



# COUNTY OF WASHINGTON, VIRGINIA

COUNTY GOVERNMENT CENTER BUILDING  
1 GOVERNMENT CENTER PLACE, SUITE A  
ABINGDON, VIRGINIA 24210

TAMMY STURGILL, CPA  
DIRECTOR OF BUDGET & FINANCE

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## DEPARTMENT OF BUDGET & FINANCE

January 8, 2025

To whom it may concern:

Washington County, Virginia is currently accepting sealed PROPOSALS from qualified professional firms interested in providing engineering, architecture and construction related support services for miscellaneous projects that may arise during any resultant contract period on an as needed basis.

The Request for Proposal packet, containing instructions and specifications, is attached for your use.

**Sealed PROPOSALS must be received no later than: 3:00 pm on January 30, 2025**

Proposals should be made using the proposal forms provided with the Request for Proposal package and directed to **Department of Budget and Finance; Washington County Government Center Building; 1 Government Center Place, Suite A; Abingdon, Virginia 24210**. Proposals may be submitted electronically through eVA ([eVA.virginia.gov](http://eVA.virginia.gov)). Seven copies of the Proposal must be submitted in a sealed package marked on the outside with the Provider's name and address, and clearly marked: "**Engineering Services Proposal**". Proposals must be signed in ink by an official authorized to bind the Provider. Proposals received after the deadline, postmarks notwithstanding, shall be rejected. The County of Washington reserves the right to reject any or all proposals.

Questions to clarify the Request, instructions, specifications, or any solicitation document should be submitted by email no later than five (5) working days before the due date to: **[tcopenhaver@washcova.com](mailto:tcopenhaver@washcova.com)**. The email inquiry should be identified with a subject line of: "**Question Regarding Engineering Services Proposal**".

Sincerely,

*Tammy Sturgill*

Tammy Sturgill  
Director of Budget & Finance

*For posting and legal advertisement:*

**REQUEST FOR PROPOSALS  
ENGINEERING, ARCHITECTURE, AND CONSTRUCTION SUPPORT SERVICES  
FOR WASHINGTON COUNTY, VIRGINIA**

The County of Washington, Virginia is currently accepting proposals from qualified professional firms interested in providing engineering, architecture and construction related support services for miscellaneous projects that may arise during any resultant contract period on an as needed basis. A request for proposal package containing instructions, qualifications, and specifications may be obtained by contacting the Department of Budget & Finance at 1 Government Center Place, Suite A; Abingdon, Virginia 24210; or phone 276-525-1310.

Sealed proposals will be accepted until **3:00 PM on January 30, 2025**. Proposals may be submitted electronically through eVA ([eVA.virginia.gov](http://eVA.virginia.gov)). Proposals must be made using specified proposal forms and must be mailed or delivered to the address above for the Department of Budget & Finance. Proposals received after the deadline, postmarks notwithstanding, shall be rejected. The County of Washington reserves the right to reject any or all proposals.

WASHINGTON COUNTY, VIRGINIA  
1 GOVERNMENT CENTER PLACE, SUITE A  
ABINGDON, VIRGINIA 24210

**REQUEST FOR PROPOSALS  
ENGINEERING, ARCHITECTURE, AND CONSTRUCTION SUPPORT SERVICES  
FOR WASHINGTON COUNTY, VIRGINIA**

January 8, 2025

**PROPOSALS WILL BE RECEIVED UNTIL:**

**3:00 pm on January 30, 2025**

PROPOSALS MAY BE SUBMITTED ELECTRONICALLY THROUGH eVA

PROPOSALS ARE TO BE MAILED OR DELIVERED DIRECTLY TO:

WASHINGTON COUNTY, VIRGINIA  
DEPARTMENT OF BUDGET & FINANCE  
TAMMY STURGILL, DIRECTOR  
1 GOVERNMENT CENTER PLACE, SUITE A  
ABINGDON, VIRGINIA 24210  
(276) 525-1310

*Seven copies of the Proposal must be submitted using the specified Proposal Form in a sealed package marked on the outside with the Provider's name and address, and clearly marked:*

***"ENGINEERING SERVICES PROPOSAL".***

**REQUEST FOR PROPOSALS  
ENGINEERING SERVICES, ARCHITECTURE, AND CONSTRUCTION SUPPORT SERVICES  
FOR WASHINGTON COUNTY, VIRGINIA**

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**REQUEST FOR PROPOSALS  
ENGINEERING, ARCHITECTURE, AND CONSTRUCTION SUPPORT SERVICES  
FOR WASHINGTON COUNTY, VIRGINIA**

**I. PURPOSE:**

The County is seeking proposals from qualified professional firms interested in providing on-call engineering, architecture, and construction related support services for miscellaneous projects that may arise during any resultant contract period on an as needed basis. The term contracts may include project types such as those listed herein and will have a maximum values of \$500,000 per term with no guaranteed minimum amount of work.

The County seeks Offerors that have expertise across a broad number of disciplines and Offerors that have more specialized expertise in specific disciplines. Proposals from firms the offer both broader and more specialized expertise for specific disciplines will be accepted and considered. Offerors are requested to complete Attachment 5A (Statement of Qualifications).

The County may issue multiple awards to successful Offerors to provide professional and construction support services for the following:

- Group I Buildings
- Group II General Civil/Transportation
- Group III Construction Support Services
- Group IV Mechanical, Electrical, and Plumbing Services
- Group V Stormwater Management
- Group VI Surveying
- Group VII Park and Trail Services
- Group VIII Solid Waste Groundwater Monitoring and Gas Monitoring for Closed Landfill

**II. PROJECT OVERVIEW**

The County desires to engage qualified professional architectural and engineering firm(s) to perform a variety of professional architectural and engineering services using a Task Order approach. Task Orders shall be issued by the County Administrator as professional services are needed and may include civil engineering and design; architectural design; site planning; construction phase services; inspection services; and associated surveying, environmental, geotechnical, and architectural services. The awarded firm(s) may also be expected to assist the County with review of 3rd party plans and specifications, as needed.

The County undertakes many small scale projects that require outside professional and construction support services. The on-call contracts are intended to supplement the County's

internal resources on an as needed basis by providing a flexible and effective way for the County to respond to recurring consultant professional service needs for multi-dimensional tasks covering a wide range of work.

Services may be required by, but not limited to the following Departments: General Services, Solid Waste, Building and Development, and Stormwater.

### **III. INSTRUCTIONS TO OFFERORS: PROPOSAL SUBMITTAL, QUESTIONS, AND AWARD**

#### **A. Identification of proposal envelope/package**

Proposals may be submitted electronically through eVA ([eVA.virginia.gov](http://eVA.virginia.gov)). Seven copies of the proposal shall be submitted to County in a sealed envelope/package marked with the following information:

1. Offeror's name and address; and
2. **"Engineering Services Proposal"**

#### **B. Deadline for County receipt**

Proposals must be received by the County no later than the due date and time specified on the cover sheet to this Solicitation. Proposals received after the due date and time, postmark notwithstanding, shall be rejected.

#### **C. Rejection if proposal in improper form**

Offeror's failure to submit a proposal on the Proposal form provided with this Solicitation and with all information required by this Solicitation shall be a cause for rejection of the proposal. Modification of or additions to any portion of the proposal form may be cause for rejection of the proposal; however, the County reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal as nonresponsive. As a precondition to its acceptance, the County may, in its sole discretion, request that Offeror withdraw or modify non-responsive portions of a proposal that do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed on behalf of the Offeror.

#### **D. Questions and modification**

Questions to clarify this Solicitation shall not be received or answered by telephone or in-person. Questions shall be submitted by email no later than five working days before the due date to: [tcopenhaver@washcova.com](mailto:tcopenhaver@washcova.com). The email must identify in the subject line: **"Question Regarding Engineering Services Proposal"**. Answers to all questions will be sent by email to all Offerors of whom the County is aware have interest in this Solicitation. Revisions may be made only by addendum issued by the County.

**E. Optional pre-bid conference**

Not applicable.

**F. Inspection of job site**

Not applicable.

**G. Period allowed for County acceptance of proposal**

Any proposal resulting from this solicitation shall be valid for 90 days after the proposal submittal deadline. At the end of the 90-day period, the proposal may be withdrawn at the written request of the Offeror. If the proposal is not withdrawn at that time, it remains in effect until an award is made or the solicitation is cancelled.

**H. Interview**

Prior to making an award pursuant to this solicitation, the County reserves the right to require Offeror to interview with a County review committee to determine whether Offeror is fully qualified to provide the goods and services as set forth herein. The interview is intended to show that Offeror is fully qualified, that Offeror's services will be provided in a completely satisfactory manner, and that Offeror is competent to meet or exceed the performance specifications. Failure by an Offeror to comply promptly with a request for interview may result in its proposal being rejected.

**I. Award**

- i. For architectural or engineering services only, the County is not requesting or requiring such Offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to Virginia Code Section 2.2-1132. At the negotiation stage and after the qualified Offerors are ranked for negotiations, such Offerors of architectural or engineering services MUST disclose any exceptions to the contractual terms or conditions in writing to the County.
- ii. In accordance with Virginia Code Section 2.2-4303.1(A) of the Code of Virginia, the agreement shall be for an initial one (1) year term. The County shall have the option to renew the contract up to three (3) additional one (1) year terms. Under the terms of contract(s) made pursuant to this Request for Proposal, no individual Task Order fee shall exceed the limitations set forth in Code Section 2.2-4303.1(A). The aggregate total of fees for all Task Orders issued during the any term any Contract under this Request for Proposal shall not exceed the limitations set forth in Code Section 2.2-4303.1(A).
- iii. The County provides no guarantee of any work or of the amount of work to be assigned to the selected firm(s) and may utilize other firms for consulting work.



- iv. Award(s) shall be based on the Offeror(s)' ability to meet all requirements as set forth in this Request for Proposal; and the right is reserved to make the award to other than the lowest priced Offeror when it is in the best interest of the County and consistent with the Virginia Procurement Act, the County's Code, the County's Procurement Policies and Procedures and other applicable law.
  
- v. Award shall be made in accordance with this Request for Proposal and the requirement of procurement of professional services under the Virginia Procurement Act (with specific reference to Virginia Code Sections 2.2-4302.2(A)(4)). The Proposal shall not include costs of services or estimated project costs. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for Services. Pursuant to Section 2.2-4302.2 (A)(4) of the Code of Virginia, selection of the Offeror will be as follows:
  - 1. The County shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed projects as well as alternative concepts. At the discussion stage, the County may discuss non-binding estimates of total project costs including, but not limited to, life-cycle costing, and where appropriate, non-binding estimates of price for services. Properly designated proprietary information from competing Offerors shall not be disclosed to the public or competitors, except as may be required by law.
  - 2. At the conclusion of informal interviews, on the basis of evaluation factors published in the Request for Proposals and all information developed in the selection process to this point, the County shall select, in the order of preference two (2) or more Offerors whose professional qualifications and proposed services are deemed most meritorious.
  - 3. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. The County reserves the right to make multiple awards as a result of this solicitation. Should the County determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

The County reserves the right to reject any and all proposals in whole or in part, to waive any informality, to negotiate the proposal price, and to modify the specifications prior to making an award.

The County may cancel this Request for Proposals or reject Proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular Proposal was not deemed to be the most advantageous (Section 2.2-4319, Code of Virginia).

The County reserves the right to award a Contract to more than one Offeror or to no Offerors. Nothing herein shall limit the County's right to use other consultants, its staff, employees or officers to complete any or all of the services requested herein instead of requesting such services of the Offeror(s) awarded a Contract hereunder.

**J. Announcement of Award**

Following the announcement of the decision to award a contract as a result of this solicitation, the County will publicly post such notice on the County website at [washcova.com](http://washcova.com) on the Board of Supervisors' web page in the meeting agenda public packet.

**K. Oral Presentation**

Offerors who submit a proposal in response to the solicitation may be required to give an oral presentation of their proposal to the County. This provides an opportunity for the Offeror to clarify and elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The County will schedule the time and location of these presentations. Oral presentations are an option of the County and may or may not be conducted.

**L. Evaluation Criteria**

Proposals shall be evaluated by a County selection committee using the following criteria:

|    | Criteria  | Point Value |
|----|---|-------------|
| 1. | Qualifications and experience of Offeror providing services | 40          |
| 2. | Method and plan for providing services                      | 30          |
| 3. | Representative projects                                     | 20          |
| 4. | Ability to control project costs                            | 10          |
|    |   |             |
|    | Total   | 100         |

**M. Applicable laws and courts**

This solicitation and any resulting contract shall be governed in all respects by the law of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the court of appropriate jurisdiction in Washington County, Virginia. Offeror shall comply with all applicable federal, state and local laws, rules and regulations.

**N. Ethics in public contracting**

By submitting their proposal, Offeror certifies that its proposals are made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer, or subcontractor in connection with the proposal, and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

**O. Debarment status**

By participating in this procurement, Offeror certifies that it is not currently debarred by the Commonwealth of Virginia or County of Washington, Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Offeror further certifies that they are not debarred from filling any order or accepting any resulting order, or that it is not an agent of any person or entity that is currently debarred by the Commonwealth of Virginia or County of Washington, Virginia. If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

**P. Investigation of qualifications of contractor**

Offeror agrees to cooperate with such reasonable investigation as the County deems proper and necessary to determine the ability of Offeror to satisfy the terms of any contract that may be awarded pursuant to this Solicitation. Investigation may include inspection of Offeror's physical facilities prior to award to satisfy questions regarding Offeror's capabilities. Further, the County reserves the right to reject any bid if the evidence submitted by, or investigations of, such Offeror fails to satisfy the County that such Offeror is properly qualified to fulfill the obligations of the contract.

**Q. Testing and inspection**

The County reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

## **R. Mandatory Use of County Forms, Terms and Conditions, and County Contract**

Unless otherwise specified in the Solicitation, all proposals must be submitted on the form provided by the County. Failure to submit a proposal on the County form provided for that purpose shall be a cause for rejection of the proposal. Modification of or additions to any portion of the Solicitation including the General Terms and Conditions may be cause for rejection of the proposal, however, the County reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal as nonresponsive. The Terms and Conditions are mandatory provisions of all Solicitations and all Contracts of the County. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

The Terms and Conditions and Instructions to Offeror and Contractors shall apply to all purchases and be incorporated into and be a part of each Solicitation and every Contract awarded by the County unless otherwise specified by the County in writing. Offerors and Contractors or their authorized representatives are expected to inform themselves fully as to these Terms and Conditions before submitting a proposal to and/or entering into any Contract with the County. Failure to do so will be at the Offeror's or Contractor's own risk and except as provided by law, relief cannot be secured on the plea of error.

Subject to all Federal, state, and local laws, policies, resolutions, regulations, rules, limitations and regulations, including the County's procurement policies and procedures, proposals on all Solicitations issued by County will bind Offerors, as applicable, and Contracts will bind Contractors, to all applicable terms, conditions, instructions, rules, and requirements herein set forth unless otherwise specifically set forth by the County in writing in the Solicitation or Contract. All provisions of the Terms and Conditions are material to any Contract between the County and Contractor.

All Contracts shall be in a form prepared by the County and approved by the County Attorney or his/her designee. All County procurements shall use Standard Contract Forms and Terms and Conditions. Any proposals, quotes, and contracts that contain additional terms and conditions, are on non-standard forms, or make changes to the County's standard contract language shall be reviewed by the County Attorney, or his/her designee to determine if the County's Standard Contract and Terms and Conditions requires modification prior to award of the Contract.

## **Attachment 1 – QUALIFICATIONS/SCOPE OF WORK**

Engineering, Architecture, and Construction Support Services

Page 1 of 13

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The headings, below, are for general reference purposes only and shall have no effect on the interpretation of the Contract.

The County desires to engage qualified professional architectural and engineering firm(s) to perform a variety of professional architectural and engineering services using a Task Order approach. Task Orders shall be issued by the County Administrator as professional services are needed and may include civil engineering and design; architectural design; site planning; construction phase services; inspection services; and associated surveying, environmental, geotechnical, and architectural services. The awarded firm(s) may also be expected to assist the County with review of 3rd party plans and specifications, as needed.

The County undertakes many small scale projects that require outside professional and construction support services. The on-call contracts are intended to supplement the County's internal resources on an as needed basis by providing a flexible and effective way for the County to respond to recurring consultant professional service needs for multi-dimensional tasks covering a wide range of work.

Services may be required by, but not limited to the following Departments: General Services, Solid Waste, Building and Development, and Stormwater.

### **Scope of Services:**

The Successful Offeror(s) shall perform professional services as hereinafter stated which includes, but not limited to:

1. Provide pre-design services which include, but not limited to, site analysis and assessment, program development, feasibility studies, and regulatory and zoning research;
2. Provide schematic, preliminary, and working drawings design phase services which include, but not limited to, conceptual design development, space planning and layout, preliminary design sketches, and diagrams, County consultation and feedback, refinement of schematic design, development of detailed drawings and specifications, coordination with structural, mechanical, and electrical engineers, material and product research, preparation of complete construction drawings and specifications, compliance with building codes and regulations, permitting assistance, and quality control and peer review;
3. Provide bidding and negotiation services, which include, but not limited to, assisting County in the selection of contractors, preparation of bid documents, conducting bid meetings, bid evaluation, and contractor selection support, and contract negotiations;
4. Provide construction administration services which include, but not limited to, periodic site visits for quality assurance and compliance, review and approval of shop drawings and submittals, responding to contractor inquires, managing change orders, and project progress documentation and reporting;
5. Provide complete contract documents for project design and construction;
6. Other types of professional services of a nature consistent with the intent of the RFP.



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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7. Perform all projects/tasks in accordance with generally accepted professional standards and will provide the County with the best possible advice and consultation within the Offeror's authority and capacity as a professional engineer.
8. Provide a registered engineer, holding a valid licensure in the Commonwealth of Virginia, as a project manager for all projects/tasks assigned under the Contract, and shall have a registered professional engineer, holding a valid licensure in the Commonwealth of Virginia, review, approve, and seal all plans, specifications, and other documents.
9. Meet with the County to determine specific scope and requirements of each project/task assigned under the Contract.
10. Submit all plans, comment responses, special provisions, cost estimates, bid specifications, contract documents, engineering reports, environmental documents and permits, and all other requested and required submissions in accordance with applicable local, state, and federal regulations, specifications, and standards.
11. Coordinate with all necessary federal, state, and local agencies to complete the assigned projects/tasks.
12. Prepare, for the County, any permit applications or environmental document to assist the County in observing approval or maintaining compliance of such permits and applicable federal, state, and local regulations.
13. Provide invoices that include a breakdown of hours based on job type and tasks performed per the scope, a summary of work on those hours, percent complete and cost used as justification for billing purposes. Invoices shall be sent electronically for review and approval to the assigned County project manager.
14. Complete projects/tasks within the fees identified in the project/task assigned and shall not exceed without written authorization from the County.

The following is a list of disciplines along with a description for which the Offerors may submit a proposal. Offerors may submit a proposal for professional and/or construction support services for any single or combination of the individual disciplines listed below.

The County seeks Offerors that have expertise across a broad number of disciplines and Offerors that have more specialized expertise in specific disciplines. Proposals from firms that offer both broader and more specialized expertise for specific disciplines will be accepted and considered.

### 1. Group 1--Buildings

- a. Lead Firms to provide architectural and engineering services listed in this section. The Lead Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County regarding sustainability and energy efficiency goals, and ensuring high quality deliverables are submitted to the County.
  - i. Architectural
    - Design new facilities.
    - Renovate existing facilities.
  - ii. Mechanical
    - Design new building systems.



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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- Renovate existing HVAC or plumbing systems.
    - iii. Structural
      - Design new building structural systems.
      - Analyze existing building structural systems, structure repairs, etc.
    - iv. Electrical
      - Design new systems.
      - Renovate existing electrical, communication (data, voice and security) or lighting related systems including athletic lighting.
    - v. Site Development
      - Provide surveying, engineering, design services required to completely design facilities.
    - vi. Value Engineering
      - Provide all value engineering services required for new buildings or to renovate existing buildings.
    - vii. Cost Estimating
      - Provide all cost estimating services required for new buildings or to renovate existing buildings.
    - viii. HVAC
      - Provide all engineering services required to completely design new HVAC systems or renovate existing HVAC systems to include HVAC inspection services.
    - ix. Interior Design
      - Provide all aesthetically pleasing and functional environments through space planning, furniture/equipment/lighting arrangement and building finish specifications.
  - b. Required Licenses and Certifications:
    - i. Services provided under Group I – Buildings shall be performed and/or managed by personnel with the following licenses and certifications:
      - Virginia licensed architect and/or engineer.
  - c. Desired Licenses and Certifications
    - i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:
      - LEED and/or Green Building certification(s)
2. Group II--General Civil/Transportation
- a. Lead Engineering Firms to provide engineering services listed in this section. The Lead Engineering Firm's roles include but is not limited to the following:



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

- i. Road Design
    - Provide roadway design services required to widen, improve, or rehabilitate existing urban streets or to design new streets.
  - ii. General Traffic Engineering Design
    - Traffic signal design
    - Design of Intelligent Traffic Systems (ITS) devices
    - Signs and pavement markings plans
    - Guardrail design and installation
    - Street lighting
    - Sequence of construction/maintenance of traffic plans
    - Traffic Impact Analyses – preparation and review
    - Site plan and development plan review
    - Safety and congestion analyses
  - iii. Storm Drain Design & Analysis
    - Hydrologic Modeling (Rational Method, SCS TR-55, HEC- HMS, etc.)
    - Closed system hydraulic modeling
    - Minor roadway design
    - Site design
    - Stormwater BMP retrofits
    - Construction plans
  - iv. Geotechnical Engineering
    - Substance investigation
    - Geophysical investigation
    - AASHTO laboratory testing
  - v. Landscape Architecture
    - Provide landscape and architecture service required for new designs and renovation of existing designs.
- b. Desired Licenses and Certifications
- i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:
    - Virginia licensed landscape architect
    - Surveyors license
    - Envision certification
    - Virginia licensed engineer





## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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### 3. Group III--Construction Support Services

a. The Firms to provide construction support services listed in this section. The Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County and ensuring high quality deliverables are submitted to the County.

i. Geotechnical

- Subsurface investigation, analysis, recommendations, testing and monitoring as may be required.

ii. IBC Special Inspections

- Inspection of construction as defined by the International Building Code in order to ensure compliance with approved construction documents.

iii. Commissioning

- Verifying a building's subsystems (mechanical, plumbing, electrical, fire/life safety etc.) are installed by the Contractor in accordance with plans and specifications.

iv. Material Testing

- Test and observations in the laboratory and field to determine compliance with plans, specifications, and industry standards.

v. Environmental Engineering

- Phase 1 and 2 Site Assessments
- Property Condition Surveys
- Wetland Delineation and Permitting
- Environmental Monitoring
- Asbestos, Lead, and Mold Surveys
- Hazardous Waste Identification
- Disposal Analysis

b. Desired Licenses and Certifications

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Virginia licensed engineer
- VDOT Materials Certifications
- Certified Welding Inspection (CWI)

### 4. Group IV--Mechanical, Electrical and Plumbing Services

a. The Firms to provide engineering services listed in this section. The Firm's role includes but is not limited to the following: coordination and management of



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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all services listed below for each respective project; consulting to the County and ensuring high quality deliverables are submitted to the County.

i. Mechanical

- Completely design new mechanical systems or renovate existing mechanical systems, including but not limited to the following:
  - HVAC design
  - Central plant systems (steam, chilled, water)
  - Industrial ventilation
  - Indoor building automation systems/energy management systems air quality
  - Geothermal systems
  - Sustainable design
  - Life cycle cost analysis
  - Code analysis and cost estimating

ii. Electrical

- Completely design new electrical systems or renovate existing electrical systems, including but not limited to the following:
  - Design and specify complete power distribution systems.
  - Emergency/standby power distribution, automatic transfer switches (ATS) to central battery inverter systems and uninterruptible power supplies (UPS).
  - Grounding and protection systems including surge protective devices (SPDs) and lighting protection systems.
  - Lighting design.

iii. Plumbing

- Completely design new plumbing systems or renovate existing plumbing systems, including but not limited to the following:
  - Plumbing systems engineering
  - Domestic water distribution
  - Water conservation strategies and system design
  - Gray water and rain water distribution for irrigation and building use, solar hot water generation.
  - Plumbing equipment and fixture selection and specification.
  - Air distribution.
  - Full LEED support documentation, calculations and services.
  - Sanitary waste and vent.

b. Desired Licenses and Certifications



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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- i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:
  - LEED certification
  - Virginia licensed electrical engineer
  - Virginia licensed mechanical engineer

### 5. Group V--Stormwater Management

- a. Lead Engineering Firms to provide stormwater management services listed in this section. The Lead Engineering Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project, consulting to the County and ensuring high quality deliverables are submitted to the County.
  - i. Permitting
    - Stream and wetland delineation
    - Clean Water Act 401/404
    - Erosion and sediment control
    - Virginia Stormwater Management Permitting (VSMP)
    - Endangered Species Act
  - ii. Watershed Planning
    - Watershed level storm drain and pipe capacity analysis (pipe level of service).
    - Pollutant modeling (bacteria, sediment, PCBs, etc.)
    - Stormwater BMP feasibility and siting for retrofitting.
    - Project cost/benefit analysis.
  - iii. Hydraulic Modeling, Flood Study & Analysis
    - Open channel hydraulic modeling (HEC-RAS, 1D, Steady State Flow)
    - Two dimensional (2D) open channel hydraulic modeling, unsteady state flow.
    - No-impact/No-rise certifications
    - Conditional letter of map revisions (CLOMR)
    - Letter of map revisions (LOMR)
    - Floodplain/floodway delineation and other mapping tasks.
  - iv. Storm Drain Design & Analysis
    - Hydrologic Modeling (Rational Method, SCS TR-55, HEC- HMS, etc.)
    - Closed system hydraulic modeling (both storm drain systems and culverts)
    - Minor roadway design



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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- Site design
- Green Infrastructure (GI) design
- Stormwater BMP retrofits (GI, Bioswales, outfalls, etc.)
- Construction Plans
- v. Geomorphic Channel Assessment
  - Geomorphic stream assessments
  - Sediment transport competency and capacity analysis
  - Geomorphic characteristic relationship/curves (e.g., bankfull, sediment rating curves)
- vi. Natural Channel Design and Monitoring
  - Streambank stabilization design
  - Stream enhancement/restoration design
  - Regenerative swale conveyance (RSC) design
  - Invasive species identification and removal plan
  - Streambank planting and maintenance plan
  - Riparian planting and maintenance plan
  - Stormwater BMP planting and maintenance plan
  - Construction plans
  - Monitoring
- vii. Dam Safety and Analysis
  - Dam inspection
  - Dam rehabilitation
  - Dam classification
  - Breach analysis
  - Emergency action and maintenance plans
- viii. Dam Removal
  - Breach sediment transport analysis
  - Construction and maintenance plans
- ix. Value Engineering
  - Value engineering services for stormwater, green infrastructure, natural channel and flood mitigation projects.
- x. Cost Estimating
  - Engineer's estimate of probable construction cost for stormwater, natural channel and flood mitigation projects.
- xi. Survey
  - Topographic
  - Base-mapping
  - Easement/right-of-ways plats
  - Natural channel design survey
- xii. Sewer Plant Design and Construction Services
  - Cost Estimate for Design



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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### b. Required Licenses and Certifications

- i. Services provided under Group V – Stormwater Management shall be performed and/or managed by personnel with the following licenses and certifications:
  - Licensed Professional Engineer
  - Licensed Land Surveyor

### c. Desired Licenses and Certifications

- i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:
  - Licensed Landscape Architect
  - Envision Sustainability Professional
  - Certified Floodplain Manager
  - Licensed Soil Scientist
  - Natural Channel Design Certification
  - Licensed Wetland Scientist
  - OSHA Confined Entry Certification

## 6. Group VI--Survey

- a. Lead Engineering Firms to provide survey services listed in this section. The Lead Engineering Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

- i. Surveying
  - Property Research
  - Permanent Control and Benchmark Monuments
  - Platting Services
  - Topographic Survey including aerial and subsurface utility locations
  - Base mapping
  - Easement/right of way plats
  - Natural channel design survey

### b. Required Licenses and Certifications:

- i. Services provided under Group VI – Survey shall be performed and/or



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

Engineering, Architecture, and Construction Support Services

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managed by personnel with the following licenses and certifications:

- Licensed Survey

### 7. Group VII--Park and Trail Services

a. Lead Design Firms to provide planning and design services listed in this section. The Lead Design Firm's role includes, but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

#### i. Park and Trail Planning and Design

- Plan and design new parks and trails (paved or natural)
- Rehabilitate existing parks and trails (paved or natural)
- Design services may include but are not limited to; play spaces, outdoor aquatic facilities (pools, family aquatic, spray grounds), athletic facilities, sports lighting, outdoor lighting, sidewalks, pathways, plazas, stream restoration/preservation, retaining walls, pavilions, stormwater BMP's, outdoor adventure facilities
- Maintenance management strategy and analysis
- Asset life-cycle modeling
- Green infrastructure analysis
- Park benefit gap analysis

#### ii. Landscape Architecture

- Provide landscape and architecture services required for new designs and renovation of existing designs.

### b. Desired Licenses and Certifications

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Virginia licensed landscape architect
- Surveyors license
- Envision certification
- Virginia licensed engineer

### 8. Group VIII--Solid Waste-Groundwater Monitoring and Gas Monitoring for Closed Landfill

#### a. Ground Water Monitoring

i. Maintain regulatory compliance and conduct routine groundwater



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

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monitoring under an Assessment Monitoring Program (AMP) in accordance with 9 VAC 20-81-250.B.3 of the Virginia Solid Waste Management Regulations (VSWMR).

- Complete semiannual VSWMR Assessment Monitoring Program groundwater events for all wells in the compliance network.
  - One (1) semiannual sampling and analysis for VSWMR Table 3.1 Column A target analytes (no VSWMR Table 3.1 Column B target analytes have been detected) for all four (4) compliance wells.
  - One (1) semiannual sampling and analysis for VSWMR Table 3.1 Column B target analytes for all four (4) compliance wells.
  - Evaluate and confirm the laboratories performing the analyses are capable of performing the work in accordance with standard laboratory protocol and are accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP) for the requisite methods and analytes in accordance with Virginia Department of Environmental Quality (DEQ) requirements.
  - Coordinate with related laboratories for the collection and delivery of samples to include proper field techniques, quality control, sample containers, shipment and appropriate chain-of-custody documentation.
  - Verify that the analytical methods are in accordance with the current VELAP accreditation and applicable USEPA SW-846 protocols where applicable.
  - Perform data validation, statistical evaluation, and comparison to GPS.
  - Coordinate and complete verification sampling efforts, as needed, based on preliminary data.
  - Prepare two (2) Semiannual Groundwater Monitoring Reports and one (1) Annual Groundwater Monitoring Report for submittal to the DEQ.
  - Prepare responses to DEQ comments on groundwater reports as needed, perform other interactions with the County and DEQ on matters consistent with scope of services.
- ii. Assist with other regulatory compliance activities as requested by County
- iii. Additional activities
- Well repairs and pump repairs or replacement--Actions may be needed to support maintenance and operations requirements per the Facility's Groundwater Monitoring Plan (GMP).



## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

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- Alternate Source Demonstration (ASB), Additional Verification Sampling. ASDs and additional verification sampling are often used when original reported concentrations cannot be disconfirmed but are not likely the result of a release from the landfill.
  - Well development activities—Monitoring wells occasionally need to be redeveloped to remove sediment that has collected in the sand filter pack or in the bottom of the well over the years. Sediment in the well or filter pack can influence/bias high inorganic concentrations of groundwater.
- b. Gas Monitoring and Management
- i. Gas Probe Monitoring
    - Conduct four (4) quarterly gas probe monitoring events during which all seventeen (17) permanent compliance probes, five (5) interior probes as well as the animal shelter, the convenience station, and the maintenance bays, building, and office will be monitored.
    - Conduct up to eight (8) monthly gas probe monitoring events, if required, in addition to the four (4) quarterly events, During these events, all compliance and gas migration probes that have methane in them above 4% by volume compliance level and immediately adjacent probes will be monitored.
    - Notify County staff and the DEQ either orally or via email within 24 hours after gas probe is found to be out of compliance.
    - Submit the results to County staff and to the DEQ. If any of the probes have methane concentrations above the 4% by volume action level, this submittal shall be within 5 business days.
  - ii. Active Gas System Monitoring
    - Conduct 12 monthly monitoring, adjustment, and maintenance events of the active gas system. This is required activity to ensure effective operation of the active gas system and help maintain boundary probe compliance.
    - During each monitoring event, the blower system, gas well pump, and the seven (7) extraction wells will be monitored.
    - During each site visit, the main gas headers will be drained of condensate by cycling the valves at the bottom of the headers, if necessary.
    - During each site visit, the water levels in select gas wells will be monitored as deemed necessary. The gas wells monitored





## Attachment 1 – QUALIFICATIONS/SCOPE OF WORK

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include wells likely to have a positive effect on preventing gas migration. If the water levels are found to be high, the wells will be pumped down.

- Download the data into spreadsheets and provide to County staff.
  - Perform minor maintenance such as hose and sample connector replacement.
  - Conduct any required monthly monitoring of gas probes.
  - Inform County staff immediately if the blower system or gas well pump is inoperable or if other significant problems exist.
- c. Assist with other regulatory compliance activities as requested by the County.



## Attachment 2 – SPECIAL TERMS AND CONDITIONS

Engineering, Architecture, and Construction Support Services

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The headings, below, are for general reference purposes only and shall have no effect on the interpretation of the Contract.

### Special Terms & Conditions

1. **Key Personnel.** The personnel named in the Proposal shall remain assigned to the project throughout the period of the contract unless requested to be replaced by the County. If the County requests an individual to be replaced (including any personnel of any subcontractor), the Offeror shall do so within 30 days of the request, and without any additional charge to the County. No replacement may be made without submission of a resume of the proposed replacement for approval by the County.
2. **Conflict of Interest.** Each firm/team shall require its proposed members to identify potential conflicts of interest of a real or perceived competitive advantage relative to this procurement. Firms/teams are notified that prior or existing contractual obligations between a company and a federal or state agency relative to the contract may present a conflict of interest or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the firm/team shall submit in writing the pertinent information to County's point of contact.

The County, in its sole discretion, will make a determination relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined to have a conflict of interest or competitive advantage relative to this procurement that cannot be mitigated, shall not be allowed to participate as a team member for the project. Failure to abide by County's determination in this matter may result in proposal being declared non-responsive.

No member of or delegate to the Congress of the United States shall be entitled to any share or part of this Agreement or to any benefit arising therefrom. The Consultant shall not engage the services of any person employed by the County on any services covered by this Agreement without written permission of the County. Written permission will not be granted for any employee having official responsibility, as that term is defined in Section 2.2-4368 of the Code of Virginia, who dealt in an official capacity with the Consultant concerning procurement during his employment or for a period of one year from cessation of employment by the County unless the employee or former employee provides written notification to the County and receives written permission prior to commencement of employment by the Consultant. Any violation of these provisions by the Consultant shall be a basis for immediate termination of this agreement for cause.

3. **Jobsite Appearance.** The Offeror expressly undertakes, either directly or through its subconsultant (s), to clean up frequently all refuse, rubbish, scrap material, and debris caused by its operations, to the end that at all times the jobsite shall present a neat, orderly, and workmanlike appearance. No such refuse, rubbish, scrap material, and debris shall be left within the completed Work nor buried on site but shall be properly protected and removed from the site and properly disposed of in a licensed landfill or otherwise as required by law or as otherwise required by the Contract.
4. **Final Cleaning.** The Offeror expressly undertakes, either directly or through its subconsultant (s), before final payment, to remove all surplus material, false work, temporary structures, and debris of every nature resulting from its operations and to put the site in a neat, orderly condition. If an Offeror



## Attachment 2 – SPECIAL TERMS AND CONDITIONS

Engineering, Architecture, and Construction Support Services

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- fails to clean up at the completion of the Project, the County may do so and charge for the costs thereof to the Consultant.
5. **Protection on Site.** The Offeror expressly undertakes, both directly and through its subconsultant, to take every reasonable precaution at all times for the protection of all persons and property which may come on the jobsite or be affected by the Offeror's operation in connection with the Work.
  6. **Safety and Health Precautions.** The Offeror shall be solely responsible for initiating, maintaining, and supervising all safety and health precautions and programs in connection with the Work, including but not limited to provision of appropriate sanitation facilities, if applicable.
  7. **Protecting the Public.** The Offeror shall in all cases protect the public and the Work, during its execution, by posting and maintaining, at its expense, appropriate signs, barricades, barriers, lights, flagmen, and other safety devices in accordance with the most current version of the "Virginia Work Area Protection Manual," published by Virginia Department of Transportation.
  8. **Protecting the Work and Adjacent Property.** The Offeror shall continuously maintain adequate protection of all its work from damage and shall protect the County's property and the property where the work is being done from injury or loss arising in connection with this Contract. The Offeror shall adequately protect adjacent property to prevent any damage to it or its loss of use. Offeror shall provide and maintain all passageways, guard fences, lights, and other facilities for protection required by any public authority, local conditions, any of the Contract Documents, or erected for the fulfillment of its obligations for the protection of persons and property.
  9. **Emergencies.** In an emergency affecting the safety or life of persons or of the Work, or of the adjoining property, the Consultant, without special instruction or authorization from the County's project manager, Building Code Official, or Fire Official, shall act, at Offeror's discretion, to prevent such threatened loss or injury. Also, should Offeror, to prevent threatened loss or injury, be instructed or authorized to act by the County's project manager, Building Code Official, Fire Official, or other responsible official, Offeror shall so act immediately, without appeal.
  10. **Damage to the Work.** The Offeror shall have charge of and be solely responsible for the entire Work and be liable for all damages to the Work including, but not limited to any property in the vicinity of the Work, until its completion and acceptance by the County.
  11. **Damage to Other Work or Utilities.** The Offeror shall take into account all other work which shall be done by other parties on the jobsite, either now known or which may become necessary during the progress of the Work and shall be responsible for any damage done to the other work. Should any utilities require adjustment during the Work, it shall be the Offeror's responsibility to have such utilities relocated as a part of the Work and to contact and cooperate with the respective Utility Company in performance of such operations. The respective Utility Company shall be given a minimum of forty-eight (48) hours notice prior to the adjustment, and the Offeror shall comply with the provisions of the Virginia Underground Utilities Damage Prevention Act, Section 56-265.14 et seq.,



## Attachment 2 – SPECIAL TERMS AND CONDITIONS

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- of the Va. Code. Damages that may occur to the utilities during the Work shall be the sole responsibility of the Offeror.
12. **Weather Damage or Delay.** Damage to the Work or any delays caused by the weather shall be the responsibility of the Offeror.
  13. **Damage to Existing Structures.** Damage caused by Offeror or its subconsultants to concrete curbs, gutters, sidewalks, or any existing facility, structure, or building that may occur during the Work shall be repaired or replaced by the Offeror, at its sole expense, as directed by and to the satisfaction of the County.
  14. **Release by Offeror.** The acceptance by the Offeror of the final payment shall be and does operate as a release by the Offeror of all claims by the Offeror against County and of all other liability of the County to the Offeror whatever, including liability for all things done or furnished in connection with the Work or the Contract.
  15. **Defective Work.** The Offeror agrees it shall repair or replace, at Offeror's sole expense, and to the satisfaction of the County, any work, material, equipment, or part that is found, by the County, to be defective.
  16. **State of Virginia Nondiscrimination Provision.** For state-funded projects, construction contractors and consultants must abide by Title 2.2, chapter 43 of the Code of Virginia (the Public Procurement Act) that declares it to be the policy of the Commonwealth of Virginia that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving state financial assistance.



### **Attachment 3 – GENERAL TERMS AND CONDITIONS**

Engineering, Architecture, and Construction Support Services

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The headings, below, are for general reference purposes only and shall have no effect on the interpretation of the Contract.

#### **General Terms and Conditions**

##### Payment

1. Form of payment. All invoices shall be directed to the payment address shown on the purchase order/contract. All invoices shall show the County purchase order number and the Contractor's federal employer identification number.
2. Timing of payment. Any payment terms requiring payment in less than thirty (30) days will be regarded as requiring payment thirty (30) days after the invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than thirty (30) days, however.

##### Tax exemptions

3. Tax exemption. The County is exempt from State sales tax on purchase of goods. State sales and use tax certificates of exemption will be issued upon request.
4. Direct purchase. Not applicable.

##### Contractor Qualifications & Performance

5. Contractor licensure. Contractor shall maintain current permits, certifications, and licensure as required to perform the services required by this Contract.
6. Independent contractor. The selected contractor is an independent contractor and shall not be deemed the agent of the County of Washington for any purpose whatsoever. No contractor's employee or sub-contractor shall hold himself out as an employee of the County of Washington and none shall have power or authority to bind or obligate the County of Washington in any manner. Contractor shall be liable for and pay all taxes required by local, state, or federal governments or any other taxes and permits required by law. Contractor shall adhere to any and all regulations and stipulations governing the operation and work of such contractor for the duration of this contract. The County of Washington shall in no manner be held liable for the Contractor's disregard for required work related regulations.
7. No subcontract or assignment. No portion of the work to be performed pursuant to this Contract shall be subcontracted or assigned without the written consent of the County.
8. Contract performance. Not applicable.
9. Asbestos. Not applicable.



**Attachment 3 – GENERAL TERMS AND CONDITIONS**

Engineering, Architecture, and Construction Support Services

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- 10. Repair of damage. Not applicable.
- 11. Final Inspection. Not applicable.
- 12. Record retention and audit. Contractor shall retain all books, records, and other documents relative to this contract for 5 years after final payment, or until audited by the County or its authorized agent, whichever is sooner.
- 13. Insurance requirement. Contractor shall maintain insurance to meet the minimum requirements specified below, including contractual liability as stated in these General Terms and Conditions. Contractor shall deliver to the County a Certificate of Insurance from carriers acceptable to the County specifying such limits. The Certificate shall show the County of Washington named as an additional insured for the Comprehensive General Liability. In addition, Contractor or its insurer shall give the County 30 days advance notice of its decision to cancel coverage, which shall be grounds for County termination of contract.

Liability Insurance Coverage requirements:

- 1. Worker’s Compensation and Employer’s Liability
  - Coverage A - Statutory Requirements
  - Coverage B - \$100,000 Per Occurrence
  - Coverage C - \$100,000/\$100,000 Accident and/or Disease
  - All States Endorsement
- 2. Automobile Liability, including Owned, Non-Owned, and Hired Car Coverage
  - Limits of Liability
  - Combined Single Limit \$1,000,000
- 3. Comprehensive General Liability Limits of Liability:
  - Per Occurrence \$1,000,000
  - In Aggregate \$2,000,000

Including:

- A. Completed Operations/Products
- B. Contractual Liability for Specified Agreement
- C. Personal Injury and Advertising Injury
- D. Bodily Injury and Broad Form Property Damage
- 4. Professional Liability \$1,000,000 per occurrence  
\$2,000,000 aggregate



### **Attachment 3 – GENERAL TERMS AND CONDITIONS**

Engineering, Architecture, and Construction Support Services

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14. Insurance discretion of County. If the insurance coverage and limits stated herein cannot be provided, the County Director of Department of Budget and Finance, in such Director's sole discretion, may approve such other insurance coverage or limits that the County Director of Department of Budget and Finance deems acceptable.

#### County constitutional limitation

15. Constitutional limitation. The County obligations pursuant to this Contract are moral obligations subject to the limitations of the constitution and law of the Commonwealth of Virginia, subject to annual appropriation by the Board, and non-appropriation shall not constitute grounds for recovery against the County. The covenants of the County as stated herein shall not be interpreted to establish any pledge, security interest, lien, or other encumbrance of the full faith and credit or property of the County. State law and constitution prohibit Washington County from expenditure of funds unless appropriated by the Washington County Board of Supervisors and from obligating funds beyond the current fiscal year (July 1 – June 30).

#### Contract

16. Non-waiver of rights. No failure of either party to exercise any power given to it hereunder, nor a failure to insist upon strict compliance by the other party with its obligations hereunder, nor a custom or practice of the parties at variance with the terms hereof, nor any payment constitutes a waiver of either party's right to demand exact compliance with the terms hereof. Failure by the County to act on or to assert any right hereunder does not constitute a waiver of such right.

17. Binding effect. This Contract shall be binding upon all heirs, successors, and/or assigns to any of the parties to this Contract, subject to limitations of law for the County as stated herein.

18. Modification and assignment. This Contract may be modified or assigned only by written agreement signed by all parties hereto.

19. Change orders. Any change in the scope of work to be performed, materials to be used, price of project, schedule for completion, or other aspect of performance of the contract shall require a written modification of the contract, which shall be called a Change Order. Unless it is not feasible to do so, Change Orders shall be prepared using the County-provided form for Change Orders. BEFORE proceeding with any additional work or variations in specified materials, Contractor shall obtain a written Change Order signed by both parties to the contract or, at minimum, email authorization from the County. The only persons authorized to sign a Change Order on behalf of the County or to provide email authorization for a Change Order shall be the County Treasurer or his or her designee. The County shall not pay any



### Attachment 3 – GENERAL TERMS AND CONDITIONS

Engineering, Architecture, and Construction Support Services

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additional expense incurred by Contractor based on an oral-only change agreement. The Change Order shall be come effective only after it has been signed on behalf of both parties to the Contract by the authorized representatives, or if authorized by email, clearly transmitted by emails between such authorized representatives that address all matters that are covered by the Change Order form and that communicate both parties' agreement. Both parties to the contract agree to act in good faith and promptly when considering a Change Order requested by the other party but neither party is obligated to execute a Change Order.

20. Sovereign immunity. Nothing in this Contract shall be construed as an express or implied waiver of the County's sovereign or Eleventh Amendment immunity, as a political subdivision of the Commonwealth.
21. Complete agreement. This Contract sets forth all of the promises, contracts, conditions, and understandings between the parties respecting the subject matter hereof and supersedes all prior and contemporaneous negotiations, conversations, discussions, correspondence, memoranda, and contracts between parties concerning such subject matter.
22. Counterparts and electronic signature. This Contract may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures or signed copies sent by portable document format (PDF) shall be deemed originals.
23. Survival. Contract provisions regarding indemnification and recovery of damages for deficient contract performance shall survive the completion or earlier termination of the contract.

#### Disputes, failure to perform, termination

24. Failure to deliver. In case of failure to deliver goods or services in accordance with the contract terms and conditions, the County, after due oral or written notice, may procure them from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the County may have.
25. Termination of contract:
  - a. County or Contractor may terminate this Contract for convenience upon giving the other party 7 calendar days prior written notice. County shall within 30 calendar days after the date of termination pay Contractor for all services rendered and all costs incurred up to the date of termination in accordance with the applicable fee schedule.





### Attachment 3 – GENERAL TERMS AND CONDITIONS

Engineering, Architecture, and Construction Support Services

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- b. County may terminate the Contract for cause subject to the following provisions. Prior to termination of the contract, the County shall give Contractor ten calendar days prior written notice, during which Contractor may rectify the cause of the termination. County may postpone the effective date of the termination, at its sole discretion. If rectified to the satisfaction of the County within said ten days or such other time as allowed by County, County may rescind the notice of termination. If it does not, then the County may immediately terminate the contract for cause by giving written notice to the Contractor.
  - c. Written notice of termination, whether initial or given after a period of postponement, may be served upon the contractor by U.S. mail or any other means at Contractor's last known place of business in Virginia or elsewhere, by delivery to any officer or management/supervisory employee of either wherever they may be found, or, if no such officer, employee or place of business is known or can be found by reasonable inquiry within three (3) business days, by posting the notice at the job site. Contractor's failure to accept or pick up registered or certified mail addressed to the last known address shall be deemed to be delivery.
26. Termination for cause. Without limitation, the following are bases for termination for cause, County may terminate the contract in the event Contractor fails to remain in compliance with applicable requirements for permitting, insurance, registration to do business in the Commonwealth of Virginia for the purposes required by the contract.
27. Termination for bankruptcy or acquisition by third party. The County may terminate the Contract if Contractor files for bankruptcy protection or is acquired by an independent third party. Contractor must disclose to the County any litigation, bankruptcy, or suspensions/disbarments that occur during the Contract period. Failure to disclose such information authorizes the County to immediately terminate the Contract.
28. Immediate termination. In the event of Contractor conduct that exhibits reckless disregard for the consequences of its conduct and its performance of services pursuant to this Contract, County, at its sole discretion, may immediately terminate the Contract upon delivery of written notice to Contractor. Additionally, in the event of voluntary or involuntary action that results in either the Contractor coming under the jurisdiction of federal bankruptcy court or assignment to a receivership, the County shall have sole discretion to terminate this contract immediately.



## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

Engineering, Architecture, and Construction Support Services

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The purchase of goods and services funded in whole or in part by the federal government are subject to the requirements OF 2 C.F.R. §§ 200.317 – 200.326 and 2 C.F.R. Part 200, Appendix II. The contractor, vendor, or supplier is responsible for ensuring its compliance with all applicable Federal requirements. The following contract clauses shall be incorporated in any contract awarded by the County.

1. **Compliance with Federal Law Regulations and Executive Orders.** This is an acknowledgment that financial assistance may be used to fund all or a portion of the contract. Therefore, the contractor must comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures and directives.
2. **Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.
3. **No Obligation by Federal Government.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the County, the contractor, or any other party pertaining to any matter resulting from the contract.
4. **Equal Employment Opportunity.**  
This section applies to construction contracts. During the performance of the contract, the contractor agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
  - c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation



## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

Engineering, Architecture, and Construction Support Services

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information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contractor or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The contractor will include the portion of the sentence immediately preceding paragraph a and the provision of paragraphs a through h in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the



## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

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equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federal assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency of the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

### 5. **Compliance with the Copeland "Anti-Kickback" Act.**

This section applies to construction contracts in excess of \$2,000 paid for by the one of the following programs: Emergency Management Preparedness Grant Program, Homeland Security Grant Program.

- a. **Contract.** The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. §3145, and the requirements of 29 C.F.R. pt 3 as may be applicable, which are incorporated by reference into this contract.
- b. **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontract the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.

### 6. **Davis-Bacon Act**

This section applies to construction contracts in excess of \$2,000.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable.



## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

Engineering, Architecture, and Construction Support Services

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Vendor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determined by the Secretary of Labor.
- c. Additionally, Contractors are required to pay wages not less than once a week.
- d. Do not apply to projects funded under the American Rescue Plan Act of 2021 (ARPA).

### 7. Contract Work Hours and Safety Standards Act

This section is applicable on contracts in excess of \$100,000 that involve the employment of mechanics or laborers.

- a. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (a) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$32 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- c. **Withholding for unpaid wages and liquidated damages.** The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.



## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

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### 8. Clean Air Act.

This section applies to all contracts in excess of \$150,000.

- a. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §7401 et seq.
- b. The contractor agrees to report each violation to the County, and understands and agrees that the County will, in turn, report each violation as required to assure notifications to the recipient, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### 9. Federal Water Pollution Control Act.

This section applies to all contracts in excess of \$150,000.

- a. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Contract Act, as amended, 33 U.S.C. §1251 et seq.
- b. The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the recipient, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### 10. Suspension and Debarment.

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction into which it enters.

This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County and the Commonwealth of Virginia, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.



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The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**11. Procurement of Recovered Materials.** In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designed items unless the product cannot be acquired:

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

### 12. Access to Records

- a. The contractor agrees to provide the County, the Commonwealth of Virginia, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract

**13. DHS Seal, Logo and Flags.** The contractor shall not use the US Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.

**14. Domestic Preferences for Procurements.** To the extent applicable, Contractor certifies that during the term of this Contract that Contractor will comply with applicable requirements of 2 C.F.R. § 200.322.





## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

Engineering, Architecture, and Construction Support Services

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15. **Affirmative Socioeconomic Steps.** If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. §200.321(b)(1)-(5) to ensure that small and minority business, women’s business enterprises, and labor surplus area firms are used when possible.
16. **License and Delivery of Works Subject to Copyrights and Data Rights.** The contractor grants the County, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the County or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures, or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sounds and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the County data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable to the County.
17. **Prohibition on Contracting for Covered Telecommunications Equipment or Services.**
- (a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications or equipment or services have the meaning as defined in FEMA policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause.
- (b) Prohibitions.
- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. §200.216 prohibit the head of an executive agency on or after August 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;





## Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts

Engineering, Architecture, and Construction Support Services

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- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as substantial or essential components of any system, or as critical technology as part of any system; or
  - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component or any system, or as critical technology as part of any system.
- (c) Exceptions.
- (1) This clause does not prohibit contractors from providing:
    - (i) A service that connects to the facilities of a third-party, such as backhauling, roaming, or interconnection arrangements; or
    - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
  - (2) By necessary implication or regulation, the prohibitions also do not apply to:
    - (i) Covered telecommunications equipment or services that:
      - i. Are not used as substantial or essential component of any system; and
      - ii. Are not used as critical technology of any system.
    - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- (d) Reporting Requirement.
- (1) In the event the contractor identifies covered telecommunications equipment or services used as substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other sources, the contractor shall report the information in paragraph (d) (2) of this clause to the recipient of subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
  - (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
    - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name, supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.



**Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts**

Engineering, Architecture, and Construction Support Services

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(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

18. **Contract Changes or Modifications.** See General Terms and Conditions.

19. **Legal, Contractual, Administrative Remedies for Breach.** See General Terms and Conditions.

20. **Termination for Cause/Convenience.** See General Terms and Conditions.

21. **Byrd Act Anti-Lobbying Amendment.** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**CERTIFICATION OF ANTI-LOBBYING**

The undersigned \_\_\_\_\_ [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 any 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.



**Attachment 4 – Additional Terms & Conditions for Federally-Funded Contracts**

Engineering, Architecture, and Construction Support Services

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2. 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 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 undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date



**Attachment 5 – PROPOSAL QUESTIONNAIRE**

Engineering, Architecture, and Construction Support Services

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**PROPOSAL QUESTIONNAIRE**

The undersigned, as Offeror, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person or Offeror herein mentioned has any interest in this proposal; that this is made without connection with any other person or company or parties making a proposal; and that it is in all respects fair and in good faith without collusion or fraud.

Offeror further declares that they have examined the specifications of the materials and services and informed themselves fully in regard to all the conditions pertaining to the materials and services; that they have examined the specifications relative thereto, and have read all terms and conditions furnished prior to the submittal of the proposal; that they have satisfied themselves relative to the materials and service to be provided.

Offeror agrees, if this proposal is accepted, to furnish all necessary materials and services in accordance with this proposal necessary to complete the Contract in full and complete accordance with the shown, noted, described and reasonably implied requirements of the Request for Proposal attached hereto to the full and entire satisfaction of Washington County, with the definite understanding that no money will be allowed for extra work except as set forth in the attached Request for Proposal and any contract that may result from such submitted Proposal. The statement on this cover sheet shall apply to each element of each proposal submitted to the County.

AGREED, \_\_\_\_\_  
(Signature of Authorized Person)

Signatory's Name (Printed): \_\_\_\_\_

OFFEROR'S NAME (Business Entity): \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

VIRGINIA STATE CORPORATION COMMISSION REGISTRATION NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_



## Attachment 5 – PROPOSAL QUESTIONNAIRE

Engineering, Architecture, and Construction Support Services

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Please provide responses to the requests for information stated below. A response to each item, below, is mandatory. Your responses should be itemized in accordance with the requests for information stated below and you may attach additional pages or materials as referenced in your responses.

The proposal shall provide information necessary for the County to evaluate qualifications, experience, and expertise of the Offeror to perform the requested services. The Offeror is to make a written proposal that presents an understanding of the work to be performed. Proposals should be as thorough and as detailed as possible but written clearly and concisely so that the County may properly evaluate the Offeror's capabilities to provide the required services.

**Complete Attachment 5A, Statement of Qualifications. Offerors are requested to make Attachment 5A in its entirety the first pages of their response.**

Offerors are required to submit the following information/items as a complete proposal:

### **Qualifications and Experience of Offeror Providing Services:**

1. Cover Letter/Executive Summary- The Offeror must submit a Cover Letter/Executive Summary of the overview of their proposal for engineering, architecture, and related services. Provide an overview of the history and qualifications of the firm.
2. Overview- The purpose of this section is to provide the County with an overview of the history, qualifications, and abilities of the Offeror's firm and for the Offeror to demonstrate the specific qualifications of the staff the Offeror will assign if selected. At a minimum, the proposal should:
  - a. Designate a project manager and indicate office location.
  - b. Include the organization chart, functional discipline, and responsibilities of project team members.
  - c. Provide the legal name of the company and the size of the company.
  - d. Describe the company's relevant experience in performing the services.
  - e. Status of the company including: (i) office location, number of employees supporting the same and location of a point of contact; and (ii) number of public sector clients for similar services and size of these organizations including names and locations.
3. Key Personnel- The personnel named in the Proposal shall remain assigned to the project throughout the period of the contract unless requested to be replaced by the County. If the County requests an individual to be replaced (including any personnel of any subcontractor), the Offeror shall do so within 30 days of the request, and without any additional charge to the County. No replacement may be made without submission of a resume of the proposed replacement for approval by the County.
4. Qualifications- The Offeror must describe the professional qualifications, experience, and any additional information that the Offeror considers pertinent to its qualifications for the services and which respond fully to the scope of work described herein for the staff who will be assigned to work with the County. Additional information is defined as:
  - a. Resume of each key employee and any employee who will be engaged in providing the services
  - b. Licenses to provide services required by the Code of Virginia, if applicable.
  - c. Specify any additional individuals who will be assigned to the contract, the level of their experience including credentials, related experience, training, and education of personnel.
  - d. Identify the disciplines that your staff and firm offer.



## Attachment 5 – PROPOSAL QUESTIONNAIRE

Engineering, Architecture, and Construction Support Services

Page 3 of 4

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5. Proposed Sub-Consultants- The Offeror shall clearly state whether it is proposing to subcontract any of the work herein. The names of all proposed sub-consultants shall be provided. By proposing such firm(s) or individuals, the Offeror assumes full liability for the sub-consultant's performance. The Offeror shall state the amount of previous work experience with sub-consultant(s).
6. Financial Condition of Offeror-The Offeror shall submit a current annual financial report and the previous year's report and a statement regarding any recent or foreseeable mergers or acquisitions.
7. Compliance- Indicate whether Offeror has had any contracts terminated for convenience or for cause in the last five years and if so, describe the nature and the circumstances for each contract so terminated.
8. Judgments- Indicate whether Offeror, or any officer, director, partner, or owner had any judgments entered against it or them for breach of contracts in the last ten years. If so, state the person or entity against whom the judgment was entered, give the location and date of judgment, describe the project involved, and explain the circumstances relating to the judgment.

### Method and Plan for Providing Services:

9. Written Plan/Project Approach- Provide a written plan to address each requirement identified in the Scope of Work. Required tasks must be performed in a timely manner. The purpose of this section is to provide the County with the Offeror's understanding and proposed approach to the project/provision of services.
  - a. Discuss in detail the proposed management and project approach, the staffing of the Offeror's firm, and the firm's approach to ensure quality control and completion of all projects within the time frame set forth.

### Representative Projects:

10. Representative Projects-Provide a list and describe representative clients currently serviced focusing on similar services and especially services provided to other Virginia agencies, localities, and public bodies.
  - a. Describe the local office experience including the project name and location, brief description of the project, description of the scope of services provided, and principal contact person.
11. References- On Attachment 6 References Form, please provide three (3) recent references, similar to the County, for whom you have provided the type of services described herein. Include the date(s) services were furnished, the client name, address and the name and phone number of the individual whom the County has your permission to contact.

### Ability to Control Project Costs:

12. Effective Controls-The purpose of this section is to demonstrate the history of effective control of project costs and collection success and ability to accomplish work in a timely manner.
  - a. Describe the Offeror's cost control methodology
  - b. Describe the approach for reducing costs.
  - c. Describe documentation, tracking and reporting systems
  - d. Describe the program for quality control.



**Attachment 5 – PROPOSAL QUESTIONNAIRE**

Engineering, Architecture, and Construction Support Services

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**No Pricing:**

The Offeror will need to be prepared to discuss estimated pricing as a part of the negotiation phase with the County. Since this is a Request for Proposal for Professional Services pursuant to 2.2-4302.2, the County is not requesting that cost of services be submitted as part of the any proposal.



**Attachment 5A – Statement of Qualifications**

Engineering, Architecture, and Construction Support Services

Cover Page of Proposal

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Offerors may submit a proposal for services for any single or combination of the individual groups listed below. **Offerors are requested to make Attachment 5A, Statement of Qualifications, in its entirety the first pages of their proposal response.**

|  |   |
|--|---|
| <input type="checkbox"/> <b><u>Group I – Buildings</u></b>                       | <input type="checkbox"/> <b><u>Group II – General Civil/Transportation</u></b>                          |
| <input type="checkbox"/> <b><u>Group III – Construction Support Services</u></b> | <input type="checkbox"/> <b><u>Group IV – Mechanical, Electrical, and Plumbing Services</u></b>         |
| <input type="checkbox"/> <b><u>Group V – Stormwater Management</u></b>           | <input type="checkbox"/> <b><u>Group VI – Survey</u></b>  |
| <input type="checkbox"/> <b><u>Group VII – Park and Trail Services</u></b>       | <input type="checkbox"/> <b><u>Group VIII-Solid Waste-Groundwater Monitoring and Gas Monitoring</u></b> |

On pages 1 through 9 of the Statement of Qualifications, please indicate by a checkmark either yes or no if your firm provides the services within each group.





Yes                      No

**1. Group 1--Buildings**

a. Lead Firms to provide architectural and engineering services listed in this section. The Lead Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County regarding sustainability and energy efficiency goals, and ensuring high quality deliverables are submitted to the County.

- |   |              |              |
|---|--------------|--------------|
| <p><b>i. Architectural</b></p> <ul style="list-style-type: none"> <li>• Design new facilities.</li> <li>• Renovate existing facilities.</li> </ul>  | <p>_____</p> | <p>_____</p> |
| <p><b>ii. Mechanical</b></p> <ul style="list-style-type: none"> <li>• Design new building systems.</li> <li>• Renovate existing HVAC or plumbing systems.</li> </ul>  | <p>_____</p> | <p>_____</p> |
| <p><b>iii. Structural</b></p> <ul style="list-style-type: none"> <li>• Design new building structural systems.</li> <li>• Analyze existing building structural systems, structure repairs, etc.</li> </ul>  | <p>_____</p> | <p>_____</p> |
| <p><b>iv. Electrical</b></p> <ul style="list-style-type: none"> <li>• Design new systems.</li> <li>• Renovate existing electrical, communication (data, voice and security) or lighting related systems including athletic lighting.</li> </ul>           | <p>_____</p> | <p>_____</p> |
| <p><b>v. Site Development</b></p> <ul style="list-style-type: none"> <li>• Provide surveying, engineering, design services required to completely design facilities.</li> </ul>   | <p>_____</p> | <p>_____</p> |
| <p><b>vi. Value Engineering</b></p> <ul style="list-style-type: none"> <li>• Provide all value engineering services required for new buildings or to renovate existing buildings.</li> </ul>  | <p>_____</p> | <p>_____</p> |
| <p><b>vii. Cost Estimating</b></p> <ul style="list-style-type: none"> <li>• Provide all cost estimating services required for new buildings or to renovate existing buildings.</li> </ul>   | <p>_____</p> | <p>_____</p> |
| <p><b>viii. HVAC</b></p> <ul style="list-style-type: none"> <li>• Provide all engineering services required to completely design new HVAC systems or renovate existing HVAC systems to include HVAC inspection services.</li> </ul>                       | <p>_____</p> | <p>_____</p> |
| <p><b>ix. Interior Design</b></p> <ul style="list-style-type: none"> <li>• Provide all aesthetically pleasing and functional environments through space planning, furniture/equipment/lighting arrangement and building finish specifications.</li> </ul> | <p>_____</p> | <p>_____</p> |

**b. Required Licenses and Certifications:**

- i. Services provided under Group I – Buildings shall be performed and/or managed by personnel with the following licenses and certifications:
- Virginia licensed architect and/or engineer.

\_\_\_\_\_

**c. Desired Licenses and Certifications**

- i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:
- LEED and/or Green Building certification(s)

\_\_\_\_\_

Yes                      No

**2. Group II--General Civil/Transportation**

a. Lead Engineering Firms to provide engineering services listed in this section. The Lead Engineering Firm’s roles include but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

**i. Road Design**

- Provide roadway design services required to widen, improve, or rehabilitate existing urban streets or to design new streets.

\_\_\_\_\_

**ii. General Traffic Engineering Design**

- Traffic signal design
- Design of Intelligent Traffic Systems (ITS) devices
- Signs and pavement markings plans
- Guardrail design and installation
- Street lighting
- Sequence of construction/maintenance of traffic plans
- Traffic Impact Analyses – preparation and review
- Site plan and development plan review
- Safety and congestion analyses

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**iii. Storm Drain Design & Analysis**

- Hydrologic Modeling (Rational Method, SCS TR-55, HEC- HMS, etc.)
- Closed system hydraulic modeling
- Minor roadway design
- Site design
- Stormwater BMP retrofits
- Construction plans

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**iv. Geotechnical Engineering**

- Substance investigation
- Geophysical investigation
- AASHTO laboratory testing

\_\_\_\_\_

**v. Landscape Architecture**

- Provide landscape and architecture service required for new designs and renovation of existing designs.

\_\_\_\_\_

**b. Desired Licenses and Certifications**

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Virginia licensed landscape architect
- Surveyors license
- Envision certification
- Virginia licensed engineer

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| <u>Yes</u> | <u>No</u> |
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**3. Group III--Construction Support Services**

a. The Firms to provide construction support services listed in this section. The Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County and ensuring high quality deliverables are submitted to the County.

**i. Geotechnical**

• Subsurface investigation, analysis, recommendations, testing and monitoring as may be required.

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**ii. IBC Special Inspections**

• Inspection of construction as defined by the International Building Code in order to ensure compliance with approved construction documents.

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**iii. Commissioning**

• Verifying a building's subsystems (mechanical, plumbing, electrical, fire/life safety etc.) are installed by the Contractor in accordance with plans and specifications.

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**iv. Material Testing**

• Test and observations in the laboratory and field to determine compliance with plans, specifications, and industry standards.

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**v. Environmental Engineering**

- Phase 1 and 2 Site Assessments
- Property Condition Surveys
- Wetland Delineation and Permitting
- Environmental Monitoring
- Asbestos, Lead, and Mold Surveys
- Hazardous Waste Identification
- Disposal Analysis

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**b. Desired Licenses and Certifications**

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Virginia licensed engineer
- VDOT Materials Certifications
- Certified Welding Inspection (CWI)

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**4. Group IV--Mechanical, Electrical and Plumbing Services**

a. The Firms to provide engineering services listed in this section. The Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County and ensuring high quality deliverables are submitted to the County.

**i. Mechanical**

• Completely design new mechanical systems or renovate existing mechanical systems, including but not limited to the following:

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- HVAC design
- Central plant systems (steam, chilled, water)
- Industrial ventilation
- Indoor building automation systems/energy management systems air quality
- Geothermal systems
- Sustainable design
- Life cycle cost analysis
- Code analysis and cost estimating

| <u>Yes</u> | <u>No</u> |
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**ii. Electrical**

- Completely design new electrical systems or renovate existing electrical systems, including but not limited to the following:
  - Design and specify complete power distribution systems.
  - Emergency/standby power distribution, automatic transfer switches (ATS) to central battery inverter systems and uninterruptible power supplies (UPS).
  - Grounding and protection systems including surge protective devices (SPDs) and lighting protection systems.
  - Lighting design.

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**iii. Plumbing**

- Completely design new plumbing systems or renovate existing plumbing systems, including but not limited to the following:
  - Plumbing systems engineering
  - Domestic water distribution
  - Water conservation strategies and system design
  - Gray water and rain water distribution for irrigation and building use, solar hot water generation.
  - Plumbing equipment and fixture selection and specification.
  - Air distribution.
  - Full LEED support documentation, calculations and services.
  - Sanitary waste and vent.

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**b. Desired Licenses and Certifications**

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- LEED certification
- Virginia licensed electrical engineer
- Virginia licensed mechanical engineer

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**5. Group V--Stormwater Management**

a. Lead Engineering Firms to provide stormwater management services listed in this section. The Lead Engineering Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project, consulting to the County and ensuring high quality deliverables are submitted to the County.

**i. Permitting**

- Stream and wetland delineation
- Clean Water Act 401/404
- Erosion and sediment control
- Virginia Stormwater Management Permitting (VSMP)
- Endangered Species Act

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**ii. Watershed Planning**

- Watershed level storm drain and pipe capacity analysis (pipe level of service).
- Pollutant modeling (bacteria, sediment, PCBs, etc.)
- Stormwater BMP feasibility and siting for retrofitting.
- Project cost/benefit analysis.

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|  | Yes | No |
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| <b>iii. Hydraulic Modeling, Flood Study &amp; Analysis</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Open channel hydraulic modeling (HEC-RAS, 1D, Steady State Flow)</li> <li>• Two dimensional (2D) open channel hydraulic modeling, unsteady state flow.</li> <li>• No-impact/No-rise certifications</li> <li>• Conditional letter of map revisions (CLOMR)</li> <li>• Letter of map revisions (LOMR)</li> <li>• Floodplain/floodway delineation and other mapping tasks.</li> </ul>  |     |    |
| <b>iv. Storm Drain Design &amp; Analysis</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Hydrologic Modeling (Rational Method, SCS TR-55, HEC- HMS, etc.)</li> <li>• Closed system hydraulic modeling (both storm drain systems and culverts)</li> <li>• Minor roadway design</li> <li>• Site design</li> <li>• Green Infrastructure (GI) design</li> <li>• Stormwater BMP retrofits (GI, Bioswales, outfalls, etc.)</li> <li>• Construction Plans</li> </ul>  |     |    |
| <b>v. Geomorphic Channel Assessment</b>  |     |    |
| <ul style="list-style-type: none"> <li>• Geomorphic stream assessments</li> <li>• Sediment transport competency and capacity analysis</li> <li>• Geomorphic characteristic relationship/curves (e.g., bankfull, sediment rating curves)</li> </ul>   |     |    |
| <b>vi. Natural Channel Design and Monitoring</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Streambank stabilization design</li> <li>• Stream enhancement/restoration design</li> <li>• Regenerative swale conveyance (RSC) design</li> <li>• Invasive species identification and removal plan</li> <li>• Streambank planting and maintenance plan</li> <li>• Riparian planting and maintenance plan</li> <li>• Stormwater BMP planting and maintenance plan</li> <li>• Construction plans</li> <li>• Monitoring</li> </ul> |     |    |
| <b>vii. Dam Safety and Analysis</b>  |     |    |
| <ul style="list-style-type: none"> <li>• Dam inspection</li> <li>• Dam rehabilitation</li> <li>• Dam classification</li> <li>• Breach analysis</li> <li>• Emergency action and maintenance plans</li> </ul>  |     |    |
| <b>viii. Dam Removal</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Breach sediment transport analysis</li> <li>• Construction and maintenance plans</li> </ul>   |     |    |
| <b>ix. Value Engineering</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Value engineering services for stormwater, green infrastructure, natural channel and flood mitigation projects.</li> </ul>  |     |    |
| <b>x. Cost Estimating</b>  |     |    |
| <ul style="list-style-type: none"> <li>• Engineer's estimate of probable construction cost for stormwater, natural channel and flood mitigation projects.</li> </ul>   |     |    |
| <b>xi. Survey</b>  |     |    |
| <ul style="list-style-type: none"> <li>• Topographic</li> <li>• Base-mapping</li> <li>• Easement/right-of-ways plats</li> <li>• Natural channel design survey</li> </ul>   |     |    |
| <b>xii. Sewer Plant Design and Construction Services</b>   |     |    |
| <ul style="list-style-type: none"> <li>• Cost Estimate for Design</li> </ul>   |     |    |

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| <u>Yes</u> | <u>No</u> |
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**b. Required Licenses and Certifications**

i. Services provided under Group V – Stormwater Management shall be performed and/or managed by personnel with the following licenses and certifications:

- Licensed Professional Engineer
- Licensed Land Surveyor

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**c. Desired Licenses and Certifications**

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Licensed Landscape Architect
- Envision Sustainability Professional
- Certified Floodplain Manager
- Licensed Soil Scientist
- Natural Channel Design Certification
- Licensed Wetland Scientist
- OSHA Confined Entry Certification

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**6. Group VI--Survey**

a. Lead Engineering Firms to provide survey services listed in this section. The Lead Engineering Firm's role includes but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

**i. Surveying**

- Property Research
- Permanent Control and Benchmark Monuments
- Platting Services
- Topographic Survey including aerial and subsurface utility locations
- Base mapping
- Easement/right of way plats
- Natural channel design survey

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**b. Required Licenses and Certifications:**

i. Services provided under Group VI – Survey shall be performed and/or managed by personnel with the following licenses and certifications:

- Licensed Survey

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Yes                      No

**7. Group VII--Park and Trail Services**

a. Lead Design Firms to provide planning and design services listed in this section. The Lead Design Firm's role includes, but is not limited to the following: coordination and management of all services listed below for each respective project; consulting to the County, and ensuring high quality deliverables are submitted to the County.

**i. Park and Trail Planning and Design**

- Plan and design new parks and trails (paved or natural)
- Rehabilitate existing parks and trails (paved or natural)

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• Design services may include but are not limited to; play spaces, outdoor aquatic facilities (pools, family aquatic, spray grounds), athletic facilities, sports lighting, outdoor lighting, sidewalks, pathways, plazas, stream restoration/preservation, retaining walls, pavilions, stormwater BMP's, outdoor adventure facilities

- Maintenance management strategy and analysis
- Asset life-cycle modeling
- Green infrastructure analysis
- Park benefit gap analysis

**ii. Landscape Architecture**

• Provide landscape and architecture services required for new designs and renovation of existing designs.

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**b. Desired Licenses and Certifications**

i. It is the preference of the County that the successful Offeror have personnel on staff with the following licenses and certifications:

- Virginia licensed landscape architect
- Surveyors license
- Envision certification
- Virginia licensed engineer

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**8. Group VIII--Solid Waste-Groundwater Monitoring & Gas Monitoring for Closed Landfill**

**a. Ground Water Monitoring**

**i. Maintain regulatory compliance and conduct routine groundwater monitoring under an Assessment Monitoring Program (AMP) in accordance with 9 VAC 20-81-250.B.3 of the Virginia Solid Waste Management Regulations (VSWMR).**

• Complete semiannual VSWMR Assessment Monitoring Program groundwater events for all wells in the compliance network.

\_\_\_\_\_  
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• One (1) semiannual sampling and analysis for VSWMR Table 3.1 Column A target analytes (no VSWMR Table 3.1 Column B target analytes have been detected) for all four (4) compliance wells.

\_\_\_\_\_

• One (1) semiannual sampling and analysis for VSWMR Table 3.1 Column B target analytes for all four (4) compliance wells.

\_\_\_\_\_

|  | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| <ul style="list-style-type: none"> <li>• Evaluate and confirm the laboratories performing the analyses are capable of performing the work in accordance with standard laboratory protocol and are accredited under the Virginia Environmental Laboratory Accreditation Program (VELAP) for the requisite methods and analytes in accordance with Virginia Department of Environmental Quality (DEQ) requirements.</li> </ul> | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Coordinate with related laboratories for the collection and delivery of samples to include proper field techniques, quality control, sample containers, shipment and appropriate chain-of-custody documentation.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Verify that the analytical methods are in accordance with the current VELAP accreditation and applicable USEPA SW-846 protocols where applicable.</li> </ul>  | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Perform data validation, statistical evaluation, and comparison to GPS.</li> </ul>  | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Coordinate and complete verification sampling efforts, as needed, based on preliminary data.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Prepare two (2) Semiannual Groundwater Monitoring Reports and one (1) Annual Groundwater Monitoring Report for submittal to the DEQ.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Prepare responses to DEQ comments on groundwater reports as needed, perform other interactions with the County and DEQ on matters consistent with scope of services.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li><b>ii. Assist with other regulatory compliance activities as requested by County</b></li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li><b>iii. Additional activities</b></li> </ul>  | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Well repairs and pump repairs or replacement--Actions may be needed to support maintenance and operations requirements per the Facility's Groundwater Monitoring Plan (GMP).</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Alternate Source Demonstration (ASB), Additional Verification Sampling. ASDs and additional verification sampling are often used when original reported concentrations cannot be disconfirmed but are not likely the result of a release from the landfill.</li> </ul>  | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Well development activities—Monitoring wells occasionally need to be redeveloped to remove sediment that has collected in the sand filter pack or in the bottom of the well over the years. Sediment in the well or filter pack can influence/bias high inorganic concentrations of groundwater.</li> </ul>   | _____      | _____     |
| <p><b>b. Gas Monitoring and Management</b></p>   | _____      | _____     |
| <ul style="list-style-type: none"> <li><b>i. Gas Probe Monitoring</b></li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Conduct four (4) quarterly gas probe monitoring events during which all seventeen (17) permanent compliance probes, five (5) interior probes as well as the animal shelter, the convenience station, and the maintenance bays, building, and office will be monitored.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Conduct up to eight (8) monthly gas probe monitoring events, if required, in addition to the four (4) quarterly events, During these events, all compliance and gas migration probes that have methane in them above 4% by volume compliance level and immediately adjacent probes will be monitored.</li> </ul>  | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Notify County staff and the DEQ either orally or via email within 24 hours after gas probe is found to be out of compliance.</li> </ul>   | _____      | _____     |
| <ul style="list-style-type: none"> <li>• Submit the results to County staff and to the DEQ. If any of the probes have methane concentrations above the 4% by volume action level, this submittal shall be within 5 business days.</li> </ul>   | _____      | _____     |



|  | <u>Yes</u> | <u>No</u> |
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| <b>ii. Active Gas System Monitoring</b>  |            |           |
| • Conduct 12 monthly monitoring, adjustment, and maintenance events of the active gas system. This is required activity to ensure effective operation of the active gas system and help maintain boundary probe compliance.  | _____      | _____     |
| • During each monitoring event, the blower system, gas well pump, and the seven (7) extraction wells will be monitored.  | _____      | _____     |
| • During each site visit, the main gas headers will be drained of condensate by cycling the valves at the bottom of the headers, if necessary.   | _____      | _____     |
| • During each site visit, the water levels in select gas wells will be monitored as deemed necessary. The gas wells monitored include wells likely to have a positive effect on preventing gas migration. If the water levels are found to be high, the wells will be pumped down. | _____      | _____     |
| • Download the data into spreadsheets and provide to County staff.   | _____      | _____     |
| • Perform minor maintenance such as hose and sample connector replacement.   | _____      | _____     |
| • Conduct any required monthly monitoring of gas probes.   | _____      | _____     |
| • Inform County staff immediately if the blower system or gas well pump is inoperable or if other significant problems exist.  | _____      | _____     |
| <b>c. Assist with other regulatory compliance activities as requested by County</b>  | _____      | _____     |

**Attachment 6 – REFERENCES**

Engineering, Architecture, and Construction Support Services

Page 1 of 2

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Offeror shall provide a list of at least 5 references where similar goods and/or services have been provided. Each reference shall include the name of the organization, the complete mailing address, name of the contact person, email address and telephone number.

1. ORGANIZATION \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NO. (\_\_\_\_)\_\_\_\_\_ Email address: \_\_\_\_\_  
SERVICE DATES \_\_\_\_\_

2. ORGANIZATION \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NO. (\_\_\_\_)\_\_\_\_\_ Email address: \_\_\_\_\_  
SERVICE DATES \_\_\_\_\_

3. ORGANIZATION \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NO. (\_\_\_\_)\_\_\_\_\_ Email address: \_\_\_\_\_  
SERVICE DATES \_\_\_\_\_



**Attachment 6 – REFERENCES**

Engineering, Architecture, and Construction Support Services

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4. ORGANIZATION \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NO. (\_\_\_\_)\_\_\_\_\_ Email address: \_\_\_\_\_  
SERVICE DATES \_\_\_\_\_

5. ORGANIZATION \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
TELEPHONE NO. (\_\_\_\_)\_\_\_\_\_ Email address: \_\_\_\_\_  
SERVICE DATES \_\_\_\_\_

This form is required to be submitted to be considered a Qualified Offeror for this solicitation.



**Attachment 7 PROPRIETARY/CONFIDENTIAL INFORMATION**

Engineering, Architecture, and Construction Support Services

*Page 1 of 1*

Trade secrets or proprietary information submitted by a bidder/offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder/offeror must invoke the protections of 2.2-4342(f) of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected including the section of the bid/proposal in which it is contained and the page numbers, and state reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures or paragraphs that constitute trade secrets or proprietary information. In addition, a summary of proprietary information to be withheld shall be submitted on this form. A bidder/offeror may not designate as trade secrets or proprietary information (a) an entire bid or proposal; (b) any portion of a bid or proposal that does not contain trade secrets or proprietary information; or (c) line item prices or total bid or proposal prices.

**If non-disclosure is invoked, the bidder/offeror must provide the County, in addition to the number of copies elsewhere in this Solicitation, one copy of the bid/proposal with proprietary/confidential information redacted and one electronic copy so that the County may provide it to the public for review.**

| Description of the data or other materials that are requested to be withheld from public disclosure | Page #(s) and Line #(s) &/or Section #(s) where located | State your reason(s) why withholding from public disclosure is necessary |
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You may attach additional copies of this page as necessary.



**SAMPLE CONTRACT**

This Contract is entered into effective \_\_\_\_\_, 20\_\_\_\_, between the Washington County, Virginia (“County” or “Owner”), and \_\_\_\_\_ (“Consultant”).

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**RECITALS:**

WHEREAS, the County is engaging the Consultant to perform certain services for one or more Projects, as set forth within Request for Proposals ("RFP"), issued by the County in connection with this procurement transaction;

WHEREAS, the County and Consultant each acknowledges that it will act in good faith in carrying out its duties and obligations;

WHEREAS, the Consultant makes the following representations, and the County's engagement of the Consultant is based upon such representations, that the Consultant: (i) is an individual, or a business entity, experienced in the type of services the County is engaging the Consultant to perform; (ii) is authorized and licensed to do business within the Commonwealth of Virginia; (iii) is qualified, willing and able to perform On-Call Architecture, Engineering and Construction Support Services for the Project; and (iv) has the expertise and ability to provide On-Call Architecture, Engineering and Construction Support Services which will meet the County's objectives and requirements, and which will comply with the requirements of the governmental, public and quasi-public authorities and agencies having jurisdiction over the Project; and

WHEREAS, the County and Consultant each acknowledges that it has reviewed and familiarized itself with this Contract and agrees to be bound by the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth in this Contract and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, County and Consultant hereby agree as follows:

**SECTION 1. CONSULTANT SERVICES.**

The parties mutually acknowledge the following facts and information:

1.1 This public contract has been awarded following a competitive negotiations process. Except as otherwise expressly agreed in writing by the County within the Contract Documents (ref. Sec. 2.1, below), the Consultant shall be bound by all terms, conditions and requirements set forth within the County's Request for Proposals and each and every addenda thereto (collectively, "RFP"), all of which are incorporated by reference as if set forth herein verbatim. The Consultant has had a full and fair opportunity to review and familiarize itself with all such provisions of the RFP and agrees to be bound thereby.



## Exhibit 1 – Sample Contract

Engineering, Architecture, and Construction Support Services

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1.2. The Consultant shall be responsible for all services performed by its subconsultants and consultants, and the Consultant shall assure that the work of its consultants complies with the requirements of this Contract and all of the Contract Documents referenced in 2.1. Fees for any subconsultants and consultants to be utilized by the Consultant in the performance of services under this Contract, which are known to be required at the time this contract is executed, have been included in the Contract Price and are noted in Exhibit 2.

1.3. The Consultant agrees that it will obtain and maintain all necessary licenses, permits, or other authorizations necessary to act as Consultant for the performance of the Services required by this Contract, until the Consultant's obligations under this Contract have been fully and satisfactorily performed.

1.4. The County may select a particular subconsultant for a certain part of the services and designate on the Work Request that the subconsultant shall be used for the part of the services indicated and that the subconsultant has agreed to perform the services for the subcontract amount stipulated on the proposal form. The Consultant shall include the stipulated amount plus its Consultant markups in the Fee Proposal. In such case, the Consultant shall be responsible for that subconsultant and its work and the subconsultant shall be responsible to the Consultant for its work just as if the Consultant had selected the subconsultant. If the Consultant has a reasonable objection to the subconsultant being assigned, then the Consultant shall note the exception in its proposal and the reason for the exception and maintain appropriate provisions for coordinating the work of the subconsultant. The County, at its sole discretion, may accept the Consultant's proposal with the exception noted and contract separately with the subconsultant or assign a different subconsultant.

### 1.5. To Subcontractors.

- a. An Offeror awarded a contract under this solicitation is hereby obligated:
  1. To pay the subcontractor(s) within seven (7) days of the Offeror's receipt of payment from the County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  2. To notify the agency and the subcontractor(s), in writing, of the Offeror's intention to withhold payment and the reason.
- b. The Offeror is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Offeror that remain unpaid seven (7) days following receipt of payment from the County, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. An Offeror's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the County.



**SECTION 2. SCOPE OF SERVICES.**

2.1. This Contract sets forth the Consultant's scope of services offered to be performed for the County during the Term of this Contract. The Contract Documents consist of the following: RFP issued by the County; the Consultant's Proposal submitted in response to the RFP, this Contract for Engineering, Architecture, and Construction Support Services, any documents referred to herein, and all addenda, attachments, schedules and appendices hereto, including, without limitation, the following:

- Attachment 2. Special Terms and Conditions
- Attachment 3. General Terms and Conditions
- Attachment 4. Additional Terms and Conditions for Federally Funded Contracts
- Exhibit 2. County's Task Order
- Exhibit 3. Additional Mandatory Federal-Aid Provisions (as applicable)

2.2. The Consultant's services to be performed with respect to any specific Work or Project assigned to it during the term of this Contract shall be defined and executed as an addendum ("Task Order") to this Contract. Task Orders may be generated because of a Fee Proposal submitted by a Consultant. In such instances, Fee Proposals shall include: specific scope of work, time for performance, fee, and hourly breakdown of work which generated the fee. Each Task Order shall set forth a Scope of Services, a Fee for Services and a Time for Performance of the Services. No Task Order may include work or services that exceed the scope of the RFP. In no event may the compensation set forth within any Task Order be increased, without adequate consideration.

2.3 The Consultant shall not undertake any work, or perform any services, until a Task Order has been executed by both parties, identifying the scope of work/services, the method and amount of compensation, and the time for performance.

**SECTION 3. PROJECT SCHEDULE.**

3.1 During the Term of this Contract (see Section 4, below) the Consultant may be engaged to perform specific Work or Services, as set forth within one or more Task Orders. Each Task Order shall specify a time for performance of the Work or Services. Where multiple phases of performance are contemplated, the Task Order shall specify the dates on which performance of each phase shall be completed by the Consultant, any guidelines, requirements and milestone dates required by the Owner.

3.1.1 Following the bilateral execution of a Task Order, the Consultant shall commence performance upon receipt of a written Notice to Proceed (NTP) from the Owner, and the Consultant shall complete performance of all Phases within the time specified in the Task Order.

3.1.2 The Consultant shall determine and promptly notify the Owner in writing when it believes adjustments to the Project Schedule are necessary. Adjustments may be reviewed, and either accepted or rejected by the Owner however, no approved adjustment shall operate or be deemed to extend the time for performance specified within the applicable Task Order.

3.2 Where the Consultant is to perform Construction Administration Services those Services shall be rendered by the Consultant in accordance with the provisions of the Construction Documents for the Project.



**SECTION 4. CONTRACT TERM (MULTIPLE CONSTRUCTION PROJECTS).**

4.1 This Contract is for Engineering, Architecture, and Construction Support Services relating to multiple construction projects described within the RFP. This Contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in Section 5.1 below, whichever occurs first.

4.2 The Contract shall be renewable by the Owner for three additional one-year terms (subject to the same limits on compensation of the Consultant) at the sole option of the Owner. Unused fee limits from the initial contract term may not be carried forward to any additional term.

**SECTION 5. CONSULTANT FEES.**

The Consultant and Owner agree as follows:

5.1. Limitation of Compensation

No individual Task Order, including any modifications or additions thereto, shall exceed \$100,000. The sum of all Task Orders performed in a one-year contract term shall not exceed \$500,000. The fair and reasonable prices as negotiated by the parties (see Exhibit 2) shall be used by the parties in determining the compensation for each Task Order to be performed.

5.2. Basis of Compensation

The Owner agrees to compensate the Consultant for Services performed, in accordance with one of or more of the methods specified below within this section. The method of compensation and the amount(s) for each category of work and services shall be set forth within the Task Order that authorizes such work and services.

5.2.1 Fixed Price (Lump Sum) Basis: a method of compensation in which the Consultant renders all required Work and Services in return for a fixed sum ("Lump Sum") agreed to by the parties within a Task Order.

5.2.2. Fixed Price (Percentage of Construction Cost) Basis: a method of compensation in which the Consultant renders all required Work and Services in return for a specified (fixed) percentage of the Owner's Project Construction Cost as defined in Exhibit 2 of this Contract.

5.2.3. Time Basis: a method of compensation in which the Consultant renders all required Work and Services in return for payment at specific hourly-rates set forth in Exhibit 2 applied to the amount of time actually expended by the Consultant in performance. When a Time Basis is specified as the method of compensation for a category of work or services, a Task Order may also include a not-to-exceed amount.





5.3. In addition to the payments provided for above, the Consultant shall be entitled to receive payment for reimbursable expenses actually incurred in connection with the Project ("Reimbursable Expenses"), limited as follows:

5.3.1. Reasonable expenses (mileage reimbursement; overnight hotel accommodations, airline tickets), costs of outsourced copying, CAD, printing, etc. shall be reimbursed at the direct cost actually paid by the Consultant. Reimbursable expenses will be considered only if the expense was approved in advance by the Owner;

5.3.2. Reasonable Consulting expenses (the cost of services to be provided by other contractors), other than those already included in Exhibit 2, if such expenses were approved in advance by the Owner. Any such additional consulting expenses shall be reimbursed at the direct cost actually paid by the Consultant for such consulting services.

5.3.3. The Consultant shall limit reimbursable expenses to those that are necessary to facilitate performance of its Services, and which are not excessive. As a condition precedent to payment by the County, the Consultant shall provide written receipts to the County, documenting the actual costs and expenses incurred by the Consultant. The County reserves the right to make payment only of such reimbursable expenses as it determines to be reasonable.

5.4. The County shall not be or become obligated to pay the Consultant for work or services that are not set forth within a Task Order executed by both parties at the time the Consultant commenced performance of such work or services. Upon the occurrence of any of the following, the Consultant may decline to commence performance of specific work or services that are not within the scope of a previously-executed Task Order:

5.4.1. A change in the instructions or approvals given by the Owner, if the change necessitates modification(s) of a Task Order;

5.4.2. Enactment or revision of codes, laws or regulations, or official interpretations thereof, which necessitate modification(s) of a previously-approved Task Order, except in cases where the Consultant knew, or should have known, of such enactment, revision or interpretation at the time it entered into Task Order with the County; or

5.4.3. A significant change in the Project, beyond the contemplation of the parties at the time they entered into a Task Order, affecting the scope, quality, or complexity of the Project, or that affects the Project Schedule, Budget or Owner's procurement process.



5.5. Invoices Required.

5.5.1. Requests for payment shall be set forth within properly documented invoices, or other billing statement(s), in a format acceptable to the Owner (an "invoice"). The Consultant shall remit invoice(s) to the Owner for payment, no more frequently than once per calendar month. Each invoice shall seek payment only for services actually performed, and for reimbursable expenses actually incurred, as of the date of submission of the invoice. Documentation of reimbursable expenses claimed shall be attached to the invoice. Each invoice shall be supported by documentation acceptable to the Owner, in its sole discretion, establishing that the work and services referenced within the invoice have been performed in accordance with this contract and relevant Task Order (s). The Consultant shall promptly comply with a request from Owner for documentation deemed necessary by Owner for approval of an invoice.

5.5.2. Each invoice shall bear the signature of an individual authorized to bind the Consultant and to speak on its behalf. Signature of the Consultant's authorized representative shall constitute the Consultant's representation to Owner that work and services referenced in the invoice have reached the level stated, and that such work and services have been actually and timely performed in accordance with the Contract Documents.

5.5.3. Within thirty days after the Owner's acceptance of an invoice submitted in accordance with this Section, the Owner shall pay for completed work and services ("Required Payment Date"). The Owner shall notify the Consultant of any defect or impropriety in the work or services, or in the invoice itself, (a) on or prior to the Required Payment Date, or (b) as soon after the Required Payment Date as the Owner becomes aware of the defect or impropriety. The Owner may withhold payment from the Consultant during the pendency of any dispute as to the quantity, quality or time of performance of work or services referenced within an invoice, or as to the accuracy of any invoice.

5.5.4. In the event Owner becomes credibly informed that any representations of the Consultant as set forth in 5.5.2, above, are wholly or partially inaccurate, the Owner may withhold payment of sums then, or in the future, due and owing to the Consultant. Payment may be withheld until the inaccuracy and the cause thereof is corrected to the Owner's satisfaction. All prior payments may be corrected and adjusted by the Owner within any payment to the Consultant, or, if not previously corrected, shall be corrected and adjusted in the final payment to the Consultant.

5.6. Work shall not begin on any phase of the Project without express written authorization from the Owner. The Owner and the Consultant agree that the Owner has the right to terminate or stop, in whole or in part, with or without cause, the Consultant's services at any time and the Owner may cancel this Contract at any time with or without cause and without incurring any liability, damages, or cost to the Consultant, except as set forth in Section 9.E.



**SECTION 6. PROJECT RECORDS.**

All records relating in any manner whatsoever to the Project, or any designated portion thereof, while they remain in the possession of the Consultant or the Consultant's consultants, shall be made available to the Owner for inspection and copying upon written request of the Owner. Additionally, said records shall be made available, upon request by the Owner, to any state, federal or other regulatory authorities and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the time expended by the Consultant and its personnel in performing the obligations of this Contract and the records of expenses incurred by the Consultant in its performance under said Contract. The Consultant shall maintain and protect these records for no less than five years after final completion of the Project, or for any longer period of time as may be required by applicable law or good professional design practice.

**SECTION 7. OWNER'S RESPONSIBILITIES.**

The Owner shall have and perform the following duties, obligations and responsibilities to the Consultant:

7.1. The Owner shall provide the Consultant with its purposes, concepts, desires, requirements, budgeted Project Construction Cost, and Schedule for Project Construction in order to establish the Owner's Criteria for the Project;

7.2. The Owner will advise the Consultant of any available documents pertaining to the Project or the Project site which are knowingly in the Owner's possession;

7.3. The Owner shall provide the Consultant with all documents necessary, as described in Exhibit 2, for the Consultant to prepare the Work;

7.4. Within a reasonable time, the Owner shall review any Documents provided by or through the Consultant requiring the Owner's decision, and shall make any required decisions. The Owner's review of any documents prepared by the Consultant or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's Criteria. No review of such documents shall relieve the Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, or coordination of its work product;

7.5. The Owner shall, at its own discretion, furnish a legal description and any necessary survey of the real property upon which the Project is situated;

7.6. As may be mandated by law or called for by the Construction Contract, the Owner shall, at its own expense, provide for all required testing, inspections (except for those inspections expressly required of the Consultant herein), filings, studies or reports;



7.7. The Owner shall promptly give notice to the Consultant upon becoming aware of any errors, omissions or defects in the work product of the Consultant;

7.8. The Owner shall afford the Consultant access to the Project site and to the work as may be reasonably necessary for the Consultant to properly perform its services under this Contract; and,

7.9. When communication between the Owner and the Consultant's consultants is necessary, the Owner will endeavor to communicate through the Consultant with the Consultant's consultants.

**SECTION 8. SPECIAL CONDITIONS.**

- A. It is agreed by the Parties hereto that one (1) reproducible copy each of the drawings, tracings, construction plans, specifications, maps, and other documents (including electronic data) prepared or obtained under the terms of the Contract shall be delivered to and become the property of the Owner and basic survey notes and sketches, charts, computations, and other data shall be made available, upon request, to the Owner without restriction or limitation on their use at no additional cost to the Owner.
- B. Each party binds itself, its principals, successors, executors, administrators, and assigns to perform all covenants and provisions of this Contract. Except as above noted, neither the Owner nor the Consultant shall assign or transfer its interest in this Contract without the written consent of the other Party hereto, which consent shall not be unreasonably withheld.
- C. The term of this Contract will be completed upon final approval and acceptance of the completed Project by Owner and any participating agencies. However, nothing contained herein shall be construed to establish a period of limitation with respect to any obligation which the Consultant might have under the Contract or the law of Virginia, including liability for errors and omissions.
- D. The Consultant agrees to conduct all the services in compliance with all applicable requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964, Part 21 of the Regulations of the Secretary of Transportation and Executive Order No. 11246, "Equal Employment Opportunity" as supplemented in Department of Labor Regulations (41 CFR, Part 60); and agrees to comply with all applicable standards, orders, or regulations issued pursuant of the Clean Air Act of 1970; and will maintain an Affirmative Action Program, if required by applicable law.
- E. Owner advises Consultant that failure of Consultant to carry out the requirements set forth in 45 Federal Register 21186, Section 23.43 (a) (1980) dealing with minority business enterprise, where appropriate, shall constitute a breach of contract and may result in termination of this Contract or such remedy as Owner deems appropriate.



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- F. Consultant agrees that the work and services (which shall include, but not be limited to, all plans, drawings, and specifications) Consultant provides for the Owner pursuant to this Contract will comply with all applicable federal, state, and local laws, codes, and regulations that are in effect as of the date of the Contract. Furthermore, Consultant shall, in a timely manner, inform in writing the Owner, during the term of the Contract and until completion of the Consultant's services, about changes or modifications of all such laws, codes, or regulations that may affect or require modification or changes to any part of the Project so that Owner will be able to determine if changes or modifications should be made to the Project before completion. Consultant further agrees that Consultant does not, and shall not during the performance of this Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- G. The Consultant (as well all individuals or legal entities which are part of its team but who are not principals of the Consultant or otherwise covered by Consultant's professional liability insurance) shall, at its sole expense, obtain and maintain during the life of this Contract the insurance policies and bonds required by this Section. Any required insurance policies and bonds shall be effective prior to the beginning of any work or other performance by the Consultant under this Contract. All such insurance shall be primary and noncontributory to any insurance or self-insurance the County may have. The following policies and coverages which are required are identified in Attachment 3, General Terms and Conditions.

Evidence of Insurance. All insurance, with the exception of Professional Liability Insurance, shall be written on an occurrence basis. Professional Liability Insurance may be written on a claims-made basis. In addition, the following requirements shall be met:

- a) Consultant shall furnish the County a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles.
- b) The Consultant shall notify the County in writing within five (5) calendar days if any of the insurance coverages or policies are cancelled or materially altered and Consultant shall immediately replace such policies and provide documentation of such to the County.
- c) The required insurance policies and coverages, excluding those for Workers Compensation and Professional Liability, shall name the County, its officers, agents, volunteers and employees as additional insureds, and the certificate of insurance shall show if the policies provide such coverage. Where waiver of subrogation is required with respect to any policy of insurance required under this Section, such waiver shall be specified on the certificate of insurance. Additional insured and waiver endorsements shall be received by County from the insurer within 30 days of the beginning of this contract. The County may approve other documentation of such insurance coverages.
- d) Insurance coverage shall be in a form and with an insurance company approved by the County which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Contract shall be authorized to do business in the Commonwealth of Virginia.



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- H. The Consultant agrees to and shall indemnify and hold harmless Owner and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, cost, and expenses, including reasonable attorney's fees, resulting from or arising out of Consultant's or agent's, subcontractor's and/or subconsultant's negligent activities or omissions on or near any of the Owner's property or easements involved in this Project or arising out of or resulting from Consultant's negligence in providing any of the services under this Contract, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type. Consultant agrees to and shall protect, indemnify, and hold harmless all the parties referred to above from any and all demands for fees, claims, suits, actions, causes of action, settlement or judgments based on the alleged or actual infringement or violation of any copyright, trademark, patent, invention, article, arrangement, or other apparatus that may be used in the performance of this Contract.
- I. While on Owner's property and in its performance of this Contract, Consultant or its agents, subcontractor's and/or subconsultant's shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Contract and Consultant shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous materials, substances, or waste. Regardless of Owner's acquiescence, Consultant agrees to and shall indemnify and hold Owner, its officers, agents, volunteers, and employees harmless from all costs, damages, liabilities, fines, or penalties, including attorney's fees, resulting from violation of this paragraph and agrees to reimburse Owner for all costs and expenses incurred by Owner in eliminating or remedying such violations. Consultant also agrees to reimburse Owner and hold Owner, its officers, agents, volunteers, and employees harmless from any and all costs, damages, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of Consultant's or its agents, subcontractors and/or subconsultants use or release of any hazardous material, substance, or waste onto the ground or otherwise, or into the water or air from or upon or near Owner's property or easements.
- J. The provisions, requirements, and prohibitions as contained in Sections 2.2 - 4367 through 2.2 - 4377 of the Virginia Code (Ethics in Public Contracting), pertaining to bidders, offerors, consultants, and subconsultants are applicable to this Project.

The Consultant shall perform its duties of this Contract with an awareness of the Owner's Environmental Sustainability Policy and sustainability goals. The Consultant should familiarize itself with the U.S. Green Building Systems Council's Leadership in Energy and Environmental Design (LEED) program goals and advise the Owner if, and when, materials, processes, or methods compatible with that program may be reasonably employed in the Project design.

### **SECTION 9. SPECIAL PROVISIONS.**

- A. If any of the services furnished under this Contract by the Consultant are furnished by obtaining such services outside the Consultant's organization, the Consultant shall provide an executed contract between the person(s) or firm and the Consultant and shall outline the services to be



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- performed and the charges for the same. Such contracts shall be subject to approval by the Owner. Two copies of the executed contract shall be submitted to the Owner for approval prior to the services being performed. Approval shall not be unreasonably withheld. The Consultant shall be solely responsible for all costs and expenses in connection with any such contracts.
- B. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party. However, should the Consultant retain consultants in connection with the Consultant's performance of the Contract, the obligations of the consultant(s) shall inure to the benefit of the Owner. The Consultant's agreement with its consultant(s) shall require that, in the event of default under, or termination of, this Contract, and upon request of the Owner, the Consultant's consultant(s) shall perform for the Owner.
- C. The Owner shall make available to the Consultant all reasonable technical data that is in the Owner's possession, including maps, surveys, property descriptions, borings, and other information requested by the Consultant and relating to its work. The Owner and the Consultant agree that the Owner may decide in its sole discretion the reasonableness of any information requested by the Consultant. The Owner shall designate, in writing to the Consultant, the name of the Owner's Project manager for the Project.
- D. The Owner shall pay for the following: (1) publishing costs for advertisements of notices, public hearings, requests for bids, and other similar items; (2) for all permits and licenses that may be required by local, state, or federal authorities; and (3) for the necessary land, easements, and rights-of-way required for the Project.
- E. The Owner, at any time, may order the Consultant to immediately stop work on the Contract and any outstanding Task Order(s), and/or by seven days written notice may terminate this Contract and any outstanding Task Order(s), with or without cause, in whole or in part at any time. Upon receipt of such notice, the Consultant shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Contract and any outstanding Task Order(s) whether completed or in process.
1. If the termination is due to the failure of the Consultant to fulfill any of its Contract and any outstanding Task Order(s) obligations, the Owner may take over the work and prosecute the same to completion by Contract or otherwise. In such case, the Consultant shall be liable to the Owner for any damages allowed by law, and upon demand of Owner shall promptly pay the same to Owner.
  2. Should the Contract and any outstanding Task Order(s) be terminated not due in any way to the fault of the Consultant, the Consultant shall only be entitled to compensation for services actually performed prior to notice of termination and approved by the Owner and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination.





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3. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Contract and Owner may pursue any and all such rights and remedies against Consultant as it deems appropriate.
- F. If the documents called for by the Contract are completed in accordance with criteria and/or decisions made by the Owner and such documents are substantially changed or revised, for any reason other than the fault of the Consultant in preparing same, then the Consultant shall be entitled to compensation as mutually agreed upon between the Owner and Consultant for rendering the services necessary to complete the changes. The amount of this fee shall be negotiated between the parties. The fee for the changes shall be due and payable when the revisions are approved by the Owner. If agreement cannot be reached between the parties for rendering such services, then the Owner can terminate the Contract without any liability of any type for any damages or compensation to the Consultant, and the Owner will owe nothing further to the Consultant. However, if such changes or revisions are due in any way to the fault of the Consultant, the Owner can require the Consultant to perform the services required under this Contract and make such changes and revisions without any additional charges by the Consultant and pursue such other remedies available to the Owner under this Contract or by law, or any combination of such remedies as the Owner deems appropriate.
- G. By virtue of entering into this Contract the Consultant submits itself to a court of competent jurisdiction in the County of Washington, Virginia, and further agrees that this Contract is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.
- H. Consultant agrees that no payment, final or otherwise, nor partial or entire use, occupancy, or acceptance of the Project by the Owner shall be an acceptance of any professional services not in accordance with the Contract, nor shall the same relieve the Consultant of any responsibility for any errors or omissions in connection with the Project or operate to release the Consultant from any obligation under the Contract.
- I. The Consultant shall be fully responsible to the Owner for all acts and omissions of all succeeding tiers of subcontractors, agents, and subconsultants performing or furnishing any of the work just as the Consultant is responsible for its own acts and omissions.
- J. During the performance of this Contract, the Consultant agrees as follows:
1. The Consultant will not discriminate against any subconsultant, employee, or applicant for employment because of race, religion, color, sex, national origin, age, disability, 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.





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2. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that such Consultant is an equal employment opportunity employer.
  3. 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.
  4. The Consultant will include the provisions of the foregoing Subsections (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.
- K. Consultant agrees that the County's waiver or failure to enforce or require performance of any term or condition of this Contract or the County's waiver of any particular breach of this Contract by the Consultant extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by the Consultant and does not bar the County from requiring the Consultant to comply with all the terms and conditions of the Contract and does not bar the County from asserting any and all rights and/or remedies it has or might have against the Consultant under this Contract or by law.
- L. If any provision of this Contract, or the application of any provision hereof to a particular entity or circumstance, shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the Contract shall not be affected and all other terms and conditions of the Contract shall be valid and enforceable to the fullest extent permitted by law.
- M.
1. 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 on 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 over \$10,000, so that the provisions will be binding upon each subconsultant or vendor.
  2. 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.
- N. Pursuant to Virginia Code Section 2.2 - 4343.1, be advised that the County does not discriminate against faith-based organizations.
- O. The Consultant shall, without additional compensation, promptly correct or obtain a correction of any errors and omissions, (including, without limitation, defects in, and internal conflicts among components of, the work product of the Consultant, its consultants and subconsultant s). The Consultant shall be responsible for payment of all damages incurred or suffered by the Owner resulting from (a) errors or omissions in any design or construction documents attributable to the Consultant, its consultants and subconsultant (s); and (b) breach of any applicable standard of care established under the laws of the Commonwealth of Virginia, by the Consultant, its consultants and subconsultant (s). Damages that the Owner may incur



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include, but are not limited to: Owner's actual damages; judgments, fines or penalties assessed or entered against the Owner; damages recovered by the construction Contractor against the County (including, without limitation, direct damages, delay damages, cumulative impact damages, and lost productivity damages).

- P. The Consultant agrees that Consultant will comply with the requirements of Section 2.2-4354 of the Va. Code regarding Consultant's payment to other entities and that Consultant will take one of the two actions permitted therein within seven (7) days after receipt of amounts paid to Consultant by the County. The Consultant agrees that Consultant shall indemnify and hold the County harmless for any lawful claims resulting from failure of the Consultant to make prompt payments to all persons supplying him equipment, labor, tools, or material in prosecution and completion of the Work provided for in the Contract. In the event of such claims, the County may, after providing written notice to the Consultant, withhold from any progress and/or final payment the unpaid sum of money deemed sufficient to pay all lawful claims and associated costs in connection with the Contract.
- Q. Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after final payment; however, written notice of the Consultant's intention to file such claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such notice is a condition precedent to the assertion of any such claim by the Consultant. A written decision upon any such claims will be made by the County Administrator or her designee (hereafter County Administrator) within thirty (30) days after submittal of the claim and any practically available additional supporting evidence required by the County Administrator. The Consultant may not institute legal action prior to receipt of the County's decision on the claim unless the County Administrator fails to render such decision within 120 days from submittal of its claim. The decision of the County Administrator shall be final and conclusive unless the Consultant within six (6) months of the date of the final decision on a claim or from expiration of the 120 day time limit, whichever occurs first, initiates legal action as provided in Section 2.2-4364, of the Va. Code. Failure of the Owner to render a decision within said 120 days shall not result in the Consultant being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the Owner's failure to render a decision within said 120 days shall be Consultant's right to immediately institute legal action. No administrative appeals procedure pursuant to Section 2.2-4365, of the Va. Code, has been established for contractual claims under this Contract.
- R. Consultant shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that 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 or as otherwise required by law. Consultant 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, to be revoked or cancelled at any time during the term of the Contract. The County may void the Contract if the Consultant fails to remain in compliance with the provisions of this section.
- S. This Contract is or may be subject to funding and/or appropriations from federal, state, and/or local governments and/or agencies and/or from the Board of Supervisors of Washington County, Virginia. If any such funding is not provided, withdrawn, or otherwise not made available for the Contract, the Consultant agrees that the County may terminate the Contract on seven (7) days written notice to the Consultant, without any penalty or damages being incurred by the County. Consultant further agrees to and shall comply with any applicable requirements of any grants and/or agreements providing for such funding, including, but not



**Exhibit 1– Sample Contract**

Engineering, Architecture, and Construction Support Services

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limited to, any VDOT requirements.

- T. Consultant agrees that all reports and any other documents (including electronic data) prepared for, obtained in connection with, and/or required to be produced in connection with this Contract shall be delivered by the Consultant to the County and all such items shall become the sole property of the County. The Consultant agrees that the County shall own all rights of any type in and to all such items, including but not limited to copyrights and trademarks, and the County may reproduce, copy, and use all such items as the County deems appropriate, without any restriction or limitation on their use and without any cost or charges to the County from the Consultant. Consultant hereby transfers and assigns all such rights and items to the County. Consultant further agrees Consultant will take any action and execute any documents necessary to accomplish the provisions of this Section. The Consultant also warrants that Consultant has good title to all materials, equipment, documents, and supplies which it uses in the Work or for which it accepts payment in whole or in part.
  
- U. This Contract may be modified by mutual agreement of the parties during performance, except as otherwise prohibited by law.
  
- V. This Contract, including any attachments, exhibits, and referenced documents, constitutes the complete understanding between the parties. This Contract may be amended only by written instrument properly executed by the parties.

**SIGNATURE PAGE TO FOLLOW.**



**Exhibit 1– Sample Contract**

Engineering, Architecture, and Construction Support Services

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IN WITNESS WHEREOF, the parties hereto have signed this Contract by their authorized representatives.

WASHINGTON COUNTY, VIRGINIA

CONSULTANT

\_\_\_\_\_  
County Administrator

\_\_\_\_\_  
Printed Name and Title

Date \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

Date

Approved as to form:

\_\_\_\_\_  
County Attorney

Date \_\_\_\_\_



**TO TERM CONTRACT BETWEEN  
COUNTY OF WASHINGTON AND**

**FOR ENGINEERING, ARCHITECTURE, AND CONSTRUCTION SUPPORT  
SERVICES**

**RFP DATED xx/xx/xx**

**Task Order Form**

**SCHEDULE 1: PROFESSIONAL'S PERSONNEL AND CONSULTANTS CHART**

In performing the Services, the Consultant shall utilize its own staff and such other persons or firms as are identified below within this Schedule. The Consultant may not substitute any other staff, individual(s) or firms without the advance written consent of the Owner. Under no circumstances shall the Owner be required to consent to or accept any substitution(s) if to do so would require an increase in any amount(s) required to be paid to the Consultant for this Project, or a decrease in the Services described under this Agreement.

In the space below, list all staff the Consultant will utilize in performance of the Services that are the subject of this Contract:

**To be determined per each Task Order**

In the space below, list all consultants the Consultant will utilize in performance of the Services that are the subject of this Contract:

**To be determined per each Task Order**

**SCHEDULE 2: PROFESSIONAL'S SCHEDULE OF SERVICES AND FEES**

**1. Fixed Sum Basis or Fixed Percentage Basis**

Consultant's Cost of Services as a Fixed Sum: \$\_\_\_\_\_



## Exhibit 2 – Task Order

Engineering, Architecture, and Construction Support Services

Page 2 of 3

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### 2. Time Basis

Provide below or attach a list of all billable services that the Consultant may supply in its performance of individual Projects under this Contract, and the hourly rates at which those services will be billed for the duration of the Contract. The Consultant shall set forth its hourly rates for standard services that would be necessary to perform the range of services listed in Schedule 4.

### 3. Multiple Project Contract

The Consultant's Cost of Services for individual Projects will be negotiated and set forth within Project specific Task Orders. This Schedule 2 contains the fair and reasonable prices negotiated by the parties to this Contract, and the pricing and methods of pricing set forth above within this Schedule 2 (including any allowable modifications as set for the herein) shall be used in determining the cost of each Project to be performed.

## SCHEDULE 3: PROJECT SCHEDULE AND DELIVERABLES

### Action & Date

Specific Construction Administration scope, relative to each Task Order, is to be defined per Task Order

### **Additional Project Schedule Considerations and/or Milestones:**

### **To be determined per Task Order**

The Consultant shall provide the Owner with a proposed schedule detailing how the Consultant plans to achieve completion of performance within the time specified within the Task Order. Review and acceptance of the Project Schedule by the Owner shall not relieve the Consultant of any of its responsibility to timely complete performance in accordance with the agreed Task Order. The Project Schedule shall incorporate sufficient time for preparation and review of documents and submittals.



**Exhibit 2 – Task Order**

Engineering, Architecture, and Construction Support Services

Page 3 of 3

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**SCHEDULE 4: GENERAL DESCRIPTION AND SCOPE OF SERVICES**

Description of the project (s) and Work for which the Consultant has been engaged:

**To be determined per Task Order**

**SCOPE OF SERVICES:**

**Services**

The Consultant Covenants and agrees to provide all necessary Engineering, Architecture, and Construction Support Services required to professionally accomplish the work and services, as set forth within a Task Order. Each Task Order shall identify the specific Phase(s) of service for which the Consultant is being engaged, along with the Consultant's compensation and time for performance.

[Attach Scope of Services]



### **Exhibit 3 – Additional Mandatory Federal-Aid Provisions (as applicable)**

Engineering, Architecture, and Construction Support Services

Page 1 of 3

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The following additional mandatory Federal-Aid Provisions are included in the event that the County would received VDOT funding that may be eligible for reimbursement.

#### **Additional Mandatory Federal-Aid Provisions (as applicable)**

- Attachment A - Disadvantaged Business Enterprises (DBEs)
- Attachment B - Small Women and Minority (SWaM)
- Attachment C – Not Required
- Attachment D - Firm Data Sheet
- Attachment E - Certification Regarding Debarment
- Attachment F - Subconsultant Solicitation Form
- Attachment G - DPOR licenses and SCC registrations
- Attachment H - USDOT 1050.2A (Appendix A and Appendix E)
- Attachment I - Critical Infrastructure Information/Sensitive Security Information (CII/SSI)

**Attachments D, E, F, & G are sample forms and are only required if a project is awarded with VDOT Funding. Not required as part of the Request for Proposal Submittal.**

#### **Mandatory Federal-Aid Provisions**

##### **1. Americans with Disabilities Act**

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.

##### **2. Title VI – Nondiscrimination in Federally Assisted Programs**

The County in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all offerors that County will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit proposals in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**A. Mandatory Attachments and Reporting.** During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest (herein referred to as “the Consultant”), shall comply with the provisions of USDOT 1050.2A, Appendices A and E, which are attached, in addition to the following provisions:

- a. Consultants and subconsultants shall include Appendices A and E in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.
- b. Consultants and subconsultants shall submit an updated Title VI Evaluation Report annually and/or in accordance with the locality’s VDOT approved Title VI Implementation Plan for as long as the Consultant or subconsultant is performing in accordance with this Agreement.





### **Exhibit 3 – Additional Mandatory Federal-Aid Provisions (as applicable)**

Engineering, Architecture, and Construction Support Services

Page 2 of 3

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**B. Title VI NON-DISCRIMINATION PROVISION:** The Consultant agrees to abide by the provisions of Title VI 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.

### **3. Title VII - Equal Employment Opportunity**

The Consultant agrees to abide by the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000e), 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 race, color, religion, sex, or national origin, pregnancy, age, and disability or any other basis prohibited by state law relating to discrimination in employment.

### **4. Federal Acquisition Regulation (FAR) Audit**

- All Offerors submitting EOIs (prime consultants, joint ventures and sub-consultants) must have internal control systems in place that meet Federal requirements for accounting. These systems must comply with requirements of 48CFR31, “Federal Acquisition Regulations. Contract Cost Principles and Procedures,” and 23CFR172, “Administration of Negotiated Contracts.” All Offerors selected for a project (prime consultants, joint ventures and sub-consultants) must submit their FAR approved rates along with a Contractor Cost Certification for indirect cost rates required by FHWA order 4470.1A dated October 27, 2010 to VDOT within ten (10) business days of being notified of their selection, whereby an official of an Offeror shall certify that the indirect cost rate submitted does not include any costs which are expressly unallowable and that the indirect cost rate was established only with allowable costs in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of 48CFR31. A sample Contractor Cost Certification is available on VDOT website for the Offeror’s use: [Contractor Cost Certification.pdf](#) at the link below. Should any Offeror or firm on the proposed team fail to submit the required audit data and certification within the ten (10) business days, negotiations may be terminated by County and the next most qualified team invited to submit a proposal.
- Indirect cost rates shall be updated on an annual basis in accordance with the consultant’s annual accounting period and in compliance with the Federal cost principles. Consultants must submit documentation annually to VDOT for review and acceptance by Virginia Department of Transportation per the Indirect Cost Rate Submission and Review Process. VDOT Annual Indirect Cost rate submittal policy can be found at <https://www.vdot.virginia.gov/doing-business/business-opportunities/consultants/indirect-cost-rate-audits/>
- Firms with classifications identified in section E.2. will be required to have VDOT approved field and home office indirect cost rates (approved within the last 18 months) for inclusion in the contract within ten (10) business days of being notified of their selection (Pre-Award Submittal due date). Firms that do not have a VDOT approved field and / or home office indirect cost rate at the time of the Pre-Award submittal due date, will be required to request a “Safe Harbor” provisional rate by the VDOT Assurance and Compliance Office (ACO) for inclusion in Contract.



**Exhibit 3 – Additional Mandatory Federal-Aid Provisions (as applicable)**

Engineering, Architecture, and Construction Support Services

*Page 3 of 3*

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**5. Federal Immigration Reform and Control Act of 1986**

IMMIGRATION REFORM AND CONTROL ACT OF 1986: The Offeror represents that it does not, and shall not during the performance of the contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986. Further that, County will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any subconsultants in violation of the provisions of this Act.



**Attachment A**  
**Mandatory Federal-Aid Provision**

**VIRGINIA DEPARTMENT OF TRANSPORTATION**  
**Use of Disadvantaged Business Enterprises (DBEs) on Consultant Contracts**

**A. Disadvantaged Business Enterprise (DBE) Program Requirements**

DBE certification entitles consultants to participate in VDOT's DBE programs. Certification does not guarantee the firm will receive work nor does it attest to the firm's abilities to perform any particular work when there is no DBE goal identified.

Code of Federal Regulations 49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet.

VDOT also requires Washington County, Virginia to capture DBE payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms.

The prime consultants are encouraged to achieve all or a percentage of the required DBE/SWaM participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. The BOWD Center can be contacted at (804) 662-9555 or via email to [BOWDCenter@vdot.virginia.gov](mailto:BOWDCenter@vdot.virginia.gov).

Any Consultant, subconsultant, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (USDOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations, and the Virginia Department of Transportation's (VDOT or the Department) DBE Program rules and regulations in accordance with this Special Provision.

For the purposes of this provision, Consultant is defined as any individual, partnership, corporation, or Joint Venture that formally submits a Statement of Qualification or Proposal for the work contemplated there under; Consultant is defined as any individual, partnership, or Joint Venture that contracts with the Department to perform the Work; and subconsultant is defined as any supplier, manufacturer, or subconsultant performing work or furnishing material, supplies or services to the contract. The Consultant shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subconsultant having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT's DBE Program requirements as outlined in this Special Provision, the Consultant, for itself and for its subconsultants and suppliers, whether certified DBE firms or

## **Attachment A**

### **Mandatory Federal-Aid Provision**

not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal DBE Program and State legal requirements. By submitting a Proposal on this contract, and by accepting and executing this contract, the Consultant agrees to assume these contractual obligations and to bind the Consultant's subconsultants contractually to the same at the Consultant's expense.

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 A of 49 CFR 26, Section 26.13 requires that each contract signed with a contractor (and that each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Consultant and each subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Consultant to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Consultant exercises the right of appeal within the required timeframe(s) specified herein. Appeal requirements, processes, and procedures shall be in accordance with guidelines stated in F of this provision and current at the time of the proceedings. Where applicable, the Department will notify the Consultant of any changes to the appeal requirements, processes, and procedures after receiving notification of the Consultant's desire to appeal.

All time frames referenced in this provision are expressed in business days unless otherwise indicated. Should the expiration of any deadline fall on a weekend or holiday, such deadline will automatically be extended to the next normal business day.

#### **B. DBE Certification**

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Small Business and Supplier Diversity (SBSD) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of Small Business and Supplier Diversity's website: <http://www.sbsd.virginia.gov>.

#### **C. DBE Program-Related Certifications Made by Offerors/Consultants**

By submitting a Proposal and by entering into any contract on the basis of that Proposal, the Offeror/Consultant certifies to each of the following DBE Program-related conditions and assurances:

1. That the Offeror/Consultant agrees to comply with the project construction and administration obligations of the USDOT DBE Program, 49 CFR Part 26 as amended, and the Standard Specifications setting forth the Department's DBE Program requirements.
2. Consultant shall comply fully with the DBE Program requirements in the execution and performance of the contract. Consultant acknowledges that failure to fulfill the DBE subcontracting commitments made may result in sanctions being invoked for noncompliance.
3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance

**Attachment A**  
**Mandatory Federal-Aid Provision**

of the contract. The Consultant certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the contract. The Consultant further certifies that the Consultant shall not discriminate on the basis of race, color, age, national origin, or sex in the performance of the contract or in the award of any subcontract. Any agreement between a Consultant and a DBE whereby the DBE promises not to provide quotations for performance of work to other Consultants are prohibited.

4. Consultant shall make good faith efforts to obtain DBE participation in the proposed contract at or above the goal. The Offeror shall submit a written statement as a part of its Statement of Qualifications and/or Proposal indicating the Offeror's commitment to achieve the minimum requirement related to DBE goal indicated in Request for Qualification (RFQ) and/or Request For Proposal (RFP) for the entire value of the contract and shall include the description of the services to be performed, percent participation, and referenced project numbers(s) and/or RFQ/RFP#. The Offeror, by signing and submitting its Proposal, certifies the DBE participation information that will be submitted within the required time thereafter is true, correct, and complete, and that the information to be provided includes the names of all DBE firms that will participate in the contract, and the North American Industry Classification System (NAICS) code and description for each firm. For Project Specific Contracts, the Offeror shall provide the specific work that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE.
5. Offeror further certifies, by signing its Proposal, it has committed to use each DBE firm listed for the work specified to meet the contract goal for DBE participation. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents. By signing the Proposal, the Offeror certifies that good faith efforts will be made on work that it proposes to sublet; and that it will seek out and consider DBE firms as potential subconsultants. The Consultant shall, as a continuing obligation, contact DBE firms to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain on file proper documentation to substantiate its good faith efforts.
6. Once awarded the contract, the Consultant shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBE firms at or above the amount or percentage of the dollar value specified in the proposal documents. Further the Consultant understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Consultant's own forces or those of an affiliate of the Consultant without the prior written consent of Department as set out within the requirements of this provision.
7. Once awarded the contract, the Consultant shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part 26 for DBE firms. The designation and identity of this officer needs to be submitted only once by the Consultant during any 12 month period.
8. Once awarded the contract, the Consultant shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each DBE firm participating in the contract shall fully perform the designated work with the DBE firm's own forces and equipment under the DBE firm's direct supervision, control, and management. Where a contract exists and where the Consultant, DBE firm, or any other firm retained by the Consultant has failed to comply with federal or Department DBE Program requirements, the Department has the authority and discretion to determine the extent to which the DBE contract regulations have not been met, and will assess against the Consultant any remedies available at law or provided in the contract.

**Attachment A**  
**Mandatory Federal-Aid Provision**

**D. DBE Program Compliance Procedures**

The following procedures shall apply to the contract for DBE Program compliance purposes:

1. DBE Goal, Good Faith Efforts Specified for Project Specific Contracts

At the time of the submittal of the Expression of Interest, the Offeror will include form C-48 PSC. This form represents the Consultants solicitation of subconsultants to be used for the contract to meet the DBE goal.

If, at the time of submitting the Expression of Interest, the Offeror knowingly cannot meet or demonstrate good faith efforts in meeting the required DBE contract goal, form C-49 PSC shall be submitted.

Upon completion of negotiation, Form C-111 PSC shall be submitted electronically or may be faxed to the Department, but in no case shall the Offeror's Form C-111 PSC be received later than two (2) business days after the negotiated contract value has been determined. If Offeror should add or remove DBE firms during negotiations, a revised Form C-48 PSC must be received within ten (10) business days after the negotiated subcontract value has been determined.

If, at the time of submitting its offer, the Offeror knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 PSC exhibiting the DBE participation it commits to attain. The Offeror shall then submit Form C-49 PSC, DBE Good Faith Efforts Documentation, within two (2) business days after the negotiated contract value.

The top-ranked Offeror must submit its properly executed Form C-112A PSC, Certification of Binding Agreement, with the C-111 PSC two (2) business days after the negotiated contract value has been determined. DBE Offerors responding as prime consultants are not required to submit Form C-112A PSC unless they are utilizing other DBE firms as subconsultants.

If, after review of the selected Offeror, the Department determines the DBE requirements have not been met, the selected Offeror must submit Form C-49 PSC, DBE Good Faith Efforts Documentation, which must be received by the Department within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

Forms C-48 PSC, C-49 PSC, C-111 PSC, and C-112A PSC can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

2. DBE Goal, Good Faith Efforts Specified for Limited Services Term Contracts

At the time of the submittal of the Expression of Interest, the Offeror will include form C-48 PSC. This form represents the Consultants solicitation of subconsultants to be used for the contract to meet the DBE goal.

If, at the time of submitting the Expression of Interest, the Offeror knowingly cannot meet or demonstrate good faith efforts in meeting the required DBE contract goal, form C-49 PSC shall be submitted.

If the most highly qualified (top-ranked) firm / Offeror does not meet the goal or demonstrate a good faith effort, the Department may terminate negotiations and initiate negotiations with the number two-ranked firm.

**Attachment A**  
**Mandatory Federal-Aid Provision**

3. **Good Faith Efforts Described:** Department will determine if Consultant demonstrated adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE firm participation sufficient to meet the DBE Program requirements and DBE Goal.

Good faith efforts may be determined through use of the following list of the types of actions the Consultant may make to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

- (a) Soliciting through reasonable and available means, such as but not limited to, at pre-proposal meetings, advertising, and written notices to DBE firms who have the capability to perform the work of the contract. Examples include: advertising in at least one daily/weekly/monthly newspaper of general circulation, as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised. DBE firms shall have no less than five (5) business days to reasonably respond to the solicitation. Consultant shall determine with certainty if the DBE firms are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49 PSC, DBE Good Faith Efforts Documentation.
- (b) Selecting portions of the work to be performed by DBE firms in order to increase the likelihood that the DBE Goal will be achieved. This includes, where appropriate, breaking out work items into economically feasible units to facilitate DBE firm participation, even when the Consultant might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;
- (c) Providing interested DBE firms with adequate information about the scope and requirements of the contract in a timely manner, which will assist the DBE firms in responding to a solicitation;
- (d) Negotiating for participation in good faith with interested DBE firms;
  - 1. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBE firms that were considered; dates DBE firms were contacted; a description of the information provided regarding the scope and requirements of the contract for the work selected for sub-consulting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBE firms to perform the work;
  - 2. Consultant should, using good business judgment, consider a number of factors in negotiating with subconsultants, and should take a DBE firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBE firms is not sufficient reason for a Consultant's failure to meet the DBE goal as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of a Consultant to perform the work with its own organization does not relieve the Consultant of the responsibility to make diligent good faith efforts.
- (e) A Consultant cannot reject a DBE firm as being unqualified without sound reasons based on a thorough investigation of the DBE firm's capabilities. The DBE firm's standing within its

## **Attachment A**

### **Mandatory Federal-Aid Provision**

industry, membership in specific groups, organizations, associations, and political or social affiliations, are not legitimate causes for the rejection or non-solicitation of bids in the Consultant's efforts to meet the contract goal for DBE participation;

- (f) Making efforts to assist interested DBE firms in obtaining or related assistance or services subject to the restrictions contained in this Special Provision;
- (g) Effectively using the services of appropriate personnel from VDOT and from SBSB; available minority/women community or minority organizations; consultants' groups; local, state, and Federal minority/ women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of qualified DBEs.

#### **E. Documentation and Administrative Reconsideration of Good Faith Efforts**

##### **After EOI Submission but Prior to Contract Award:**

In the Expression of Interest, the Offeror is expected to identify those firms whose participation in the contract will achieve the DBE contract goal requirements.

Prior to award, if a DBE, through no fault of the Consultant, is unable or unwilling to fulfill his agreement with the Consultant, the Consultant shall immediately notify the Department and provide all relevant facts.

In order to award a contract to an Offeror that has failed to meet DBE contract goal requirements, the Department will determine if the Offeror's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.

As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, if the Offeror knowingly cannot meet or exceed the required DBE contract goal, the Offeror must submit Form C-49 PSC, DBE Good Faith Efforts Documentation. The Offeror shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firm's participation in the proposed work.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Consultant may request an appearance before the Department's Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The Administrative Reconsideration Panel will be made up of Department Division Administrators or their designees, none of whom took part in the initial determination that the Consultant failed to make the DBE goal or make adequate good faith efforts to do so. After reconsideration, Department shall notify the Consultant in writing of its decision and explain the basis for finding that the Consultant did or did not meet the DBE goal or make adequate good faith efforts to do so. The decision of the Administrative Reconsideration Panel shall be administratively final.

**During the Contract:** If a DBE, through no fault of the Consultant, is unable or unwilling to fulfill his agreement with the Consultant, the Consultant shall document the requests for services including all relevant facts. If a Consultant relieves a DBE subconsultant of the responsibility to perform work under their subcontract, the Consultant shall take the appropriate steps to obtain another DBE firm to perform the remaining subcontracted work for the amount that would have been paid to the original DBE firm. In



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such instances, Consultant is expected to seek DBE participation towards meeting the goal during the performance of the contract. The Consultant shall be responsible for submitting a request to the Contract Administrator for a contract Supplemental Agreement to include any new DBE subconsultants. After approval of the Supplemental Agreement the Consultant must submit necessary documentation in accordance with contract terms.

Before the Consultant transmits to the Department its request to terminate and/or substitute a DBE subconsultant, the prime consultant must give notice in writing to the DBE subconsultant, with a copy to the Department, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime consultant must give the DBE firm five days to respond to the prime consultant's notice. The DBE firm may respond to the Department and the prime consultant the reasons, if any, why it objects to the proposed termination of its subcontract and why the Department should not approve the prime consultant's action.

If at any point during the execution and performance of the contract it becomes evident that the remaining dollar value of allowable DBE goal credit for performing the subcontracted work is insufficient to obtain the DBE contract goal, and the Consultant has not taken the preceding actions, the Consultant and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as sufficient progress toward achievement of the DBE goal is achieved or evidenced.

**Term Renewal (Limited Term Services Contracts):** At contract renewal, the Consultant must submit Form C-49 Good Faith Effort Documentation to the Department along with the renewal acceptance letter. The form shall include details on total work assigned to the DBE subconsultants including details on work assigned versus amount of work paid to date, along with other good faith efforts as described on the form.

The Department will determine if the Offeror's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.

Prior to the Department's acceptance of adequate good faith effort, the Offeror shall provide in writing, the proposed DBE utilization plan for the upcoming term. The plan must include demonstration of comprehensive good faith effort actions necessary to attain the DBE goal.

Failure to adequately demonstrate current good faith effort documentation and/or a proposed good faith effort plan to achieve the goal, may result in the Department declining to renew the contract.

**Contract Completion:** If, at final completion, the Consultant fails to meet the DBE goal, and fails to adequately document that it made good faith efforts to achieve sufficient DBE goal, then Consultant and any prime contractual affiliates, as in the case of a joint venture, may be subject to sanctions being invoked for noncompliance.

Prior to such sanctions being invoked, the Consultant may submit documentation to the Department's designee to substantiate that failure was due solely to the elimination of the scope of work subcontracted to DBEs, or to circumstances beyond the Consultant's control and that all feasible means had been used to achieve the DBE goal. The Department's designee, upon verification of such documentation shall determine whether Consultant has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Consultant may request an appearance before the Department's

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Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The Administrative Reconsideration Panel will be made up of Department Division Administrators or their designees, none of who took part in the initial determination that the Consultant failed to make the DBE goal or make adequate good faith efforts to do so. After reconsideration, Department shall notify the Consultant in writing of its decision and explain the basis for finding that the Consultant did or did not meet the DBE goal or make adequate good faith efforts to do so.

The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to invoke sanctions for failure to perform any or all of the responsibilities contained herein, the Department may declare the Consultant to be non-responsive with respect to renewal and future contracts to include enjoyment from responding or participating on Department procurement opportunities for a period of 180 days.

#### **F. DBE Participation for Contract Goal Credit**

DBE participation on the contract will count toward meeting the DBE contract goal in accordance with the following criteria:

1. The applicable percentage of the total dollar value of the contract or subcontract awarded to the DBE firm will be counted toward meeting the DBE goal in accordance with the DBE Program-Related Certifications Made by Offerors/Consultant's section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself.
2. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Consultant may count toward the DBE goal only that portion of the total dollar value of the subcontract equal to the distinctly defined portion of the work that the DBE firm has performed with the DBE firm's own forces or in accordance with the provisions of this Section. The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture's organizational structure and proposed operation where the Consultant seeks to claim the goal credit.
3. When a DBE firm subcontracts part of the work to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE firm's subconsultant is a DBE firm. Work that a DBE firm subcontracts to a non-DBE firm, or to a firm that may be eligible to be a DBE firm, but has not yet been certified as a DBE firm, will not count toward the DBE. The cost of supplies and equipment a DBE subconsultant purchases or leases from the Consultant or prime contractual affiliates, as in the case of a joint venture, will not count toward the DBE goal.
4. The Consultant may count expenditures to a DBE subconsultant toward the DBE goal only if the DBE performs a Commercially Useful Function (CUF) on that subcontract, as such term is defined in subparagraph G below.

#### **G. Performing a Commercially Useful Function (CUF)**

No credit toward the DBE goal will be allowed for payments or reimbursement of expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE firm performs a CUF when the DBE is solely responsible for execution of a distinct element of the work and the DBE firm actually performs, manages, and supervises such work with the DBE firm's own forces or in accordance with the

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provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE firm alone must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force. The amount the DBE firm is to be paid under the subcontract shall be commensurate with the work the DBE actually performs and the DBE goal credit claimed for the DBE firm's performance.

**Monitoring CUF Performance:** It shall be the Consultant's responsibility to confirm that all DBE firms selected for subcontract work on the contract, for which he seeks to claim credit toward the DBE goal, perform a CUF. Further, the Consultant is responsible for and shall confirm that each DBE firm fully performs the DBE firm's designated tasks in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. For the purposes of this Special Provision the DBE firm's equipment **will** mean either equipment directly owned by the DBE as evidenced by title, bill of sale or other such documentation, or leased by the DBE firm, and over which the DBE has control as evidenced by the leasing agreement from a firm not owned in whole or part by the Consultant or an affiliate of the Consultant.

The Department will monitor the Consultant's DBE involvement during the performance of the contract. However, Department is under no obligation to warn the Consultant that a DBE firm's participation will not count toward the goal.

**DBE Firms Must Perform a Useful and Necessary Role in Contract Completion:** A DBE firm does not perform a CUF if the DBE firm's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE firm participation.

**DBE Firms Must Perform The Contract Work With Their Own Workforces:** If a DBE firm does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE firm's contract with the DBE firm's own work force, or the DBE firm subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involve, Department will presume that the DBE firm is not performing a CUF and such participation will not be counted toward the DBE goal.

**Department Makes Final Determination On Whether a CUF Is Performed:** Department has the final authority to determine, in its sole discretion, whether a DBE firm has performed a CUF on the contract. To determine whether a DBE is performing or has performed a CUF, Department will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any DBE work performed by the Consultant or by employees or equipment of the Consultant **shall** be subject to disallowance under the DBE Program, unless the independent validity and need for such an arrangement and work is demonstrated. When a DBE firm is presumed not to be performing a commercially useful function the DBE may present evidence to rebut the Department's finding. Department has the final authority to determine, in its sole discretion, whether a DBE firm has performed a CUF on the contract.

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#### **H. Verification of DBE Participation and Imposed Damages**

Within fourteen (14) days after subcontract execution between Consultant and DBE subconsultants, the Consultant shall submit to the Department's Civil Rights Office (CRO), a copy of the fully executed subcontract agreement for each DBE firm used to claim credit in accordance with the requirements stated on Form C-111 PSC. The subcontract shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subconsultant.

The Department will track DBE participation based on invoices submitted to the agency for payment. The level of detail on the invoices must detail consultant and subconsultant values. The Department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations.

If DBE firms are used which have not been previously documented with the Consultant's minimum DBE requirements documentation and for which the Consultant now desires to claim credit toward the contract goal, the Consultant shall be responsible for submitting a request to the Contract Administrator for a contract Supplemental Agreement. After approval of the Supplemental Agreement the Consultant must submit necessary documentation in accordance with contract terms. The Department will track DBE participation at the invoice level.

Prior to beginning any major component of the work to be performed by a DBE firm not previously submitted, Consultant shall furnish a revised Form C-111 PSC showing the name(s) and certification number(s) of any such DBEs for which Consultant seeks DBE goal credit. Consultant shall obtain the prior approval of the Department for any assistance it may provide to the DBE firm beyond its existing resources in executing its commitment to perform the work in accordance with the requirements listed in the **Good Faith Efforts Described** section of this Special Provision. If Consultant is aware of any assistance beyond a DBE firm's existing resources that Consultant, or another subconsultant, may be contemplating or may deem necessary and that have not been previously approved, Consultant shall submit a new or revised narrative statement for Department's approval prior to assistance being rendered.

If the Consultant fails to correctly complete and any of the required documentation requested by this Special Provision within the specified time frames, the Department will withhold payment until such time as the required submissions are received by Department. Where such failures to provide required submittals or documentation are repeated, Department will move to enjoin the Consultant and any prime contractual affiliates, as in the case of a joint venture, from responding or participating Department projects until such submissions are received.

#### **I. Documentation Required for Final Payment**

In anticipation of final payment, Consultant shall submit a final invoice marked "Final" to the Contract Administrator within thirty (30) days of the anticipated date of final completion. Consultant acknowledges by the act of signing and filing the form that the information is supplied to obtain payment regarding the contract as a federal participation contract.

#### **J. Prompt Payment Requirements**

In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4347 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subconsultants within seven (7) days after receipt of payment from the Department, or shall notify the Department and subconsultant in writing of the intention to withhold all or a part of the amount due along with the reason

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for nonpayment. Invoices shall be submitted no more frequently than once every 30 days and not less than every 60 days. Sub-consultant invoices must be submitted within 60 days of receipt by the Consultant.

For purposes of this Special Provision, a subconsultant's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by Department. If Department has made partial acceptance of a portion of the contract, then Department will consider the work of any subconsultant covered by that partial acceptance to be satisfactorily completed.

Upon Department's payment of the subconsultant's portion of the work as shown on the application for payment and the receipt of payment by Consultant for such work, the Consultant shall make compensation in full to the subconsultant for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subconsultant's portion of the work shall mean the Consultant has issued payment in full, to the subconsultant for that portion of the subconsultant's work that Department paid to Consultant pursuant to the applicable application for payment.

By accepting and executing this contract, the Consultant agrees to assume these obligations, and to bind the Consultant's subconsultants contractually to these obligations.

Nothing contained herein shall preclude Consultant from withholding payment to the subconsultant in accordance with the terms of the subcontract in order to protect the Consultant from loss or cost of damage due to a breach of the subcontract by the subconsultant.

#### **K. Miscellaneous DBE Program Requirements**

**Loss of DBE Eligibility:** When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:

1. When a Consultant has made a commitment to use a DBE firm that is not currently certified, thereby making the Consultant ineligible to receive DBE goal credit for work performed, the ineligible DBE firm's work does not count toward the DBE goal. Consultant shall meet the DBE goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the CRO that it has made good faith efforts to do so.
2. When a Consultant has executed a subcontract with a DBE firm prior to official notification of the DBE firm's loss of eligibility, Consultant may continue to use the firm on the contract and shall continue to receive DBE credit toward DBE goal for the subconsultant's work.
3. When Department has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after VDOT issued the notice of its ineligibility shall be counted toward the contract goal.

**Termination of DBE:** If a DBE subconsultant is terminated, or fails, refuses, or is unable to complete the work on the contract for any reason, Consultant must promptly request approval to substitute or replace that DBE firm in accordance with this section of this Special Provision.

The Consultant shall notify DCRO in writing before terminating and/or replacing the DBE firm that is being used or represented to fulfill DBE-related contract obligations during the term of the contract. Written consent from the DCRO for terminating the performance of any DBE firm shall be granted only

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when the Consultant can demonstrate that the DBE firm is unable, unwilling, or ineligible to perform its obligations for which the Consultant sought credit toward the DBE goal. Such written consent by the Department to terminate any DBE shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE firm shall not be based on the Consultant's ability to negotiate a more advantageous contract with another subconsultant whether that subconsultant is, or is not, a DBE firm.

- I. All Consultant requests to terminate, substitute, or replace a DBE firm shall be in writing, and shall include the following information:
- (a) The date the Consultant determined the DBE to be unwilling, unable, or ineligible to perform.
  - (b) The projected date that the Consultant shall require a substitution or replacement DBE to commence work if consent is granted to the request.
  - (c) A brief statement of facts describing and citing specific actions or inaction by the DBE firm giving rise to Consultant's assertion that the DBE firm is unwilling, unable, or ineligible to perform;
  - (d) A brief statement of the DBE firm's capacity and ability to perform the work as determined by the Consultant;
  - (e) A brief statement of facts regarding actions taken by the Consultant, that Consultant believes constitute good faith efforts toward enabling the DBE firm to perform;
  - (f) The current percentage of work completed by the DBE firm;
  - (g) The total dollar amount currently paid for work performed by the DBE firm;
  - (h) The total dollar amount remaining to be paid to the DBE firm for work completed, but for which the DBE firm has not received payment, and with which the Consultant has no dispute;
  - (i) The total dollar amount remaining to be paid to the DBE firm for work completed, but for which the DBE firm has not received payment, and over which the Consultant and/or the DBE firm have a dispute.
- II. Consultant's Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

Consultant shall send a copy of the "request to terminate and substitute" letter to the affected DBE firm and make best efforts to ensure its receipt by the DBE firm, in conjunction with submitting the request to the DCRO. The DBE firm may submit a response letter to the DCRO and Department within two (2) business days of receiving the notice to terminate from the Consultant. If the DBE firm submits a response letter, then Consultant shall, as part of its subcontract, obligate the DBE firm to explain its position concerning performance on the committed work. The Department will consider both the Consultant's request and the DBE firm's response and explanation before approving the Consultant's termination and substitution request.

If, after making its best efforts to deliver a copy of the "request to terminate and substitute" letter, the

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Consultant is unsuccessful in notifying the affected DBE firm, the Department will verify that the DBE firm is unable or unwilling to continue performing its subcontract let with respect to the contract. Department will timely approve the Consultant's request for a substitution.

#### **III. Proposed Substitution of Another Certified DBE**

Upon termination of a DBE firm, Consultant shall use reasonably good faith efforts to replace the terminated DBE firm. The termination of such DBE firm shall not relieve Consultant of its obligations under this Special Provision, and the unpaid portion of the terminated DBE firm's subcontract will not be counted toward the DBE goal.

When a DBE substitution is necessary, the Consultant shall submit an amended Form C-111 PSC to the DCRO for approval with the name of another DBE firm, the proposed work to be performed by that DBE firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the original DBE firm.

Should Consultant be unable to commit the remaining required dollar value to the substitute DBE firm, the Consultant shall provide written evidence of good faith efforts made to obtain the substitute value requirement. Department will review the quality, thoroughness, and intensity of those efforts. Efforts that are viewed by Department as merely superficial or pro-forma will not be considered good faith efforts to meet the DBE goal. Consultant must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the **Good Faith Efforts Described** section of this Special Provision.

#### **L. Suspect Evidence of Criminal Behavior**

Failure of Consultant or any subconsultant to comply with the Standard Specifications, this Special Provision, or any other contract document wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.

#### **M. Suspected DBE Fraud**

In appropriate cases, Department will bring to the attention of the United States Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

#### **N. Availability of Records**

Requests for information concerning any aspect of the DBE Program, the Department complies with provisions of the Federal and Virginia Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a) and Code of Virginia Section 2.2 -3700.

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### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

#### **VIRGINIA DEPARTMENT OF TRANSPORTATION**

#### **Use of Small Businesses, Including Small Women-Owned, Small Minority-Owned, and Small Service Disabled Veteran-Owned Businesses (SWaM Program) on Consultant Contracts**

SWaM certification entitles consultants to participate in VDOT' SWaM programs. Certification does not guarantee the firm will receive work nor does it attest to the firm's abilities to perform any particular work when there is no SWaM goal identified.

Code of Federal Regulations 49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet.

VDOT also requires **Washington County, Virginia** to capture SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis

#### **A. SWaM Program**

The Small, Women-owned, and Minority-owned Business (SWaM) certification program is a state program of the Commonwealth of Virginia. The purpose is to enhance procurement opportunities for SWaM businesses participating in state-funded projects. A directory listing of certified DBE firms can be obtained from the Virginia Department of Small Business and Supplier Diversity's website: <http://www.sbsd.virginia.gov>.

In accordance with applicable rules, regulations, and laws, it is the policy of the Department that small businesses, including those owned by women, minorities, and service disabled veterans (SWaMs) shall have the maximum opportunity to participate in the performance of the Contract. The Offeror is encouraged to seek out and to take necessary and reasonable steps to provide SWaMs with the maximum opportunity possible to compete for and perform work as Offerors/Subconsultants on the Contract. Executive Order 35 (2019) establishes goals and programs aimed at expanding opportunities for Virginia's small-, women-, minority- (SWaM) and service disabled veteran-owned businesses.

For the purposes of VDOT's SWaM Program, SWaMs are small businesses certified by the Department of Small Business and Supplier Diversity (DSBSD) and defined in Virginia Code § 2.2-1604 and § 2.2-4310 as: (i) small, (ii) any subcategory of small, (iii) small women-owned, (iv) small minority-owned, and (v) small service disabled veteran-owned. For the purpose of this SWaM Program, performance of the Contract shall include, but not be limited to, furnishing labor, materials, supplies, equipment, and services; and leasing equipment or, where applicable, any combination thereof.

By submitting your proposal and by accepting, and executing any resulting Contract on the basis of that submission, the Offeror/Consultant agrees to assume these contractual obligations. The Offeror/Consultant shall carry out the applicable requirements of this SWaM Program in the award, administration, and performance of this Contract. Failure by the Offeror/Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or other such remedy, as VDOT deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the Offeror/Consultant from submitting future proposals.



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### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

By submitting a Proposal and by entering into any Contract on the basis of that Proposal, the Offeror/Consultant certifies to each of the following SWaM Program-related conditions and assurances:

1. Offeror/Consultant shall comply fully with the SWaM Program requirements in the execution and performance of the Contract. Consultant acknowledges that failure to fulfill the SWaM subcontracting commitments made may result in sanctions being invoked for noncompliance. Failure to comply fully with the SWaM Program requirements may result in non-renewal.
2. The Offeror's/Consultant's status as a DSBSD-certified SWaM business, and the Small Business Subcontracting Plan if the firm is not a small business.

#### **B. SWaM Certification**

The only Offerors/Consultants eligible to perform work on a state funded contract and receive SWaM goal credit are SWaMs certified by DSBSD. Additionally, SWaM businesses must be certified in a NIGP commodity code applicable to the kind of work the businesses would perform on the Contract to receive credit toward the SWaM goal. A directory listing of certified SWaM businesses can be obtained from the DSBSD website: [www.sbsd.virginia.gov](http://www.sbsd.virginia.gov).

In support of the SWaM Program, VDOT has a service that easily locates SWaM certified businesses that are near a job site using an interactive map that can be accessed using the following link: [VDOT's SWaM Patrol - Path to 42](http://www.vdot.gov/portalx/apps/webappviewer/index.html?id=01fc3abf6ed545d1aeaa1061c74a0c34).

<https://vdotgisportal.vdot.virginia.gov/portalx/apps/webappviewer/index.html?id=01fc3abf6ed545d1aeaa1061c74a0c34>

#### **C. SWaM Program-Related Certifications Made by Offerors/Consultants**

By submitting a proposal and by entering into a Contract, the Offeror/Consultant certifies to each of the following SWaM Program-related conditions and assurances:

1. Under penalty of perjury and other applicable penal law that it has complied with the SWaM Program requirements in submitting the proposal, and shall comply fully with these requirements in the award and execution of the Contract.
2. To ensure that SWaMs have been given full and fair opportunity to participate in the performance of the Contract, the Offeror/Consultant certifies that all reasonable steps were, and will be, taken to ensure that SWaMs had, and will have, an opportunity to compete for and perform work on the Contract.
3. As an Offeror/Consultant, good faith efforts were made to obtain SWaM participation in the proposed Contract at or above the goal for SWaM participation established by the Department. If necessary, it has submitted as a part of its bid true, accurate, complete, and detailed documentation of the good faith efforts it performed to meet the Contract goal for SWaM participation. The Offeror/Consultant, by signing and submitting its proposal, certifies the SWaM participation information submitted within the stated time thereafter is true, correct, and complete, and that the information provided includes the names of all SWaMs that will participate in the contract and the applicable National Institute of Governmental Purchasing (NIGP) commodity code for the specific

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### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

work that each listed SWaM will perform, and for Project Specific RFPs/Contracts, the creditable dollar amounts of the participation of each listed SWaM.

4. The Offeror/Consultant further certifies, by signing its proposal, it has committed to use each SWaM listed for the specific work item shown to meet the Contract goal for SWaM participation. Award of the Contract will be conditioned upon meeting these requirements and other applicable requirements in the Contract. By signing the proposal, the Offeror/Consultant certifies on work that it proposes, it will make good faith efforts to seek out and consider SWaMs as potential subconsultants.
5. The Offeror/Consultant shall make good faith efforts to utilize SWaMs to perform work designated to be performed by SWaMs at or above the amount or percentage of the dollar value specified in the Contract and shall include the description of the services to be performed, percent participation, and referenced project numbers(s) and/or RFQ/RFP#. Further, the Offeror/Consultant understands it shall not unilaterally terminate, substitute for, or replace any SWaM that was designated in the executed Contract in whole or in part with another SWaM, any non-SWaM, or with the Offeror's/Consultant's own forces or those of an affiliate of the Offeror/Consultant without the prior written consent of the Department as set out within this provision.
6. Once the contract is awarded, the Consultant shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive SWaM Program. The designation and identity of this officer need be submitted only once by the Consultant during any 12-month period.
7. Once awarded the contract, the Consultant shall comply fully with all regulatory and contractual requirements of the SWaM Program, and ensure that each SWaM participating in the Contract shall fully perform the designated work with the SWaM's own forces and equipment under the SWaM's direct supervision, control, and management. Where a Contract exists and where the Consultant, SWaM, or any other subconsultant retained by the Consultant has failed to comply with the SWaM Program requirements on that Contract, VDOT has the authority and discretion to determine the extent to which the SWaM Contract requirements have not been met, and will assess against the Consultant any remedies available at law or provided in the Contract

#### **D. Compliance Procedures**

The following procedures shall apply for SWaM Program compliance purposes.

1. SWaM Goal, Good Faith Efforts Specified For Project Specific Contracts.

At the time of the submittal of the Expression of Interest, the Offeror will include form C-48 PSC. This form represents the Offeror's/Consultant's solicitation of subconsultants to be used for the Contract to meet the SWaM goal, documenting its small business subcontracting plan to attain SWaM participation equal to or greater than the SWaM goal established for the project. Offerors/Consultants who are SWaMs are deemed to have met all compliance procedures.

If, at the time of submitting the Expression of Interest, the Offeror knowingly cannot meet or demonstrate good faith efforts in meeting the proposed required DBE Contract goal, form C-49 PSC shall be submitted.

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

Upon completion of award, Form C-111 PSC shall be submitted electronically, but in no case shall the Offeror's/Consultant's Form C-111 PSC be received later than two (2) business days after the negotiated Contract value has been determined. If Offeror/Consultant should add or remove DBE firms during negotiations, a revised Form C-48 PSC must be received within ten (10) business days after the negotiated subcontract value has been determined.

If, at the time of submitting its offer, the Offeror/Consultant knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C49 PSC exhibiting the SWaM participation it commits to attain. The Offeror/Consultant shall then submit Form C-49 PSC, DBE Good Faith Efforts Documentation, within two (2) business days after the negotiated contract value

If the most highly qualified (top-ranked) firm / Offeror does not meet the goal or demonstrate a good faith effort, the Department may terminate negotiations and initiate negotiations with the number two-ranked firm.

#### **2. SWaM Goal, Good Faith Efforts Specified for Limited Services Term Contracts**

At the time of the submittal of the Expression of Interest, the Offeror/Consultant will include form C-48 PSC. This form represents the Offeror's/Consultant's solicitation of subconsultants to be used for the Contract to meet the SWaM goal documenting its small business subcontracting plan to attain SWaM participation equal to or greater than the SWaM goal established for the project. Offerors/Consultants who are SWaMs are deemed to have met all compliance procedures.

If, at the time of submitting the Expression of Interest, the Offeror/Consultant knowingly cannot meet or demonstrate good faith efforts in meeting the required DBE contract goal, form C-49 PSC shall be submitted.

If the most highly qualified (top-ranked) firm / Offeror does not meet the goal or demonstrate a good faith effort, the Department may terminate negotiations and initiate negotiations with the number two-ranked firm.

Forms C-48 PSC, C-49PSC, C-111 PSC can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>.

#### **3. Good Faith Efforts Described**

Good faith efforts means all necessary and reasonable steps that the Offeror /Consultant took to achieve the SWaM goal or comply with the requirements of this SWaM Program which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to obtain or fulfill the requirement.

In order to award a Contract to a Offeror/Consultant who has failed to meet the SWaM goal, or otherwise evaluate whether the Offeror/Consultant has complied with the requirements of the SWaM Program, VDOT will determine if the Offeror/Consultant made adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the SWaM goal. Efforts to obtain SWaM participation are not good faith efforts if they could not reasonably be expected to produce a level of SWaM participation sufficient to meet the SWaM goal.

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

Good faith efforts may be determined through use of the following list of the types of actions the Offeror/Consultant may take to obtain SWaM participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

1. Soliciting SWaM participation through reasonable and available means, such as but not limited to, advertising and sending written notices to SWaMs who have the capability to perform the work of the Contract. Examples include: (i) advertising the opportunity to submit a proposal in at least one daily/weekly/monthly newspaper of general circulation or on the internet with supporting documentation, including copies of the advertisement; (ii) telephoning SWaMs as shown by a completely documented telephone log, including the date and time called, contact person, or voice mail status; or (iii) emailing SWaMs as shown by copies of the email and responses. Offeror/Consultant shall solicit this interest no less than five (5) business days before the proposals are due so that the solicited SWaMs have enough time to reasonably respond to solicitation by the Offeror/Consultant. Offeror/Consultant shall determine with certainty if the SWaMs are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49PSC.
2. Selecting portions of the work to be performed by SWaMs in order to increase the likelihood that the SWaM goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate SWaM participation, even when the Offeror/Consultant might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces.
3. Providing interested SWaMs with adequate information about the Plans, Specifications, and requirements of the Contract in a timely manner, which will assist the SWaMs in responding to solicitation by an Offeror/Consultant.
4. Negotiating for participation in good faith with interested SWaMs.
  - (1) Evidence of such negotiation shall include the names, addresses, and telephone numbers of SWaMs that were considered; dates SWaMs were contacted; a description of the information provided regarding the Plans, Specifications, and requirements of the Contract for the work selected for subcontracting; and, if insufficient SWaM participation seems likely, evidence as to why additional agreements could not be reached for SWaMs to perform the work.
  - (2) An Offeror/Consultant using good business judgment should consider a number of factors in negotiating with Offerors, including SWaM Offerors/Consultants, and should take a firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using SWaMs is not sufficient reason for an Offeror's/Consultant's failure to meet the Contract goal for SWaM participation, as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of an Offeror/Consultant to perform the work on the Contract with its own organization does not relieve the Offeror/Consultant of the responsibility to make diligent good faith efforts. Offerors/Consultants are not, however, required to accept higher quotes from SWaMs if the Offeror/Consultant can show price difference to be excessive, unreasonable, or greater than would normally be expected by industry standards.

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

5. An Offeror/Consultant cannot reject a SWaM as being unqualified without sound reasons based on a thorough investigation of the SWaM's capabilities. The SWaM's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, and union versus non-union employee status are not legitimate causes for the rejection or non-solicitation of bids in the Offeror's/Consultant's efforts to meet the project goal for SWaM participation.
6. Making efforts to assist interested SWaMs in obtaining necessary equipment, supplies, materials, or related assistance or services subject to the restrictions contained in these provisions.
7. Effectively using the services of appropriate personnel from the Department and from (i) DSBSD, (ii) available community organizations, (iii) Offerors'/Consultant's groups, (iv) local, state, and Federal business assistance offices, (v) the Virginia Department of Veterans; and (vi) other organizations as allowed on a case-by-case basis; to provide assistance in the recruitment and utilization of qualified SWaMs.

### **E. Documentation and Administrative Reconsideration of Good Faith Efforts**

Before awarding a Contract or renewing a renewable Contract with the Consultant, the Department will review the Offeror's/Consultant's record of compliance with its small business subcontracting plan requirements submitted on past Contracts. The failure to meet satisfactorily the designated small business subcontracting procurement plan requirements shall be considered in the prospective award or renewal of a Contract in accordance with applicable rules, regulations, and laws.

1. After EOI Submission but Prior to Contract Award:  
An EOI may be found non-responsive where the Offeror/Consultant has failed to submit the required documentation in the time and manner specified.
2. During the Contract:  
If a SWaM, through no fault of the Consultant, is unable or unwilling to fulfill his agreement with the Consultant, the Consultant shall document the requests for services immediately notify the Department and provide all relevant facts. If a Consultant relieves a SWaM subconsultant of the responsibility to perform work under their subcontract, the Consultant shall take the appropriate steps to obtain another SWaM firm to perform the remaining subcontracted work for the amount that would have been paid to the original firm. In such instances, Consultant is expected to seek SWaM participation towards meeting the goal during the performance of the Contract. The Consultant shall be responsible for submitting a request to the Department Contract Administrator for a Contract Supplemental Agreement to include any new SWaM subconsultants. After approval of the Supplemental Agreement the Consultant must submit necessary documentation in accordance with Contract terms.
3. Term Renewal (Limited Term Services Contracts):  
At contract renewal, the Consultant must submit Form C-49 PSC Good Faith Effort Documentation to the Department along with the renewal acceptance letter. The form shall include details on total work assigned to the SWaM subconsultants including details on work

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

assigned vs amount of work paid to date, along with other good faith efforts as described on the form.

The Department will determine if the Consultant's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the requirements. Efforts to obtain SWaM participation are not good faith efforts if they could not reasonably be expected to produce a level of SWaM participation sufficient to meet the SWaM DBE Program and contract goal requirements.

Prior to the Department's acceptance of adequate good faith effort, the Consultant shall provide in writing, the proposed SWaM utilization plan for the upcoming term. The plan must include demonstration of comprehensive good faith effort actions necessary to attain the SWaM goal.

Failure to adequately demonstrate current good faith effort documentation and/or a proposed good faith effort plan to achieve the goal, may result in the Department declining to renew the Contract.

#### **F. Performing a Commercially Useful Function (CUF)**

No credit toward the SWaM goal will be allowed for Contract payments or expenditures to a SWaM firm if that SWaM firm does not perform a CUF on the Contract. A SWaM performs a CUF when the SWaM is solely responsible for execution of a distinct element of the Work and the SWaM actually performs, manages, and supervises the work involved with the firm's own forces or in accordance with the provisions of Section 107.15(f). To perform a CUF the SWaM alone shall be responsible and bear the risk for the material and supplies used on the Contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the SWaM's own forces and equipment where applicable, and paying for those materials and supplies itself. Whether the SWaM is performing a CUF will be determined based on the amount of work subcontracted, and whether the amount the SWaM is to be paid under the Contract shall be commensurate with the work the SWaM actually performs and the SWaM credit claimed for the SWaM's performance.

1. **Monitoring CUF Performance:** It shall be the Consultant's responsibility to ensure that all SWaMs selected for subcontract work on the Contract, for which he seeks to claim credit toward the SWaM goal, perform a CUF. Further, the Consultant is responsible for and shall ensure that each SWaM fully performs the SWaM's designated tasks with the SWaM's own forces and equipment under the SWaM's own direct supervision and management. For the purposes of this provision the SWaM's equipment will mean either equipment directly owned by the SWaM as evidenced by title, bill of sale or other such documentation, or leased by the SWaM, and over which the SWaM has control as evidenced by the leasing agreement from a firm not owned in whole or part by the Consultant or an affiliate of the Consultant under the Contract.

The Department will monitor the Consultant's SWaM involvement during the performance of the Contract. However, the Department is under no obligation to warn the Consultant that a SWaM's participation will not count toward the goal.

2. **SWaMs Must Perform a Useful and Necessary Role in Contract Completion:** A SWaM does not perform a CUF if the SWaM's role is limited to that of an extra participant in a transaction,

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

contract, or project through which funds are passed in order to obtain the appearance of SWaM participation. In determining whether a SWaM is such an extra participant, VDOT will examine similar transactions, particularly those in which SWaMs do not participate.

3. **SWaMs Must Perform The Contract Work With Their Own Workforces:** If a SWaM does not perform and exercise responsibility for at least 30% of the total cost of the SWaM's contract with the SWaM's own work force, or the SWaM subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the SWaM is not performing a CUF and such participation will not be counted toward the SWaM goal. When a SWaM is presumed not to be performing a CUF, the SWaM may present evidence to rebut this presumption. The Department may determine that the SWaM is performing a CUF given the type of work involved and normal industry practices.
4. **VDOT Makes Final Determination On Whether a CUF Is Performed:** VDOT has the final authority to determine whether a SWaM firm has performed a CUF. To determine whether a SWaM is performing or has performed a CUF, VDOT will evaluate the amount of work subcontracted by that SWaM or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any SWaM work performed by the Consultant or by employees or equipment of the Consultant shall be subject to disallowance under the SWaM Program, unless the independent validity and need for such an arrangement and work is demonstrated.

### **G. Verification of SWaM Participation**

1. **During the Contract:** The Department will track SWaM participation based on invoices submitted to the Agency for payment. The level of detail on the invoices must detail Consultant and subconsultant values. The Department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations.
2. **SWaM Non-Performance:** If a SWaM, through no fault of the Consultant, is unable or unwilling to fulfill their agreement with the Consultant, the Consultant shall immediately notify the Department in writing and provide all relevant facts. If a Consultant intends to terminate or relieve a SWaM of the responsibility to perform work under their subcontract, the Consultant is required to inform the Agency.

The Consultant shall be responsible for replacing the terminated SWaM subconsultant to meet Contract goals as required by submitting a request to the VDOT Contract Administrator for a contract Supplemental Agreement. After approval of the Supplemental Agreement the Consultant must submit necessary documentation in accordance with contract terms. Include details here about adding a new SWaM vendor via Contract supplement.

### **H. Miscellaneous SWaM Program Requirements**

1. **Loss of SWaM Eligibility:** When a SWaM has been removed from eligibility as a certified SWaM, the following actions will be taken:

## **Attachment B**

### **Mandatory State-Aid Provision (include for non-Federal Aid Projects where SWaM goals present)**

1. When an Offeror/Consultant has made a commitment to use a Subconsultant that is not currently SWaM certified, thereby making the Offeror ineligible to receive SWaM participation credit for work performed, and a Subcontract has not been executed, the ineligible SubOfferor does not count toward either the SWaM goal or overall goal. The Offeror/Consultant shall meet the SWaM goal with a SubOfferor that is eligible to receive SWaM credit for work performed, or must demonstrate to the State Contract Engineer that it has made good faith efforts to do so.
2. When an Offeror/Consultant has executed a Subcontract with a certified SWaM before official notification of the SWaM's loss of eligibility, the Offeror/Consultant may continue to use the SubOfferor on the Contract and shall continue to receive SWaM credit toward its SWaM goal for the Subconsultant work.
3. When the Department has executed a prime contract with a SWaM that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible Consultant's performance on the contract before the Department has issued the notice of its ineligibility shall count toward the SWaM goal.

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**Attachment C**  
**Mandatory Federal-Aid Provision**  
**Not Required**

**Attachment C**  
**Mandatory Federal-Aid Provision**  
**Not Required**

**Attachment D  
Mandatory Federal-Aid / State-Aid Provision**

**SAMPLE FORMS REQUIRED IF A PROJECT IS AWARDED-NOT REQUIRED FOR RFP SUBMITTAL**

**FIRM DATA SHEET \***

Funding: \_\_\_\_ (S=State F=Federal)

Project No.: \_\_\_\_\_

Division: \_\_\_\_\_

EOI Due Date: \_\_\_\_\_

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data may result in the Expression of Interest not being considered.

| Firm's Name, Address and DBE and/or SWAM Certification Number | Firm's DBE or SWaM Status * | Firm's Age | Firm's Annual Gross Receipts |
|---|-----------------------------|------------|------------------------------|
|   |                             |            |                              |
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\* YD = DBE Firm Certified by DMBE

N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Small Business and Supplier Diversity

**Attachment E**

**Mandatory Federal-Aid / State-Aid Provision**

**SAMPLE FORMS REQUIRED IF A PROJECT IS AWARDED-NOT REQUIRED FOR RFP SUBMITTAL**

**CERTIFICATION REGARDING DEBARMENT**

**PRIMARY COVERED TRANSACTIONS**

**(To be completed by a Prime Consultant)**

RFP for Engineering, Architecture, and Construction Support Services

Project: \_\_\_\_\_

- 1) The prospective primary participant 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 1) 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.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

**Attachment E**

**Mandatory Federal-Aid / State-Aid Provision**

**SAMPLE FORMS REQUIRED IF A PROJECT IS AWARDED-NOT REQUIRED FOR RFP SUBMITTAL**

**CERTIFICATION REGARDING DEBARMENT**

**LOWER TIER COVERED TRANSACTIONS**

**(To be completed by a Sub-consultant)**

RFP for Engineering, Architecture, and Construction Support Services

Project: \_\_\_\_\_

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

**Attachment F**

**Mandatory Federal-Aid / State-Aid Provision**

**SAMPLE FORMS REQUIRED IF A PROJECT IS AWARDED-NOT REQUIRED FOR RFP SUBMITTAL**

Form C-48 PSC

Rev. 04-5-23

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
SUBCONSULTANT SOLICITATION FORM**

**RFP NO.:** \_\_\_\_\_

**OFFEROR / CONSULTANT NAME:** \_\_\_\_\_

The Offerors certifies this form accurately represents its solicitation of the firms listed below for inclusion in the Expression of Interest (EOI) and performance of work on any resulting contract. The Offerors also certifies he/she has had direct contact with the named firms regarding participation on this project.

**OFFEROR TITLE** \_\_\_\_\_ **SIGNATURE** \_\_\_\_\_

| VENDOR NUMBER | NAME OF SUBCONSULTANT | TELEPHONE NUMBER | DBE ID OR SWaM ID or NA * | NAICS (if DBE) and NIGP Codes (if SWAM) * Or NA |
|---------------|-----------------------|------------------|---------------------------|---|
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\*If certified as both DBE and SWaM, list information for each program.

**NOTE:** ATTACH ADDITIONAL PAGES, IF NECESSARY. OFFEROR MUST SIGN EACH ADDITIONAL SHEET TO CERTIFY ITS CONTENT AND COMPLETION OF FORM.

**Attachment G  
Mandatory Federal-Aid / State-Aid Provision**

**SAMPLE FORMS REQUIRED IF A PROJECT IS AWARDED-NOT REQUIRED FOR RFP SUBMITTAL**

**DPOR licenses and SCC registrations**

| SCC & DPOR INFORMATION FOR BUSINESSES |                 |                         |            |                         |                        |                          |                      |
|---------------------------------------|-----------------|-------------------------|------------|-------------------------|------------------------|--------------------------|----------------------|
| Business Name                         | SCC Information |                         |            | DPOR Information        |                        |                          |                      |
|                                       | SCC Number      | SCC Type of Corporation | SCC Status | DPOR Registered Address | DPOR Registration Type | DPOR Registration Number | DPOR Expiration Date |
|                                       |                 |                         |            |                         |                        |                          |                      |
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1. The Commonwealth of Virginia SCC registration detailing the name, registration number, corporation type, business entity status.
2. For this RFP, the Commonwealth of Virginia DPOR registration information for each office practicing or offering to practice any professional services in Virginia: Provide the business name, address, registration type, registration number, expiration date.

| DPOR INFORMATION FOR INDIVIDUALS |                   |   |                           |                        |                          |                      |
|----------------------------------|-------------------|---|---------------------------|------------------------|--------------------------|----------------------|
| Business Name                    | Individual's Name | Office Location Where Professional Services will be Provided (City/State) | Individual's DPOR Address | DPOR Registration Type | DPOR Registration Number | DPOR Expiration Date |
|                                  |                   |   |                           |                        |                          |                      |
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3. For this RFP, the Commonwealth of Virginia DPOR license information for each of your Key Personnel practicing or offering to practice professional services in Virginia: Provide the name, the address, type, the registration number, and the expiration date. Provide the office location where each of the Key Personnel is offering to practice professional services.
4. For this RFP, the Commonwealth of Virginia DPOR license information for those services not regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (e.g. real estate appraisal): the business name, the address, the registration type, the registration number, and the expiration date.

**Attachment H**  
**Mandatory Federal-Aid**

**USDOT 1050.2A**  
**APPENDIX A**

During the performance of this contract, the consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Virginia Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Virginia Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Virginia Department of Transportation shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract. or procurement as the Virginia Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Virginia Department of Transportation to enter into such litigation to protect the interests of the Virginia Department of Transportation, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



**Attachment H**  
**Mandatory Federal-Aid**

**USDOT 1050.2A**  
**APPENDIX E**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

**Pertinent Nondiscrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, And resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## **Attachment H Mandatory Federal-Aid**

### **Critical Infrastructure Information/Sensitive Security Information (CII/SSI)**

Contract documents or project material containing CII/SSI in whole or in part are subject to the terms of this Section and comply with the requirements of CII/SSI Guide. This guide can be located at:

- [https://www.vdot.virginia.gov/media/vdotvirginiagov/doing-business/technical-guidance-and-support/structure-and-bridge/CII\\_SSIguideV6.0InterimRevisionFINAL.PDF](https://www.vdot.virginia.gov/media/vdotvirginiagov/doing-business/technical-guidance-and-support/structure-and-bridge/CII_SSIguideV6.0InterimRevisionFINAL.PDF)
- <https://www.vdot.virginia.gov/media/vdotvirginiagov/doing-business/technical-guidance-and-support/technical-guidance-documents/structure-and-bridge/migrated-acc/iim/SBIIM71.pdf>

Consultants shall be responsible for safeguarding Critical Infrastructure/Sensitive Security Information (CII/SSI) (as defined in the VDOT CII/SSI Policy) in their custody or under their control. Individuals are responsible for safeguarding CII/SSI entrusted to them. The extent of protection afforded CII/SSI shall be sufficient to reasonably foreclose the possibility of its loss or compromise.

Consultants shall ensure that all employees using this information are aware of the prohibition against disclosing CII/SSI in any manner (written, verbal, graphic, electronic, etc.) that permits interception by unauthorized persons.

Consultants shall protect CII/SSI at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with protected CII/SSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

The use and storage of CII/SSI shall conform to the following guidelines: During working hours, reasonable steps shall be taken to minimize the risks of access to CII/SSI by unauthorized personnel. After working hours, CII/SSI shall be secured in a secure container, such as a locked desk, file cabinet or facility where contract security is provided.

The reproduction of CII/SSI documents or material containing CII/SSI shall be kept to the minimum extent necessary consistent with the need to carry out official duties. The reproduced CII/SSI material shall be marked and protected in the same manner as the original material.

Material containing CII/SSI shall be disposed of by any method that prevents unauthorized retrieval. (e.g. shredding, burning, returning to original source, etc.)

CII/SSI shall be transmitted only by US first class, express (US Postal, FedEx, UPS, etc.), certified or registered mail, or through secure electronic means.

The portions of the documents that are marked as CII/SSI are not subject to disclosure under Code of Virginia §2.2-3705.2, and may not be released except with written permission from VDOT. Unauthorized release or reproduction of these documents may result in civil penalty or other legal action.

By copying, downloading, or receiving a copy of any documentation containing CII/SSI, or any part thereof, the Consultant or any other recipient acknowledges and agrees to the terms of this Section and will advise any individual using these documents, or any part thereof, that they too shall be responsible for safeguarding the CII/SSI in their custody or under their control. All costs associated with performing these CII/SSI requirements are the responsibility of the prime consultant.

## **Attachment H**

### **Mandatory Federal-Aid**

In the event of loss, suspected loss or compromise of any VDOT CII/SSI material, the Consultants having possession of the said CII/SSI material will immediately upon having knowledge of the loss, suspected loss or compromise of any VDOT CII/SSI material, notify the VDOT project manager. If the loss is a result of a theft or suspected theft, of either the actual CII/SSI material or any device containing or storing CII/SSI material, the Contractor/Consultant will immediately file a report with a law enforcement agency having jurisdiction and forward a copy of the report to the VDOT project manager.

Consultants shall include the terms of this Section and comply with the CII/SSI Guide, in any further dissemination of any contract documents or project materials containing CII/SSI in whole or in part, and in all subcontracts awarded under this contract.

Specifically,

1. If the required services will involve the handling of CII/SSI material, the Consultant(s) will be required to sign non-disclosure agreements. Additionally, individuals with the Consultant(s) that handle CII/SSI material will be required to sign non-disclosure agreements.
2. Once negotiations have been completed and prior to executing a contract, personnel handling CII/SSI material, visiting Critical Infrastructure (CI) facilities, or performing bridge/tunnel inspections will be required to pass a fingerprint-based Criminal History Record Check (CHRC). An individual employee's failure to successfully pass the fingerprint-based CHRC will not negate the selection, and Consultants will be allowed to replace those individuals. However, if key personnel fail the fingerprint-based CHRC, the selection may be cancelled and negotiations begun with the next ranked Offeror.
3. VDOT reserves the right to conduct fingerprint-based CHRC on all employees of the prime consultant, on any employees of sub-consultants, or on any proposed replacements during the term of the contract who will be involved in this project. All costs associated with the fingerprint-based CHRC are the responsibility of the prime consultant.
4. A VDOT issued photo-identification badge is required for each employee of the prime consultant or any sub-consultant who will need access to VDOT CI facilities, or who will be performing bridge/tunnel inspections. Based upon the results of the fingerprint-based CHRC, VDOT reserves the right to deny issuance of a VDOT security clearance or a VDOT issued photo-identification badge.

VDOT's *CII/SSI Policy Guide for Employees, Vendors, Contractors, or other Persons Accessing VDOT's CII/SSI* includes additional requirements. This guide can be accessed at:

[https://www.vdot.virginia.gov/media/vdotvirginiagov/doing-business/technical-guidance-and-support/structure-and-bridge/CII\\_SSIguideV6.0InterimRevisionFINAL.PDF](https://www.vdot.virginia.gov/media/vdotvirginiagov/doing-business/technical-guidance-and-support/structure-and-bridge/CII_SSIguideV6.0InterimRevisionFINAL.PDF)