining plans and specifications from the Division of Procurement. CD's will not be released if a signed form has not been submitted.

As evidenced by the Bidder's signature below, the site and soils data, photographs, boring diagrams, and Geotechnical and/or Geophysical Engineering Report(s) dated October 16, 2019, prepared or compiled by ECS Mid-Atlantic, LLC and related to RFQ 132782, Construction of Traffic Signal at Tall Cedars Parkway and Stone Springs Boulevard (Project) is being made available to the Bidder in good faith in order to apprise the Bidder of the information within the possession of the County. The Bidder understands that these report(s) are for informational purposes only and are not part of the Contract and the County provides no warranty as to the accuracy, completeness, or correctness of such report(s). These report(s) were developed for design and information purposes only. The Bidder agrees to indemnify, hold harmless and defend the County, its employees, agents, servants and representatives from and against any costs, claims, extension of Contract time, or liabilities of any kind resulting from the use of or reliance on these reports.

By making this information available, the County is not classifying the site. Additionally, this information is not a substitute for personal and independent investigation, interpretation, and judgment by the Bidder. In the event the Bidder elects not to perform his/her own investigation of the subsurface conditions prior to the submission of the Bid, the Bidder will relinquish the County from any liability, extension of Contract time, or cost associated with this decision. It is the obligation of the Bidder to make its own interpretation of all subsurface data that may be available and satisfy itself, through its own independent investigation, as to the nature, condition, and extent of the material to be excavated, graded, or driven through or any other geotechnical aspect of this Project.

If Bidder elects to conduct its own site investigation of County property, the Bidder shall indemnify, hold harmless and defend the County, its employees, agents, servants and representatives from and against any and all claims, suits, demands, actions (regardless of the merits thereof) and damages of whatever nature arising out of or resulting from its site visit and any associated work, including jurisdictional labor disputes or other labor troubles that may occur during the performance of the Work.

Site investigation work shall be conducted between 9:00 am to 5:00 pm, Monday through Friday.

The Bidders is responsible for:

1. Coordinating the time and date of the site investigation with the County.
2. Any damage to adjacent property.
3. Backfilling and compacting borings or test pits prior to departing the site.
4. Coordinating with Miss Utility to locate utilities prior to any work being done.
5. Damage to onsite utilities.

6. Management of traffic and safety of the public on roads adjacent to the site.
7. Safety requirements for equipment and personnel brought to the site.

The submission of a Bid shall be considered conclusive evidence that the Bidder has satisfied itself as to the subsurface conditions that may be encountered in performing the work for the Project.

FIRM NAME: _____

Principal or authorized representative (Print Name)

Date

Principal or authorized representative (Signature)

Date