

COMMONWEALTH OF VIRGINIA



REQUEST FOR PROPOSAL (RFP) AND CONTRACT

RFP #17-01RW

FOR RIGHT OF WAY ACQUISITION SERVICES
(FEDERAL AID PROJECTS)

ON CALL CONTRACT – _____ REGION

PROPOSALS WILL BE RECEIVED UNTIL: **4:00 p.m. Wednesday, July 26, 2017**

NAME OF CONSULTANT: _____

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY AND UTILITIES DIVISION**

**REQUEST FOR PROPOSAL
ON CALL SERVICES
(FEDERAL AID PROJECTS)**

ISSUE DATE: June 27, 2017

RFP # 17-01RW

The Virginia Department of Transportation is requesting proposals (RFP) from prequalified right of way consulting firms that wish to be considered for providing services necessary for acquisition of right of way on an "on call" basis during this one year contract period. There will be three (3) separate contracts issued, one (1) for each geographical area, described as **Western Region** – Salem, Bristol, Lynchburg and Staunton; **Northeast Region** – Northern Virginia (NOVA), Culpeper and Fredericksburg; **Southeast Region** – Richmond and Hampton Roads. The necessary services required for these contracts are described in more detail herein.

All requests for information regarding this procurement should be directed to Mrs. Vicki B. Patrick at (804) 786-2910.

Firms interested in being considered must submit one original and two copies of their completed proposal, together with one copy of their completed proposal in electronic format, and any additional response, if deemed necessary, to:

Mrs. Lori A. Snider
State Right of Way Director
Right of Way Division
1401 East Broad Street
Richmond, Virginia 23219

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (“DBE”) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded contracts. A list of certified DBE firms is maintained on the Department of Small Business and Supplier Diversity’s web site (www.sbsd.virginia.gov) under the **DBE Directory of Certified Vendors**. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the “Contract” (defined below), including participation in any subsequent supplemental contracts. If the consultant identified on the cover sheet of this Request for Proposal (the “Consultant”) intends to subcontract a portion of the services on the project, the Consultant is encouraged to seek out and consider DBE firms as potential subcontractors. The Consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a Consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.

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

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

In compliance with this Request for Proposal (“RFP”) and all the conditions imposed herein, the undersigned consultant offers and agrees to furnish these services in accordance with the proposal.

Company Name and Address:

Telephone: _____

Date: _____

By: _____

Signature

Name: _____

Title: _____

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ATTACHMENTS

- ATTACHMENT A: General Terms and Conditions
- ATTACHMENT B: Small Business Subcontracting Plan
- ATTACHMENT B-1: Consultant Title VI Evaluation Form or Title VI Approval Letter
- ATTACHMENT C: SWaM Compliance Report
- ATTACHMENT D: State Corporation Commission Form
- ATTACHMENT E: Proprietary/Confidential Information Summary Form
- ATTACHMENT F: Subcontractor Approval Request
- ATTACHMENT G: Rate Schedule
- ATTACHMENT H: Fee Proposal
- ATTACHMENT I: Special Terms and Conditions
- ATTACHMENT J: Basis of Payment
- ATTACHMENT K: Firm Data Sheet

The Consultant and the Commonwealth of Virginia Department of Transportation (“VDOT” or the “Department”) have expressed a mutual interest in establishing an agreeable framework for procuring right of way acquisition and relocation services (the “Services”) within the VDOT Region or Districts identified on the cover sheet of this RFP on an on-call basis.

This request for proposal contains the terms under which the Consultant proposes to perform the Services, and if the Consultant’s proposal is accepted by the Department, includes the terms of the “Contract” (defined in Part VII below).

PART I - PURPOSE

The purpose of this RFP is to solicit proposals through competitive negotiations for the services of a consulting firm which will perform all services necessary to prepare appraisals, negotiate all necessary properties, and perform all relocation services required for the completion of right of way acquisition on this project according to the laws, rules, regulations, policies, and procedures outlined in Part II hereof.

PART II SCOPE OF SERVICES

- A. It shall be the intent of the Contract that the Consultant, employing qualified, competent personnel, shall perform all services necessary to prepare appraisal reports, which may include current owner rundowns, negotiate the acquisition of right of way from assigned properties, and provide relocation assistance services required for displaced individuals, businesses or other entities on an acquired property on any project. All services for assigned properties or displacees shall be performed in accordance with the terms herein and the Department’s Right of Way and Utilities Manual of Instructions, as it may be amended from time to time (the “ROW Manual”), and which is incorporated herein by reference and available at the following internet address: <http://www.virginiadot.org/business/row-default.asp>. The Consultant will also be required to utilize VDOT’s Right of Way and Utilities Management System (herein referred to as “RUMS”), and equipment meeting the specifications identified in Part II, Section 9 of this RFP.

The Consultant agrees to perform the services as set forth herein and furnish and deliver to the Department final reports with respect to each assigned parcel, accompanied by all necessary documents needed for voluntary acquisition of such parcel or necessary for the commencement of eminent domain proceedings to acquire parcels not acquired by voluntary acquisition.

B. The Consultant must provide all of the following services under the Contract:

1. Appraisal

All appraisal work performed by the Consultant must be completed by persons licensed in accordance with the licensing requirements set out in Section 406 of Title 54.1 of the Code of Virginia (1950) as amended (the “Code”), and regulations adopted pursuant thereto.

The Consultant shall make a detailed inspection of the properties and make such investigations and studies as are necessary to derive sound conclusions for the preparation of appraisal reports.

The Consultant shall conform to recognized appraisal principles and practices of the appraisal profession in estimating the value of the properties. Evaluation of such property must also be according to judicially recognized methods of property evaluation in the Commonwealth of Virginia. The appraisal must provide adequate factual data to support the conclusions reached as to value in sufficient detail to permit the Department’s reviewer and/or a fee reviewer hired under separate contract, to follow and understand the conclusion reached by the Consultant, all according to the provisions of Chapter 4 of the ROW Manual.

Upon completion of the inspection, investigations, and studies, the Consultant shall prepare and electronically deliver using RUMS all completed appraisal reports to the Department. All comparable sales shall be placed on the VDOT Comparable Data Form and electronically submitted to the reviewer for approval.

The appraisal reports shall be based upon plans as furnished by the Department for said route and project, showing areas of land and interests therein to be acquired by the Department, and showing each parcel designated by a parcel number. Copies of such plans will be furnished by the Department to the Consultant, and the individual appraisal report prepared by the Consultant shall make use of the parcel number for proper reference. The Consultant shall make a detailed study of the highway plans, including a field study for items such as property lines, improvements, out conveyances, etc., to assure correctness of the said plans.

All appraisals shall be submitted in the priority provided by the Department. Any variation of this sequencing must have the approval of VDOT's Right of Way and Utilities Program Manager (the "VDOT Program Manager"). All appraisals will be prepared as specified in accordance with Chapter 4 of the ROW Manual as well as the requirements of 49 CFR, Part 24, or successor federal regulations. The completed appraisal shall be provided to the Department by the Department's due dates provided to the Consultant with the parcel assignments.

The Consultant, through its appraisals, will be responsible for the following additional services: estimating and completing any sign appraisals (outdoor advertising or on-premises signs), furnishing parking loss estimates, and determining the fair market values of properties with contaminated soil. The cost of these additional services is not covered under the Contract. It is the responsibility of the Consultant to submit to the Department a request for

approval of any additional cost associated with these services prior to beginning the work.

2. Appraisal Review

The Department shall complete its review of each submitted appraisal within ten (10) business days of receipt thereof. Upon completion of the review, the Department will notify the Consultant that the appraisal has been reviewed and approved or will request the Consultant to provide additional information, which is to be submitted by the Consultant within ten (10) business days of receipt of the request. Once the additional information has been received by the Department, the Department will review the additional information and approve the appraisal or request additional information within ten (10) business days after receipt thereof.

3. Eminent Domain Proceedings and Court Testimony

The Consultant shall provide expert services, including expert testimony as to the fair market value of the property and damages to the residue, as necessary to acquire title to all properties. This service shall also include all pre- and post- trial activities involved in acquiring title to the property through eminent domain proceedings.

In the event that the testimony of the Consultant or an appraiser under subcontract to the Consultant is required in any legal proceedings in connection with their performance under this contract, the Consultant agrees to appear as a witness on behalf of the Department, or to cause its subcontractor appraiser to do so. The Consultant or its subcontractor appraiser shall keep such records with respect to each appraisal as may be required in connection with such preparation or testimony.

Compensation for such services shall be governed by the per diem rates set forth in the Rate Schedule (Attachment G).

4. Negotiations

Negotiations on each parcel shall be based upon appraisals that have been approved by the Department and upon approved right of way plans as submitted to the Consultant. Negotiations shall be prioritized based upon the priority provided to the Consultant with the parcel assignments. Any variation of this sequencing must have the approval of the VDOT Program Manager.

The Consultant shall make a detailed study of the property in relation to the approved plans and the approved appraisal after which necessary documents--such as right of entry, landowner letters, etc.--are to be prepared by the Consultant in the proper form as set forth in Chapter 5 of the ROW Manual.

All outdoor advertising signs will be acquired or relocated in accordance with Section 33.2-1230 of the Code.

The Consultant shall contact the landowner explaining in detail the effects of the proposed acquisition on the lands of the landowner. The Consultant shall make a bona fide offer to the landowner based on the approved appraisal in an effort to secure the needed right of way. The Consultant shall thereafter continue to follow up with the landowner on a regular basis, and not less frequently than weekly, until negotiations are completed or further negotiations are refused by the landowner.

Every contact is to be recorded in RUMS under the Landowner Contacts tab for the parcel. The Consultant will be responsible for inputting all data in RUMS

within three (3) or less business days of contacts with the landowners or VDOT. Comments shall be complete and concise to indicate the contact and the results.

The Consultant shall prepare an RW-24 report (final report of negotiations) at the conclusion of negotiations. This report shall be prepared within five (5) business days of (a) the date the documents are signed by the landowner or (b) the date of the last unsuccessful contact with the landowner. This report is to include all data assembled in the Landowner Contacts tab for the parcel in RUMS. This report shall be submitted to the Department along with other documents required according to this Section B.4. The negotiation reports shall be prepared in accordance with the provisions of Chapter 5 of the ROW Manual. Any corrections requested by the Department shall be made by the Consultant and provided to the Department within five (5) days of receiving such request.

The Consultant may negotiate to acquire a property over the approved appraised value provided written justification is provided to the Department. The Department's prior approval of the written justification is required for settlements above the appraised value of a property and must be obtained by the Consultant prior to the acceptance of an agreement with the landowner.

5. Negotiation Review

The Consultant shall submit the complete "Negotiation Package" described below to the Department for review. The "Negotiation Package" shall consist of all applicable forms and paperwork to include the appraisal, title or current owner rundown, offer letter, RW-24 Report, option, utility agreements, and appropriate plan and profile sheets. The Department will have seven (7) business days to complete the review process. The Department's review of the Negotiation Package will be prioritized based upon the priority schedule for negotiations set forth at the time an assignment is made. Should the Negotiation Package need

corrections, the Consultant will have five (5) business days to complete said corrections and resubmit the Negotiation Package to the Department.

6. Relocation Assistance Services

Utilizing and complying with Chapter 6 of the Department's Right of Way and Utilities Manual of Instructions; Federal regulations entitled "Uniform Relocation Assistance and Real Property Acquisitions for Federal and Federally Assisted Programs" located in 49 CFR, Part 24; and the provisions of Title 25.1, Chapter 4 of the Code entitled Relocation Assistance and Real Property Acquisition Policies (collectively the "Relocation Guidance Documents"); the terms of all of which are incorporated herein by reference, the Consultant shall perform the following:

- a. The Consultant shall make the initial contact with all involved "Displaced Persons" and confirm all information provided in such initial contact by entering this information into the Right of Way and Utilities Management System (RUMS). "Displaced Persons" means any individual, family, partnership, corporation or association displaced by a project.
- b. The Consultant shall make a detailed search of the market to locate available decent, safe, and sanitary comparable housing and determine the appropriate replacement housing payment, if any, which shall be subject to Department approval. This will require a detailed inspection of the displacement property as well as the available properties for replacement housing.
- c. The Consultant shall determine all necessary moving expenses, if any, for Displaced Persons and shall process all moving cost claims. The Department shall approve all appropriate moving expense costs and claims.

- d. The Consultant shall render necessary relocation advisory assistance to all Displaced Persons being displaced by the project.

The Consultant may be assigned a parcel or Displaced Persons requiring only partial relocation assistance services. In such cases the Consultant will be provided documents confirming previous relocation activities and details of what remaining relocation assistance is being assigned.

7. Relocation Review

The Consultant shall submit all “Replacement Housing Payment” and/or “Moving Cost” computations (as both terms are defined in the Relocation Guidance Documents) to the Department for review. The Replacement Housing Payment and Moving Cost computations will be reviewed by the Department’s reviewer according to Chapter 6 of the ROW Manual. The Department, upon completion of the review and approval, will provide the approved Replacement Housing Payments and Moving Cost computations to the Consultant. The Department will have five (5) business days to complete the review process. Review of the Consultant’s submittal will be prioritized based upon the priority schedule for relocations set forth when the assignment is made. Should the Replacement Housing Payment and/or Moving Cost Computations package submitted by the Consultant need corrections, the Consultant will have five (5) business days to complete said corrections.

8. Plans and Data

The Department will furnish the Consultant a set of reproducible plans and the Consultant will be responsible for providing all prints necessary to process reports according to the terms of the Contract.

The Department will furnish available aerial photographs, maps, contour maps, and other background documents in its possession to the Consultant.

The Consultant will be responsible for identifying plan changes resulting from data obtained during field study. This data is to be submitted to the Department which will revise said plans and return the revised plans to the Consultant.

The Department will provide the staking of the right of way and/or the centerline, as requested by the Consultant, as needed for the performance of the work outlined herein.

9. Right of Way and Utilities Management System

The Consultant will be required to supply and support its own computer equipment and software capable to access and utilize RUMS. Minimal configuration requirements of the system are as follows:

Operating System: Windows XP or above.

Note: at the time of this document's last update VDOT's standard operating system was Windows 7 Enterprise. Windows 10 Professional is being phased in at the time of this document's last update.

Browser: Internet Explorer 11

- Compatibility Mode must be turned on for the site.
- Recommend that the Site be added to the Trusted Sites. This will allow for reduced security need to run the application without reducing security in general.
- Trusted Sites, Security Level should be set to Low or Medium-Low.
- Cookies must be permitted.
- Java Script must be allowed to run.
- Disable script debugger must be selected.

Notes:

- 1. Not all features have been tested in all browsers. Only Internet Explorer 11 has been full tested, since it is the VDOT standard at the time this document was last updated. Microsoft's new browser, Edge, has not been tested. Earlier versions of Internet Explorer may be used but support will be limited.*
- 2. There are some known issues with Internet Explorer 11; however, these issues are related to the External Secure Access (ESA) application used to connect to RUMS and not the RUMS program. If issues are encountered connecting through ESA, VDOT will forward the recommended steps to correct these problems. However, since there are variations in individual PC configurations, VDOT is unable to spend extensive time on a resolution.*
- 3. Google Toolbar (and other add-ins) can affect the operation of the browser, causing issues with how the application runs within the browser.*
- 4. Google Chrome (and possibly other software) affects registry configurations, causing issues with Internet Explorer or other software.*

Other Software required:

1. Microsoft Office 2003 or later (VDOT standard is Office 2013; Office 2016 is being phased in at VDOT at the time this document was last updated.)
2. Adobe Acrobat Reader: VDOT utilizes both Adobe Reader X and XI at the time this document was last updated.
3. Adobe Acrobat: Standard or Pro version 8 or above (only required for appraisals/appraisal reviews)

Note: Any issues with additional software may have multiple solutions depending on individual PC configurations. As stated previously, it is the responsibility of the Consultant to support its own hardware and software.

10. Task Orders

- a. All work will be requested by VDOT in the form of a written task order (each, a “Task Order”) for each service requested and presented to the Contractor. Individual Task Orders will be developed and implemented on a project-by-project basis over the term of the contract on assignments yet to be determined.
- b. For each Task Order, the VDOT Administrative & Consultant Coordinator will develop a request for consultant proposal (RCP).
- c. In response to the RCP the Contractor will submit to VDOT a written scope of work, level of effort, schedule, and budget (as per the Contractor’s cost estimate which will be based on the contract Price Schedule, as negotiated).
- d. Each of these elements of the proposal may subsequently be negotiated between VDOT and the Contractor. VDOT reserves the right to seek cost proposals from more than one (1) Contractor for any given Task Order, if multiple awards.
- e. No work under a Task Order shall proceed without written approval (notice to proceed) from VDOT.
- f. The consideration for each Task Order will be based on a fixed billable hourly rate basis, using fully loaded hourly rates as shown on the Rate Schedule attached hereto as Attachment G for each labor classification and other required items listed on the Fee Proposal attached hereto as Attachment H, as authorized.
- g. Alternatively, and when the Task Order requirements can be well defined, VDOT may, in its discretion, request a lump sum firm fixed price cost proposal.

- h. If field or other conditions require a modification to the Task Order, the Contractor shall submit to VDOT written justification for the modification, a scope of work for the additional work, level of effort, schedule, and a budget.
- i. No work under the modification shall proceed without written approval (notice to proceed) from VDOT.
- j. The Contractor shall begin work on a Task Order within five (5) business days after receipt of official notice to proceed from the VDOT Administrative & Consultant Coordinator or designee unless an alternate schedule is otherwise agreed to in writing by both parties.
- k. Where applicable (as may be required in a Task Order), the Contractor will develop a detailed task schedule utilizing MS Project (or other project management software approved in writing by VDOT).
- l. Once task activities have been defined, their relationships will be identified, start and end dates set, and budget controls established.
- m. Tasks will have specific completion dates for their deliverables. This will be addressed in each separate Task Order.

11. Notice to Proceed

- a. The Contractor shall strictly adhere to the level of effort and total cost as authorized by the Notice to Proceed
- b. No work shall be performed, nor paid, without written Notice to Proceed from VDOT, which may be issued after VDOT has made a price reasonableness determination of the Contractor's cost estimate.
- c. The Contractor will not be compensated for unauthorized cost overruns. Additionally, VDOT will not be responsible for payment for services performed in advance of the Notice to Proceed for a Task Order or for a modification to a Task Order

12. Time to Complete Work

All services shall be completed and delivered to the Department by the established dates set forth in the respective Task Order. Incremental tasks shall be completed within the time periods set forth in PART II – SCOPE OF SERVICES and PART III – REPORTING AND DELIVERABLES REQUIREMENTS. The Task Orders assigned under this Contract will have identified completion dates unless VDOT elects in writing to follow the proposed timeline for the Project to the end. Each Task Order will expire no later than ninety (90) days after the corresponding project has been awarded for construction, unless the expiration date for the Task Order is extended by written notice from the Department to the Consultant. The Consultant will be kept informed of any changes to the advertisement dates so that staffing may be adjusted accordingly.

PART III REPORTING AND DELIVERABLES REQUIREMENTS

A. RESPONSIBILITIES OF THE CONSULTANT

1. The Consultant shall comply with all requirements set forth in PART II – SCOPE OF SERVICES, and all response deadlines in this PART III – REPORTING AND DELIVERABLES REQUIREMENTS that are applicable to the Consultant, for all work performed under a Task Order.

2. The Consultant will be responsible for inputting all data in VDOT’s Right of Way and Utilities Management System (RUMS) within three (3) or less business days of contacts with the landowners or VDOT. Comments shall be complete and concise to indicate the contact and the results.

3. The Consultant shall provide a monthly written status report outlining the status of each parcel to be acquired, each displaced person(s) to be relocated, and improvements being acquired. This report shall be received no later than the 15th of the month.

B. RESPONSIBILITIES OF VDOT; REPOSE DEADLINES FOR CONSULTANT

1. The Department will have ten (10) business days to complete the review of the appraisals. Upon completion of the review, the Department will notify the Consultant that the appraisal(s) has been reviewed and approved. If the Department is in need of additional information from the Consultant, this information will be provided within (10) ten business days of receipt of the request. Once the additional information has been received by the Department, the Department will review the additional information and approve the appraisal(s) or request additional information.

2. The Department will have seven (7) business days to complete the review of the RW-24 Packages (negotiations package). Should the RW-24 package submitted by the Consultant need corrections, the Consultant will have five (5) business days to complete said corrections.

3. The Department will review and approve the approved Replacement Housing Payments and Moving Cost computations. The Department will have five (5) business days to complete the review process. Should the Replacement Housing Payment and/or Moving Cost Computations package submitted by the Consultant need corrections, the Consultant will have five (5) business days to complete said corrections.

PART IV PRE-PROPOSAL CONFERENCE

A **mandatory** pre-proposal conference will be held at **11:00 a.m. (EST), July 12,2017 at the VDOT Richmond District Office (Equipment Building Conference Room) located at 2430 Pine Forest Drive, Colonial Heights, Virginia 23834.** The purpose of this conference is to allow an opportunity for clarification and questions concerning this procurement. Proof of identification will be required for entrance into State facilities.

Due to the importance of all consultants having a clear understanding of the Scope of Services and other requirements, attendance at this conference will be a prerequisite for submitting a proposal. Proposals will only be accepted from those firms who are represented at this proposal conference. Attendance at the conference will be evidenced by the representative's signature on the attendance roster.

Questions regarding this procurement may be directed only to Vicki Patrick via email at vicki.patrick@vdot.virginia.gov.

PART V PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

- A. RFP Response: To be considered for selection, the Consultant must submit a complete response to this RFP consisting of one (1) complete paper original (marked "Original"), and two (2) full paper copies (marked "Copy"). The Consultant's proposal must be in a sealed envelope or package and addressed as directed on the cover/signature page of this RFP. Electronic responses only are not acceptable.
- B. Each business entity (prime and subconsultants) proposed on the Contract and practicing or offering services in Virginia must provide evidence of copies of registrations and licenses for all main and branch offices proposed for the Contract, as well as full size copies of appropriate individual registrations or licenses for those professional occupations listed below. Full size copies of State Corporation Commission (SCC) and Department of Professional and Regulation (DPOR) registrations should be included. The following registrations and licenses must be included in this submission:
1. The SCC registration detailing the name, registration number, type of business entity and status of the business entity.
 2. The DPOR registration for the main office practicing or offering to practice any professional services in Virginia under the Contract detailing the business name,

address, registration type, registration number, expiration date, and licensing details for the associated professional responsible in charge.

3. The DPOR registration for each branch office practicing or offering to practice professional services in Virginia under the Contract detailing the business name, business address, registration type, registration number, expiration date and licensing details for the associated professional responsible in charge of the branch office.
4. The DPOR license for each of the “Key Personnel” (defined in Part V, Section D below) practicing or offering to practice professional services in Virginia under the Contract detailing the name, the address, type, the registration number, and the expiration date. Provide the office location where each Key Personnel member will be performing the work.
5. The DPOR license for those regulated services other than professional services (i.e. real estate appraisal) under the Contract detailing the business name, the address, the registration type, the registration number, and the expiration date.

Failure to comply with the law with regard to those requirements in Virginia (whether federal or state) regarding your organizational structure, any required registration with governmental agencies and/or entities, and any required governmental licensure, whether business, individual, or professional in nature may result in the Department requiring the offeror to promptly comply with such requirements and submit proof of compliance to the Department. Failure to submit such proof in a timely manner may result in rejection of the offeror’s submittal.

C. Proposal Preparation:

1. Proposals shall be submitted solely on the Scope of Services set forth in Part II of the RFP and are not to reflect any revisions to the Scope of Services made after

the issue date of the RFP unless the Department issues an addendum prior to the pre proposal meeting

- a. Proposals shall be signed by an authorized representative of the Consultant. All information requested should be submitted. Failure to submit all information requested may result in the Department requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete, fail to meet mandatory requirements, or lack key information may be rejected by the Department. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to repeat the paragraph number, subletter, and text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross-references the RFP requirements. Information which the Consultant desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- d. As used in this RFP, the terms "must", "shall", "should" and "may" identify the degree to which requirements are critical. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of a Consultant to satisfy a "must" or "shall" requirement does not automatically remove that Consultant from consideration; however, it may seriously affect the overall rating of the Consultant's proposal. Once the Consultant and the Department have entered into the Contract, the terms "must", "shall", "should" and "may" where used in those portions of the RFP incorporated into the Contract shall have their ordinary meaning.

Each copy of the proposal should be bound in a single volume. All documentation submitted with the proposal should be contained in that single volume. The proposal should also be assembled in electronic format. Proposals should be formatted on 8½ x 11 inch pages (larger pages are allowed for figures or tables, but they must be folded into the overall proposal and used sparingly) with at least 11 point font.

- f. Ownership of all data, materials, and documentation originated and prepared for the Commonwealth pursuant to the RFP shall belong exclusively to the Commonwealth.
2. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the Department. This provides an opportunity for the Consultant to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The Department

will schedule the time and location of these presentations. Oral presentations are an option of the Department and may or may not be conducted.

D. SPECIFIC PROPOSAL INSTRUCTIONS:

Proposals should be as thorough and detailed as possible so that the Department may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal (organized under the following Section Tabs):

TAB 1: COMMITMENT OF OFFEROR

1. Return the RFP Cover Sheet (Page 1) and all addenda acknowledgments, if any, signed by an authorized representative of the Consultant, and filled out as required;
2. Offeror shall submit a State Corporation Commission Form, Attachment D;
3. Offeror shall submit a Proprietary/Confidential Information Summary Form, Attachment E;
4. Indicate any item(s) where the proposal is not in compliance with RFP requirements and explain why the deviation should not be viewed detrimentally by VDOT;
5. Provide a statement that your firm accepts the Department's General Terms and Conditions attached as Attachment A, Special Terms and Conditions attached as Attachment I, and Basis of Payment attached as Attachment J, all without modification or exception. It is the Consultant's responsibility to make all partners, subcontractors and/or third-party providers aware of these requirements; and,

6. Conflict of Interest: Consultant shall identify any actual or perceived conflict of interest of Consultant or any subcontractor of Consultant with regard to the work to be provided under the Contract as defined by the State and Local Conflict of Interests Act (2.2-3100 *et seq.*).

TAB 2: SPECIFIC PLANS OR METHODOLOGY/APPROACH

1. Specific plans for providing the proposed services including:
 - a. Reference to the services required by the Scope of Services – Part II above;
 - b. What, when and how the services will be performed;
 - c. Time frame for completion (if not otherwise specified by the agency in the statement of needs).

TAB 3: EXPERIENCE AND QUALIFICATIONS OF FIRM

1. A written narrative statement to include or attach:
 - a. Experience of firm in providing the services described herein;
 - b. Qualifications of firm in providing the services described herein;
 - c. Consultant’s Firm Data Sheet (Attachment K) and
 - d. Subcontractor Approval Request (Attachment F), if needed.

TAB 4: EXPERIENCE AND QUALIFICATIONS KEY PERSONNEL

1. A written narrative statement meeting the requirements of Part III, Section D above, to include:
 - a. Names, experience and qualifications of Consultant’s essential personnel to be assigned to the Contract (“Key Personnel”);
 - b. Resumes of staff to be assigned to the project, if known.

TAB 5: SMALL BUSINESS SUBCONTRACTING PLAN

The Consultant shall submit Attachment B (Small Business Subcontracting Plan) and Attachment B-1 (VDOT Consultant Title VI Evaluation Form or Title VI Approval Letter), and indicate its planned utilization of Virginia Department of Small Business and Supplier Diversity (SBSD) certified small businesses under the resulting contract and Consultant's status as a SBSBD certified small business certified Disadvantaged Business Enterprise ("DBE") or Small, Woman-owned and Minority-owned ("SWaM") businesses in accordance with instructions of Attachment B.

TAB 6: PRICING

Complete the Rate Schedule Sheet (Attachment G).

The Consultant is responsible for all costs of proposal preparation. VDOT is not liable for any cost incurred by an offeror in responding to the RFP.

PART VI EVALUATION AND AWARD CRITERIA

A. Evaluation Criteria:

1. Qualifications and experience of the Consultant firm in appraisal, negotiation, and relocations. *15%*
2. Qualifications and experience of personnel assigned this project in appraisal, negotiation, and relocations. *25%*
3. The Consultant firm's organization capability and ability to perform job on time. *25%*
4. The Consultant firm's present workload with VDOT. *10%*
5. Planned participation of DBE or SWaM certified businesses (*20%*). Indicate on Tab 5 of your proposal if the firm is a business certified by the Department of Small Business and Supplier Diversity (SBSD) as a DBE or SWaM business or is eligible for certification.

6. Review and analysis of submitted Fee Proposal (“Attachment H”). Please include proposed staffing numbers (names need not be identified at this time). 5%.
-
- B. Award: Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Department 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 reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia, § 2.2-4359D*). Should the Department 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 award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor’s proposal as negotiated.
 - C. Multiple Awards: When the terms and conditions of multiple awards are so provided in the Invitation for Bids or Request for Proposal, awards may be made to more than one bidder or offeror. ,
 - D. Protest: Any offeror who desires to protest the decision against an award of a contract shall submit such protest in writing to the Department no later than ten days after the announcement of the decision to award this contract to the selected consultant.
 - E. Duration of Proposal: This proposal shall be binding upon the offeror for ninety (90) days following the proposed due date. If the proposal is not withdrawn at that time, it remains in effect until an award is made or the solicitation is cancelled.

PART VII CONTRACT DOCUMENT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

Contract Number: _____

This contract (the “Contract”) entered into this _____ day of _____, 20____,
by _____ with offices at
_____, hereinafter called the
“Consultant,” and Commonwealth of Virginia, Department of Transportation, acting by and
through its duly authorized Commissioner, called the “Department,”

WITNESSETH, that the Consultant and the Department, in consideration of the mutual
covenants, promises and agreements herein contained, agree as follows:

The Consultant shall provide services under this Contract to the Department as set forth in the
“Contract Documents.” The “Contract Documents” shall consist of:

- (1) This signed Contract and the following attachments:
 - a) Certification of Consultant
 - b) Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.
 - c) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- (2) The following portions of the Request for Proposal RFP #17-01RW dated June 27, 2017.
 - (a) Scope of Services (Part II)
 - (b) Reporting and Deliverables Requirements (Part III)

- (3) The following attachments:
- (a) General Terms and Conditions (Attachment A)
 - (b) Small Business Subcontracting Plan (Attachment B)
 - (c) VDOT Consultant Title VI Evaluation Form or Title VI Approval Letter (Attachment B-1)
 - (d) SWaM Compliance Report (Attachment C)
 - (e) State Corporation Commission Form (Attachment D)
 - (f) Proprietary/Confidential Information Summary Form (Attachment E)
 - (g) Subcontractor Approval Request (Attachment F)
 - (h) Rate Schedule (Attachment G)
 - (i) Fee Proposal (Attachment H)
 - (j) Special Terms and Conditions (Attachment I)
 - (k) Basis of Payment (Attachment J)
 - (l) Firm Data Sheet (Attachment K)

All work, to include appraisal and negotiation services will be completed and delivered to the Department within the periods specified in the schedule for appraisals and negotiation services provided by the Department to the Consultant at the commencement of each project.

The maximum total compensation payable to the Consultant for services authorized by this Contract will not exceed One Million Dollars (\$1,000,000.00) (the “Maximum Contract Term Compensation”) unless mutually agreed upon by both parties in the form of a Supplemental Agreement.

The term of this Contract and provisions whereby it may be extended or shortened are provided in the Special Terms and Conditions (Attachment I).

The Contract Documents are hereby incorporated into this Contract as if fully set forth herein.

IN WITNESS WHEREOF, the parties sign and cause this Contract to be executed on this the _____ day of _____, 20__.

Commissioner of Highways
Commonwealth of Virginia
Department of Transportation

Date

Signature of Witness

Date

Name and title of Consultant
Name of Firm

Date

Signature of Witness

Date

CERTIFICATION OF CONSULTANT

I hereby certify that I am the _____ and duly authorized representative of the firm of _____

_____, whose address is _____

_____, and that neither I nor the above firm

I here represent has

- a. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract;
- b. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract;
- c. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract, except as here expressly stated (if any);
- d. paid, or agreed to pay, federally appropriated funds to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of 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. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the firm shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," according to its instructions. The firm 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 Section 1352, Title 31, U.S. Code. 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.

I acknowledge that this certification is to be furnished to the Commonwealth of Virginia Department of Transportation, in connection with this contract involving participation of Federal-Aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

_____	_____	_____
Signature	Title	Date

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED
TRANSACTIONS**

- (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 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 firm for contracts to be let by the Commonwealth Transportation Board.

Signed at _____, this
_____ day of _____, 20____.

Signature Title Date

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

- (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 firm for contracts to be let by the Commonwealth Transportation Board.

Signed at _____, this _____ day of _____, 20_____.

Signature Title Date

ATTACHMENT A

GENERAL TERMS AND CONDITIONS:

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under “Vendors Manual” on the vendors tab.
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Consultant shall include the provisions of Section C.1. above in every subcontract so that the provisions will be binding upon each subcontractor or vendor.
3. In addition to any other requirements of this Contract, the Consultant will comply with the terms of Appendix A through Appendix E attached to these General Terms and Conditions.

D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have 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.

E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. **DEBARMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs:**

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. **CLARIFICATION OF TERMS:** If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. **PAYMENT:**

1. **To Consultant:**

- a. Invoices for work product ordered, delivered and accepted shall be submitted by the Consultant directly to the payment address shown on the Contract. All invoices shall show the state contract number and purchase order number, if any; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations); itemized quantities, unit prices and extended costs based on the Rate Schedule. No payment will

be made for unsatisfactory work or for work in progress on the prescribed payment dates.

- b. Monthly Partial Billings. Monthly partial billings will be submitted as established in the Contract. When the net receivable amount is less than \$500.00, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined based on the sum of the Consultant's statement of actual costs incurred. Billings shall be submitted no more frequently than once every 30 calendar days.
- c. Receipt Date. The following shall be deemed to be the date VDOT receives an invoice for the processing of payments: (i) the date received in the VDOT office where payment is made by mail, (ii) the date VDOT receives an invoice by email prior to 5:00 p.m., if submitted by email, or the following business day if received by VDOT after 5:00 p.m.; or (iii) the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- d. Unreasonable Charges. For most Task Orders, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:

(1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from

the Commonwealth 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 contractor's intention to withhold payment and the reason.

b. The contractor 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 contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, 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. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, *APPLICABLE LAWS AND COURTS*, *ANTI-DISCRIMINATION*, *ETHICS IN PUBLIC CONTRACTING*, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, *DEBARMENT STATUS*, *ANTITRUST*, *MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS*, *CLARIFICATION OF TERMS*, *PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

- L. **QUALIFICATIONS OF OFFERORS:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services contemplated therein.
- M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the terms, conditions, or scope of the Contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the Contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.
 2. The Department may order changes within the general scope of the Contract at any time by written notice to the Consultant. Changes within the scope of the Contract include, but are not limited to, things such as services to be performed, priority of assignments, or deadlines for performance. The Consultant shall comply with the notice upon receipt, unless the Consultant intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the Consultant shall, in writing, promptly notify the Department of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Department's written decision affirming, modifying, or revoking the prior written

notice. If the Department decides to issue a notice that requires an adjustment to compensation, the Consultant shall be compensated for any additional costs incurred as the result of such order and shall give the Department a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Consultant accounts for the number of units of work performed, subject to the Department's right to audit the Consultant's records and/or to determine the correct number of units independently; or
- c. By ordering the Consultant to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Consultant shall present the Department with all vouchers and records of expenses incurred and savings realized. The Department shall have the right to audit the records of the Consultant as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Department within thirty (30) days from the date of receipt of the written order from the Department. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of the Contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of the Contract shall excuse the Consultant from promptly complying with the changes ordered by the Department or with the performance of the Contract generally.

P. **DEFAULT:** In case of failure to deliver services in accordance with the Contract, the Department, after due oral or written notice, may procure them from other sources and hold the Consultant responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Department may have.

Q. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

R. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

S. **DRUG-FREE WORKPLACE:** 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 of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, 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.

T. **NONDISCRIMINATION OF CONTRACTORS:** An offeror shall not be discriminated against in the solicitation or award of the Contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the Department has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of the Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

U. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

a. The Vendor Transaction Fee is:

(i) SBSB-certified Small Businesses: 1%, capped at \$500 per order.

(ii) Businesses that are not SBSB-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 60 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes. The Contract is expected to result in multiple purchase orders with the applicable eVA transaction fee to be assessed for each order.

V. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of the Contract.

W. **SET-ASIDES.** This solicitation is set-aside for award priority to SBSB-certified micro businesses or small businesses when designated “Micro Business Set-Aside Award Priority” or “Small Business Set-Aside Award Priority” accordingly in the solicitation. SBSB-certified micro business or small businesses this include SBSB-certified women-owned and minority-owned businesses when they have received the SBSB small business certification. For purposes of award, offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by SBSB on the due date for receipt of proposals.

X. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, offerors shall state offer prices in US dollars.

Y. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* 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. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

APPENDIX A TO ATTACHMENT A

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

(1) **Compliance with Regulations:** The contractor shall comply with the Regulations 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.

APPENDIX B TO ATTACHMENT A

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *Virginia Department of Transportation* will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *Virginia Department of Transportation* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the *Virginia Department of Transportation* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *Virginia Department of Transportation*, its successors and assigns.

The *Virginia Department of Transportation* in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the *Virginia Department of Transportation* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C TO ATTACHMENT A

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the *Virginia Department of Transportation* pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *Virginia Department of Transportation* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D TO ATTACHMENT A

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the *Virginia Department of Transportation* pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the *Virginia Department of Transportation* will there upon revert to and vest in and become the absolute property of the *Virginia Department of Transportation* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E TO ATTACHMENT A

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 B

SMALL BUSINESS SUBCONTRACTING PLAN

This Attachment must be completed by all offerors.

All small businesses must be certified by the Commonwealth of Virginia, Department of Small Business and Supplier Diversity (SBSD) by the due date of the solicitation to participate in the SWAM program. Certification applications are available through SBSB online at <http://sbsd.virginia.gov/> (Customer Service).

It is the goal of the Commonwealth that more than 42% of its purchases be made from small businesses. All potential bidders are required to submit a Small Business Subcontracting Plan.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (SBSD) on the due date for proposals. This shall also include SBSB-certified women- and minority-owned businesses when they also hold a SBSB certification as a small business on the proposal due date. Currently, SBSB offers small business certification and micro business designation to firms that qualify under the definitions below.

Certification applications are available through SBSB online at www.sbsd.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____

Date: _____

Instructions

- A. If you are certified by the SBSB as a micro/small business, complete only Section A of this form. This includes but is not limited to SBSB-certified women-owned and minority-owned businesses when they have also received SBSB small business certification.

- B. If you are not a SBSB-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to SBSB-certified small business for the initial contract period in Section B.

Offerors which are small businesses themselves will receive the maximum available points for the small

business participation plan evaluation criterion, and do not have any further subcontracting requirements. Offerors which are not certified small businesses will be assigned points based on proposed expenditures with SBSB-certified small businesses for the initial contract period in relation to the offeror's total price for the initial contract period.

Points will be assigned based on each offeror's proposed subcontracting expenditures with SBSB certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.

Section A

If your firm is certified by the Department of Small Business and Supplier Diversity (SBSB), provide your certification number and the date of certification):

Certification Number:_____ Expiration Date:_____

ATTACHMENT B

SMALL BUSINESS SUBCONTRACTING PLAN

Section B

Populate the table below to show your firm's plans for utilization of SBSB-certified small businesses in the performance of the Contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to SBSB-certified women-owned and minority-owned businesses that have also received the SBSB small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the Contract. Failure to obtain the proposed participation percentages may result in breach of the Contract.

B. Plans for Utilization of SBSB-Certified Small Businesses for this Procurement

Micro/Small Business Name & Address SWaM Certificate # and Expiration Date	Status if Micro/Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Contract Dollars During Initial Period of the Contract (\$ or %)
Totals \$				

ATTACHMENT B -1

VDOT Consultant Title VI Evaluation Form

[Consultant may substitute its Title VI Approval Letter for this form]

Introduction

VDOT is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, and other directives prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the grounds of race, color, national origin, sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for VDOT's implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- **The 1970 Uniform Act (42 USC 4601)** – prohibits unfair treatment of displacees
- **Section 504 of the 1973 Rehabilitation Act (29 USC 790)** – prohibits discrimination based on disability
- **The Federal-Aid Highway Act 1973 (23 USC 324)** – prohibits discrimination based on gender
- **The 1975 Age Discrimination Act (42 USC 6101)** – prohibits age discrimination (any age)
- **The Civil Rights Restoration Act of 1987** – clarified the original intent of nondiscrimination organization-wide
- **Executive Order 12898 on Environmental Justice (EJ)** addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- **Executive Order 13166 on Limited English Proficiency (LEP)** - ensures people who are limited English proficient (LEP) have meaningful access to services

In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

By contracting with VDOT, a contractor is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the Department and the contractor. VDOT's Civil Rights Division with the

assistance from each applicable division's Program Manager, monitors an organization's compliance with the non-discrimination provisions.

To monitor compliance, each contractor and all sub-contractors are required to submit a Title VI Evaluation Form. This requirement is applicable for all contractors.

The Title VI Evaluation Form provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI.

VDOT will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with VDOT. The Assessment Form should be submitted to the Program Manager in the division that is negotiating the contract. These are the divisions we currently receive Title VI Evaluation Forms from:

Right of Way & Utilities Division
Location & Design Division
Environmental Division
Structure & Bridge
Innovative Project Delivery
Materials Division
Transportation & Mobility Planning Division

Once the Title VI Evaluation Form is provided to VDOT, the Title VI Coordinator in the Civil Rights Division reviews the information and issues a pre-award letter within fifteen (15) days of receiving documentation or may schedule an on-site review within the same time frame to confirm information provided in the Assessment Form. VDOT Program Managers have access to a Title VI Log that is updated monthly on the Civil Rights Website. The Title VI Coordinator may request additional information and/or recommend corrective actions. The Title VI Coordinator may randomly schedule on site compliance reviews at the contractor's office.

If the report is approved, a letter is sent out with an expiration date for one year from the date of the approval letter. Typically the letter remains current and on file with VDOT for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with VDOT. It should be noted that if VDOT conducts an on-site compliance review the contractor can still be found to be out of compliance during the one year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about VDOT's Title VI Program or the Evaluation Form, contact Corina Herrera at 804-786-2730 or at corina.herrera@vdot.virginia.gov

VDOT TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. VDOT is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists VDOT in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However to minimize the burden on VDOT's contractors, VDOT has developed a form that serves as both a pre-award and post-award compliance tool.

VDOT must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer: Click here to enter text.	Preparer's Title: Click here to enter text.
Phone #: Click here to enter text.	Email Address: Click here to enter text.
Name of Organization: Click here to enter text.	Address of Organization: Click here to enter text.

Address of Virginia location where project will be done:
[Click here to enter text.](#)

Type of Contractor/Organization:

Workforce for Virginia Location(s)

Total Click here to enter text.	% Minority Click here to enter text.	% Female Click here to enter text.
---	--	--

Business Ownership/Control

Does your organization currently have contracts or subcontracts with VDOT?

What is your organization's most recent date of Title VI approval? [Click here to enter text.](#)

Status of Project(s): Click here to enter text.	Value of current Contract(s): Click here to enter text.
--	--

What does your organization have in place to ensure nondiscrimination in your VDOT scope of work and your programs and services?
[Click here to enter text.](#)

Virginia Workforce

CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

Job Categories	Number of Employees (Report employees in only one category)														
	Race/Ethnicity														
	Hispanic or Latino		Not Hispanic or Latino										Total Col A-N		
	Male	Female	Male					Female							
		White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Executive/Sir. Level Officials & Managers (1.1)															
First/Mid-Level Officials & Managers (1.2)															
Professionals (2)															
Technicians (3)															
Sales Workers (4)															
Administrative Support Workers (5)															
Craft Workers (6)															
Operatives (7)															
Laborers & Helpers (8)															
Service Workers (9)															
TOTAL (10)															
PREVIOUS YEAR TOTAL (11)															

Organization, Staffing, & Training

111.111 What type of services will your organization provide VDOT?
[Click here to enter text.](#)

111.112 Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information. [Click here to enter text.](#)

Title VI/Nondiscrimination

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware. [Click here to enter text.](#)

2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment? * **Please note N/A is not an acceptable response, please provide a complete answer**

[Click here to enter text.](#)

3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability and low income populations? * **Please note N/A is not an acceptable response, please provide a complete answer**

[Click here to enter text.](#)

4. Are facilities and meeting areas fully accessible to persons with disabilities? [Click here to enter text.](#)

5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain. * **Please note N/A is not an acceptable response, please provide a complete answer**

[Click here to enter text.](#)

6. How are limited English proficient persons made aware that they can receive translation services for access to services? * **Please note N/A is not an acceptable response, please provide a complete answer**

[Click here to enter text.](#)

7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings? [Click here to enter text.](#)

8. Does your organization receive federal assistance (grants, loans, donations of property, or detail of personnel) from any Federal government entity? [Click here to enter text.](#)

9. List any discrimination complaints and/or lawsuits received in Virginia during the reporting period. Include the basis for the complaint (ethnicity, gender, etc.) and summarize the outcome or resolution. If applicable, include a copy of the investigation report. [Click here to enter text.](#)

Disadvantaged Business Enterprises (DBE)

(a) Did your organization award any contracts/subcontracts related to VDOT work to DBEs during the reporting period?

If yes, provide the following:

1. The DBE's name and amount awarded [Click here to enter text.](#)
2. Total # of contracts awarded to DBEs [Click here to enter text.](#)
3. Total dollar amount of contracts awarded to DBEs [Click here to enter text.](#)

I certify that the data given in this report is correct to the best of my knowledge. (Report has to be submitted with original signature, not a photocopy.)

Signature:

(Authorized Officer)

(Title)

(Date)

For Office Use Only:

Provide award? Yes _____ No _____

Recommendations:

ATTACHMENT C
DEPARTMENT OF TRANSPORTATION
INSTRUCTIONS FOR
SWaM COMPLIANCE REPORT (C-63)

The Consultant is required to submit a SWaM Compliance Report to the VDOT Program Manager on payments made to all subcontractors as specified in Small Business Subcontracting Plan in the Special Terms & Condition to include Small, Women-owned and Minority-owned Business Enterprises (SWaM) certified by Virginia Department of Small Business and Supplier Diversity (SBSD) and non- SWaM businesses for the designated quarterly reporting period if required. All amounts paid to certified SWaM businesses are subject to monitoring and enforcement mechanisms. It is the responsibility of the Consultant to provide evidence of SWaM payments in response to the small business plan provided in the solicitation for the Contract.

The instructions below correspond to each item on the report. Please follow the instructions.

1. **Contractor/ Tax I.D. No.** enter the complete name of the prime contractor and their federal tax identification number.
 - 1a. **Contract Name** indicate the name of the contract as it appears on contract documents
 - 1b. **District** indicate the VDOT responsible district where the contract is being performed. See list of districts in these instructions
 - 1c. **Contract No.** provide contract number
2. **Period Ending** indicate the reporting period based on the Reporting Schedule listed in these instructions
3. **Subcontractor/Vendor Telephone Number and Certification Number** enter the names of all subcontractors and suppliers that participate on this contract whether SWaM or not if required. For SWaM vendors please provide the certification number provided by the Virginia Department of Small Business and Supplier Diversity (SBSD)
4. **Tax I.D. No.** insert the tax identification number of the vendor that appears in the preceding column

5. **SWaM Category S,W,M, None** indicate the SWaM status of each vendor identified as a subcontractor or vendor. This number is issued by SBSB and can be located on their website at www.SBSB.virginia.gov.
6. **Subcontract Amount** indicate the subcontract amount for any vendor listed on this form.
7. **Subcontractor Payment** this section identifies the prime expenditures to vendors listed on this form for SWaM vendors on contracts valued at or above \$100,000 and non-SWaM vendors for contracts valued at or above \$200,000.
 - 7a. **This Quarter** indicate the amount paid to each subcontractor per reporting period. If no payments were made during this period enter \$0.
 - 7b. **Year to Date** summarizes all payments made to the vendor to date.
8. **Type of Work or Commodity** indicate scope of work or commodity acquired from the subcontractor

Effective October 5, 2007 all Forms C-63 for a particular reporting period shall be submitted preferably in an electronic format to the contract officer or responsible district personnel by the dates of each calendar year.

REPORTING SCHEDULE

QUARTER	REPORTING PERIOD	DATE DUE TO CONTRACT OFFICER
1 st	July 1 – September 30	Five(5) working days after the reporting period
2 nd	October 1 – December 31	Five(5) working days after the reporting period
3 rd	January 1 - March 31	Five(5) working days after the reporting period
4 th	April 1 – June 30	Five(5) working days after the reporting period

If the submittal date falls on a weekend/holiday, the forms shall be submitted to the VDOT contract officer or responsible district personnel on the following business day.

ATTACHMENT C

SWaM COMPLIANCE REPORT

(1) Contractor/Tax I.D. No.

Page _____ of _____

(1a) Contract Name

(1c) Contract No. _____

(2) Period Ending

(1b) District

(3) Subcontractor/ Vendor Tele No., Certification No.	(4) Tax I.D. No.	(5) SWaM Category S, W, M, None	(6) Sub- Contract Amount	(7) Subcontractor Payment		(8) Type of Work or Commodity
				(7a) This Quarter	(7b) To Date	

All amounts paid to subcontractors/vendors are to be reported and **submitted by the 5th business day after the end of each quarter** to the Contract Officer. See instructions.

I/We under penalty of law that the information provided herein is accurate, current and complete to the best of my/our knowledge.

Signature and Title of Company Official _____

Date _____

ATTACHMENT D

State Corporation Commission Form

Virginia State Corporation Commission (SCC) registration information. The offeror:

is a corporation or other business entity with the following SCC identification number:

_____ **-OR-**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offeror's out-of-state location) **-OR-**

is an out-of-state business entity that is including with this proposal an opinion of legal counsel which accurately and completely discloses the undersigned offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):

ATTACHMENT E
PROPRIETARY/CONFIDENTIAL INFORMATION
SUMMARY FORM

SECTION/TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE

*Identify the reason for withholding from disclosure in accordance with the Code of Virginia § 2.2-4342F.

ATTACHMENT F
SUBCONTRACTOR APPROVAL REQUEST

Contractor Name _____

Contract

No. _____

No portion of the work (including equipment) shall be subcontracted to another firm or individual **without prior written consent** of Virginia Department of Transportation (herein referred to as VDOT). In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish VDOT with the names, qualifications, and experience of their proposed subcontractors for agency approval. The primary contractor shall, however, remain fully liable and responsible for the work performed by its subcontractor(s) and shall assure compliance with all requirements of the contract.

List proposed subcontractor(s), including name, address, contact person, and type of work to be performed under this contract below.

FIRM INDIVIDUAL'S NAME & ADDRESS	CONTACT PERSON AND PHONE NUMBER	TYPE OF WORK TO BE PERFORMED
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1
2
3
4
5
6
7
8
9
10
11
12

TYPE OF EQUIPMENT PROPOSED SUBCONTRACTOR WILL PROVIDE

QUALIFICATIONS / EXPERIENCE LEVEL OF PROPOSED SUBCONTRACTOR

Indicate below if any of the above proposed subcontractors are SBS-certified as Small, Small Women-owned or Small Minority-owned Businesses, and if the original proposal response included plan for utilization of small businesses, submit revised Attachment B, Small Business Subcontracting Plan, Section B. Plan for Utilization of DMBE-Certified Small Businesses.

Company Name: _____

Certification Number: _____

FOR DOT USE ONLY:

The proposed subcontractor(s) listed above is/are approved and accepted under the terms and conditions of the contract requirements herein.

Signature of Contract Officer

Date

Telephone Number

Name of Firm _____

ATTACHMENT G
RATE SCHEDULE
With Escalation Costs

CLASSIFICATION	AVERAGE WAGE RATE PER CLASSIFICA- TION +	PAYROLL BURDEN & OVERHEAD + FACILITIES COST OF CAPITAL +	NET FEE +	FIXED BILLABLE RATE 1 ST YEAR	2 ND YEAR ESCALA- TION	3 RD YEAR ESCALA- TION

*NOTE: FBR TO ESTABLISH NET FEE CANNOT INCLUDE FACILITY COST OF CAPITAL.

*NOTE: FIXED BILLABLE RATES TO BE DETERMINED IN ACCORDANCE WITH VDOT POLICY.

Non Salary Cost

Mileage Rate _____ per mile
Lodging Rate _____ per night
Meal Expense _____ per diem
Leased Vehicle _____per day

Per Diem Services for Eminent Domain

Appraiser \$_____ Per Diem
Negotiator \$ _____ Per Diem

Mileage Rate will be based upon current rate at the time an assignment is made.

ATTACHMENT H
FEE PROPOSAL FOR TASK ORDERS

On-Call Contract

Region: _____

Assignment #1

Project: _____

Duration of Assignment: _____

A. Appraisal (Number) _____

Direct Salary Cost

Principal	_____ Hours	x _____ Rate	= _____
Appraiser	_____ Hours	x _____ Rate	= _____
Secretary	_____ Hours	x _____ Rate	= _____
_____	_____ Hours	x _____ Rate	= _____
_____	_____ Hours	x _____ Rate	= _____
Sub-Total			= _____

Non-Salary Cost

Sub-Contracted Appraisal Cost	= _____		
(list by parcel)			
Appraiser	_____ Hours	x _____ Rate	= _____
Secretary	_____ Hours	x _____ Rate	= _____
_____	_____ Hours	x _____ Rate	= _____
_____	_____ Hours	x _____ Rate	= _____
Sub-Total			= _____

Meals & Lodging

Per Diems _____ Days x _____ Rate = _____

Computer Cost _____ Hours x _____ Rate = _____

Auto Rental _____ Days x _____ Rate = _____

Air Fare _____ Trips x _____ Rate = _____

From _____ to _____

Company or Personal Car Mileage

_____ Miles x Current Appd. Rate = _____

From _____ to _____ days

Photography, Film, Developing, Printing, etc.

_____ Prints x _____ Rate = _____

Photocopying _____ Sheets x _____ Rate = _____

Appraiser Per Diem for Eminent Domain Proceedings,

(if required) (\$_____)

TOTAL FOR APPRAISALS = _____

B. Negotiations (Number) _____

Direct Salary Cost

Principal _____ Hours x _____ Rate = _____

Right of Way

Specialist _____ Hours x _____ Rate = _____

Secretary _____ Hours x _____ Rate = _____

_____ Hours x _____ Rate = _____

_____ Hours x _____ Rate = _____

Sub-Total = _____

Non-Salary Cost

Right of Way

Specialist _____ Hours x _____ Rate = _____

Secretary _____ Hours x _____ Rate = _____

_____ Hours x _____ Rate = _____

_____ Hours x _____ Rate = _____

Sub-Total = _____

Meals & Lodging

Per Diems _____ Days x _____ Rate = _____

Computer Cost _____ Hours x _____ Rate = _____

Auto Rental _____ Days x _____ Rate = _____

Air Fare _____ Trips x _____ Rate = _____

From _____ to _____

Company or Personal Car Mileage

_____ Miles x Current Appd. Rate = _____

From _____ to _____ days

Photocopying _____ Sheets x _____ Rate = _____

Negotiation Per Diem for Eminent Domain Proceedings,

(if required) (\$_____)

TOTAL FOR NEGOTIATIONS = _____

C. Relocation (Number) _____

__ **commercial move(s)**

__ **residential move(s)**

Direct Salary Cost

Principal _____ Hours x _____ Rate = _____

Relocation

Specialist _____ Hours x _____ Rate = _____
Secretary _____ Hours x _____ Rate = _____
_____ Hours x _____ Rate = _____
_____ Hours x _____ Rate = _____
Sub-Total = _____

Non-Salary Cost

Relocation

Specialist _____ Hours x _____ Rate = _____
Secretary _____ Hours x _____ Rate = _____
_____ Hours x _____ Rate = _____
_____ Hours x _____ Rate = _____
Sub-Total = _____

Meals & Lodging

Per Diems _____ Days x _____ Rate = _____
Computer Cost _____ Hours x _____ Rate = _____
Auto Rental _____ Days x _____ Rate = _____
From _____ to _____
Air Fare _____ Trips x _____ Rate = _____
From _____ to _____

Company or Personal Car Mileage

_____ Miles x Current Appd. Rate = _____
From _____ to _____ days
Photocopying _____ Sheets x _____ Rate = _____

Relocation Per Diem for Appeal Proceedings,
(if required) (\$_____)

TOTAL FOR RELOCATION = _____

SUB-TOTAL (A+B+C)

MAXIMUM TASK ORDER COMPENSATION PAYABLE

\$_____

Firm: _____

By: _____

Title: _____

Date: _____

Approved: _____

Lori A. Snider

Title: _____

State Right of Way and Utilities Director

Date: _____

ATTACHMENT I

SPECIAL TERMS AND CONDITIONS:

1. **RIGHT OF WAY DIVISION TERMS:**

- A. Title reports may not be available for certain appraisal assignments and in that situation the appraiser will be responsible for verifying ownership and obtaining relative data needed to complete the appraisal.
- B. The offeror's proposed Project Manager should be an employee that can be assigned to the Contract for the entire period.
- C. The Department reserves the right, to assign the individual task order to a firm other than the selected firm for that VDOT Region.
- D. VDOT is required to capture DBE and SWaM payment information on all contracts. The successful prime consultant will be required to complete form C-63 (see Attachment C) for both state and federally funded projects on a quarterly basis.

2. **AUDIT:**

The Consultant shall retain all books, records, and other documents relative to the Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. VDOT may audit the Consultants books, records and other documents relative to this contract at any time from the commencement date of the Contract until such five (5) year period has expired and VDOT, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period. The Department's Audit Policy Procedure conforms to that established in the Federal Acquisition Regulations ("FAR"). The foregoing document retention requirement may be extended by the Department with respect to documents related to courtroom appearances on its behalf.

3. **CANCELLATION OF CONTRACT:**

The Department reserves the right to cancel and terminate the Contract, in part or in whole, without penalty, upon 60 days written notice to the Consultant. In the event the initial contract period is for more than 12 months, the Contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Consultant of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

4. **CLAIMS:**

The Consultant shall be responsible for the resolution of any and all damage claims resulting from operations provided herein. Within 30 days of VDOT's notification to the Consultant of a claim, the Consultant shall respond in writing to the claimant and copy VDOT. Failure to properly respond to and resolve claims in a timely manner constitutes unsatisfactory performance and may result in cancellation of the Contract and/or removal from the offeror list.

5. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:**

The Consultant assures that information and data obtained as to personal facts and circumstances related to clients will be collected and held confidential, during and following the term of this agreement, and unless disclosure is required pursuant to court order, subpoena or other regulatory authority, will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. The Consultant and its subcontractors who utilize, access, or store personally identifiable information as part of the performance of the Contract are required to safeguard this information and immediately notify VDOT of any breach or suspected breach in the security of such information. The Consultant and its subcontractors shall allow VDOT to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. The Consultant and its employees and subcontractors working on a VDOT project may be required to sign a confidentiality statement.

6. **CONTINUITY OF SERVICES:**

- a.) The Consultant recognizes that its services under the Contract are vital to VDOT and must be continued without interruption and that, upon contract expiration, a successor, either VDOT or another contractor, may continue them. The Consultant agrees:
- (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
 - (ii) To make all VDOT owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the Contract to facilitate transition to a successor; and
 - (iii) That the VDOT Program Manager shall have final authority to resolve disputes related to the transition of work under the Contract from the Consultant to its successor.
- b) The Consultant shall, upon written notice from the VDOT Program Manager, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the VDOT Program Manager's approval.
- c) The Consultant shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under the Contract. All phase-in/phase-out work fees must be approved by the VDOT Program Manager in writing prior to commencement of said work.

7. **DELAYS IN AWARD:**

Delays in award of a contract beyond the anticipated starting date may result in a change in the contract period indicated in the solicitation. If this situation occurs, VDOT

reserves the right to award a contract covering a period of time equal to or less than the initial term indicated in the solicitation.

8. **eVA ORDERS AND CONTRACTS:**

The solicitation/contract may result in multiple Task Orders with the applicable eVA transaction fee assessed for each Purchase Order.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eVA.virginia.gov. Contractors should email Catalog or Index Page information to eVA-catalog-manager@dgs.virginia.gov.

9. **E-VERIFY PROGRAM:**

Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

10. **ESTIMATED QUANTITIES:**

Estimated quantities provided within are reflective of past usage and proposed usage only. The contractor shall supply at proposal prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown. Factors

that may contribute to the actual quantities, frequencies of service and/or level of include, but not limited to, Executive Orders, Department directives affecting changes in funding allocated for the services described in this solicitation. The quantities are estimates only and VDOT does not guarantee that the Consultant will perform quantities. At VDOT's sole discretion, any or all of the quantities may be added or eliminated and by signing this offer, the offeror agrees that no claims for Consultant costs or damages will be allowed for an increase, decrease or elimination of the estimated quantities.

11. IDENTIFICATION OF PROPOSAL ENVELOPE OR PACKAGE: The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	_____	_____
Name of Offeror	Due Date	Time
_____	_____	
Street or Box Number	RFP No.	
_____	_____	
City, State, Zip Code	RFP Title	

SBSD-certified Small Business, DBE or SWaM No.: _____

Name of Contract Officer: Vicki B. Patrick

12. LIMITATION OF LIABILITY:

To the maximum extent permitted by applicable law, the Consultant will not be liable under the Contract for indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under the Contract. This limitation of liability will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the Consultant; or (c) circumstances where the Contract expressly provides a right to damages, indemnification or reimbursement.

13. **LIQUIDATED DAMAGES:**

Delivery is required not later than the dates stated by the Department in its purchase order or other written assignment of parcels to the Consultant. It is understood and agreed by the offeror that time is of the essence in the delivery of products and services of the character and quality specified in the proposal document. In the event these specified products and services are not delivered by the date specified there will be deducted, for each incomplete task on an assigned parcel, not as a penalty but as liquidated damages, the sum of \$550.00 per day for each and every calendar day of delay beyond the time specified, which sum fairly represents an estimate of project delay damages and other expenses to which the Department is exposed as a result of such delay; except that if the delivery be delayed by any act, negligence, or default on the part of the Department, public enemy, war, embargo, fire, or explosion not caused by the negligence or intentional act of the Consultant or his supplier(s), or by riot, sabotage, or labor trouble that results from a cause or causes entirely beyond the control or fault of the Consultant or his supplier(s), a reasonable extension of time as the Department deems appropriate may be granted. Upon receipt of a written request and justification for any extension from the Consultant, the Department may extend the time for performance of the Contract, at the Department's sole discretion, for good cause shown. The Consultant agrees further that it shall be estopped to contend that the damages described as "liquidated" are unreasonable or constitute a penalty. Any sums assessed under this paragraph will be due and owing to VDOT upon assessment of such damages.

14. **MINORS ON WORK SITE:**

No minors, under the age of eighteen, will be allowed on the VDOT work site(s) where the Contract will be performed, except those employed by the Consultant as allowed by the Child Labor Laws of the United States government and the Child Labor Laws of the Commonwealth of Virginia.

15. **PERFORMANCE OF TASK ORDERS:**

The period for performance of work under any Task Order approved prior to the end of the current "Contract Term" or "Renewal Term" (as those terms are defined in

Attachment I) shall continue until the expiration date for such Task Order determined in accordance with Part II, Section B(12) of the Contract.

16. **CONSULTANT RESPONSIBILITIES:**

The Consultant shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under the Contract shall be responsible to the Consultant. The Consultant agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

17. **PROSECUTION OF WORK:**

During the prosecution of work, the VDOT Program Manager will have the authority to suspend the work wholly or in part due to the failure of the Consultant to correct conditions unsafe for the Consultant's or a subcontractor's employees or the general public; for failure to carry out orders; for such periods, as he may deem necessary due to unsuitable weather; for conditions considered unsuitable for the prosecution of the work for any other condition or reason deemed to be in the public interest.

18. **PROPRIETARY INFORMATION:**

All information submitted to VDOT is subject to disclosure under the Freedom of Information Act (2.2-3700 et seq. of the Code of Virginia) unless a specific exclusion applies. To claim an exclusion under the Virginia Public Procurement Act (2.2-4300 et seq. of the Code of Virginia) for data or materials submitted as part of a procurement transaction or prequalification application that the Consultant believes are trade secrets or proprietary information, the Consultant must file:

- 1) a written request, either before or at the time the data or materials are submitted, that:
 - Invokes the protection of 2.2-4342 of the Code of Virginia;

- Identifies the specific data or other materials the Consultant seeks to exclude and protect by using some distinct method such as highlighting or underlining; and
 - States the reasons why protection is necessary, and
- 2) a redacted copy of your submittal that deletes or blocks all data or material which is identified as a trade secret or proprietary information in the written request.

Only identify the specific words, figures, or paragraphs that are claimed to be trade secrets or proprietary information. VDOT will not accept responsibility for any disclosure of proprietary information that is a result of improper redaction by the Consultant. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal. If, after being given reasonable time the offeror refuses to withdraw an entire classification designation, the proposal will be rejected. Offerors must provide with their proposal a summary of any proprietary information using the Attachment E, Proprietary/Confidential Information Summary Form that is attached to this RFP.

19. **QUALIFICATIONS OF OFFERORS:**

VDOT may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the contract. Such investigations may include but are not limited to fingerprint-based criminal history background checks, credit checks, legal residence checks, or proof of US citizenship. The offeror shall furnish to VDOT all such information and data for this purpose as may be requested. VDOT further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy VDOT that such offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.

20. **RECORDS EXCLUSION FROM PUBLIC DISCLOSURE:**

Pursuant to the provisions of §2.2-3705.6 (22) of the Code of Virginia, trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Inspector General of VDOT for the purpose of an audit, special investigation, or any study requested by the Inspector General's Office in accordance with law may, subject to a determination by the Inspector General as described herein, be withheld from public disclosure under the Virginia Freedom of Information Act (FOIA). To enable the Inspector General to identify data or records that may be subject to this exclusion from disclosure under FOIA the private or nongovernmental entity shall, in accord with procedures adopted by the Inspector General, make a written request to the Inspector General; invoking such exclusion upon submission of the data or other materials for which protection is sought; identifying with specificity the data or other materials for which protection is sought; and stating the reasons why protection is necessary.

The Assurance and Compliance Office of VDOT shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. VDOT shall make a written determination of the nature and scope of the protection to be afforded by it. Notwithstanding the foregoing, Consultant's failure to comply with the requirements stated herein and procedures established by the Inspector General for seeking an exclusion pursuant to §2.2-3705.6 (22) of the Code of Virginia shall result in a denial of the exclusion. Requests for exclusion that are submitted after data or other materials for which protection is sought have been submitted will be denied.

If litigation directly or indirectly results from or arises out of a granted exemption, the Consultant will be responsible for all litigation costs incurred by Consultant and/or VDOT associated with such litigation. In no event shall VDOT or its officers, employees or agents be liable to the Consultant as a result of any disclosure of records or data

collected by the Department, its officers, employees or agents, pursuant to an audit, special investigation, or any study requested by the Assurance and Compliance Office, whether or not the Assurance and Compliance Office has determined that the requested exclusion from disclosure under FOIA is necessary to protect the trade secrets or financial records of the private entity, and in no event shall VDOT, or its officers, employees, or agents be liable to the Consultant for any damages or other claims arising directly or indirectly from a determination that the exclusion from public disclosure will not be granted.

21. **CONTRACT TERM:**

The term of the Contract (“Contract Term”) shall be for one year from the date of full execution of the Contract.

22. **RENEWAL OF CONTRACT:**

A. The Contract may be renewed by the Department at its sole discretion for two (2) successive one (1) year periods (each such period a “Renewal Term or Term Year”) under the terms and conditions of the original contract except as stated in 1. and 2. below. Written notice of the Department’s intention to renew shall be given approximately 90 days prior to the expiration date of each Term Year.

1. If the Department elects to exercise the option to renew the Contract for an additional Term Year, the contract price(s) for the additional Term Year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the Services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
2. If during any subsequent renewal periods, the Department elects to exercise the option to renew the Contract, the contract price(s) for the subsequent Term Year shall not exceed the contract price(s) of the previous Term Year increased/decreased by more than the percentage increase/decrease of the Services

category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

B. If the Department exercises its option to renew and the parties agree upon compensation for the next Term Year, the next Term Year shall begin 12-months from the date of execution of the Contract or any subsequent renewals of the Contract or when the cumulative total of fees for project assignments issued in any Term Year reaches the Maximum Contract Term Compensation as set forth in the Contract, whichever occurs first. The sum of all projects in one Term Year shall not exceed the Maximum Contract Term Compensation. If during a Term Year the cumulative total of all issued project assignments reaches the Maximum Contract Term Compensation, no further assignments may be issued during that Term Year. Any unused or uncommitted amounts from a previous term are forfeited and shall not carry forward to the next Term Year. Upon the Department's decision to renew the Contract, a renewal letter shall be sent to the Consultant for their concurrence and renewal for the following Term Year. Upon the Consultant's written concurrence with the Department's decision to renew the Contract, the Contract shall be renewed for the following Term Year.

C. The Contract will expire at the end of the Contract Term or Renewal Term or when the cumulative total of fees for project assignments issued reaches the Maximum Contract Term Compensation unless an available option to renew the Contract is exercised in writing by the Department. If the Department elects not to renew the Contract for an additional Term Year as permitted hereunder, no new assignments may be made under the Contract after the date that fees reach Maximum Contract Term Compensation. Assignments for which purchase orders have been executed prior to this date will be completed and monthly partial payments processed.

23. **SAFETY AND HEALTH STANDARDS:**

It is a condition of the Contract, and shall be made a condition of each subcontract entered into pursuant to the Contract, that the Consultant and any subcontractor shall not

require any worker employed in performance of the Contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health or safety, as determined under construction safety and health standards promulgated by the US Secretary of Labor in accordance with Section 107 of the *Contract Work Hours and Safety Standards Act*. The Consultant shall comply with the Virginia Occupational Safety and Health Standards adopted under Section 40.1-22 of the *Code of Virginia* and the duties imposed under Section 40.1-51.1 of the *Code*. Any violation of the requirements or duties that is brought to the attention of the Consultant shall be immediately abated. Additionally at a minimum, all Consultant personnel shall comply with the following, unless otherwise determined unsafe or inappropriate in accordance with OSHA regulations: Hardhats shall be worn while participating in or observing all types of field work when outside of a building or outside of the cab of a vehicle, and exposed to, participating in or supervising construction. Respiratory protective equipment shall be worn whenever an individual is exposed to any item listed in the OSHA Standards as needing such protection unless it is shown the employee is protected by engineering controls. Adequate eye protection shall be worn in the proximity of the grinding, breaking of rock and/or concrete, while using brush chippers, striking metal against metal or when working in situations where the eyesight may be in jeopardy. Safety vests shall be worn by all exposed to vehicular traffic and construction equipment. Standards and guidelines of the current *Virginia Work Area Protection Manual* shall be used when setting, reviewing and removing traffic controls. Flag persons shall be certified according to the Virginia Flagger Certification Program. No person shall be permitted to position themselves under any raised load or between hinge points of equipment without first taking steps to support the load by the placing of a safety bar or blocking. Explosives shall be purchased, transported, stored, used and disposed of by a Virginia Certified Blaster in possession of a current criminal history record check and a commercial driver's license with hazardous materials endorsement and a valid medical examiner's certificate. All federal, state and local regulations pertaining to explosives shall be strictly followed. All electrical tools shall be adequately grounded or double-insulated Ground Fault Circuit Interrupter (GFCI) protection.

24. **SECURITY REQUIREMENTS:**

- A. All vendors, contractors or other persons accessing VDOT's CII/SSI material in any form shall be required to comply with VDOT's *CII/SSI Policy Guide for Employees, Vendors, Contractors or other Persons Accessing VDOT's CII/SSI*. This guide may be found at <http://www.virginiadot.org/business/const/CII-CriticalStructureInformation.asp>
- B. A Criminal History Record Check (CHRC), through VDOT Personnel Security Section (PSS), shall be required of all employees of the Consultant and all subcontractors of the Consultant for work conducted at all other VDOT locations, where VDOT is directly responsible for the day-to-day management of staff, or the individual has unrestricted access to Critical Infrastructure (CI), Critical Infrastructure Information (CII), Sensitive Security Information (SSI), or Personally Identifiable Information (PII).
- C. All costs for the CHRC will be the responsibility of the Consultant.
- D. All individuals undergoing the CHRC shall be required to complete and sign any VDOT required forms necessary to release personal information or to agree to non-disclosure of VDOT critical, sensitive or personal information.
- E. CHRC records search timelines vary depending on records found on file (if any). In the event non-favorable records exist, VDOT reserves the right to approve and deny issuance of any CHRC clearance. Upon denial, there are no available appeals.
- F. Upon CHRC clearance and approval, Consultant and subcontractor (if any) personnel shall be required to obtain a VDOT issued access identification badge prior to working on VDOT's premises, unless a written waiver is approved by the PSS.
- G. Consultant and subcontractor personnel shall wear VDOT-issued access identification badge at or above waist level on the outermost garment at all times while on VDOT's premises.

H. For safety concerns regarding the badge display requirement, the VDOT Personnel Security Section, the VDOT Program Manager or his or her designee may waive the above requirement. The Consultant's employees shall possess the VDOT access identification badge at all times to be available for display.

I. The Consultant shall return all VDOT access identification badges on the day any employee is no longer assigned to VDOT's premises and upon contract expiration. The Consultant shall notify the VDOT Program Manager within eight business hours upon discovery of any lost, stolen or damaged access identification badge. Failure to return access identification badges or notify the VDOT Program Manager that an access identification badge has been lost, stolen or damaged may be cause for debarment. See: Commonwealth of Virginia, Vendor's Manual Section 7.20.

J. The Consultant shall be responsible for notifying the PSS whenever an employee or subcontractor employee is charged with any criminal violation. Notification shall be made no later than the next regular business day of finding.

K. In the event of loss, suspected loss or compromise of any VDOT CII/SSI material, the Consultant 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 Program 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 Consultant will immediately file a report with a law enforcement agency having jurisdiction and forward a copy of the report to the VDOT Program Manager.

25. **SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:**

A. In addition to compliance with federal DBE guidelines, it is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All offerors are required to

submit a Small Business Subcontracting Plan and VDOT Consultant Title VI Evaluation Form. Unless the offeror is registered as a SBSB-certified DBE or SWaM business and where it is not practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Consultant is encouraged to offer such subcontracting opportunities to SBSB-certified small businesses. This shall include SBSB-certified women-owned and minority-owned businesses when they have received SBSB small business certification. No offeror or subcontractor shall be considered a DBE or SWaM business unless certified as such by the Department of Small Business and Supplier Diversity (“SBSB”) by the due date for receipt of proposals. If DBE or SWaM business subcontractors are used, the prime contractor agrees to report the use of DBE or SWaM business subcontractors by providing the purchasing office at a minimum the following information: name of DBE or SWaM business with the SBSB certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, DBE, or minority-owned), and type of product/service provided.

B. Each prime contractor who wins an award in which a small business subcontracting plan is a condition of the award shall deliver to VDOT, on a quarterly basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the plan. Upon completion of the Contract, the Consultant agrees to furnish VDOT at a minimum the following information: name of firm with the SBSB certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, DBE, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by VDOT. VDOT reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.

C. Each prime contractor who wins an award valued over \$200,000 shall deliver to VDOT, on a quarterly basis, information on use of subcontractors that are not SBSB-certified DBE or SWaM businesses. Upon completion of the Contract, the Consultant

agrees to furnish VDOT at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, and type of product or service provided.

1. If the Consultant intends to subcontract work as part of its performance under this Contract, the Consultant shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned DBE or SWaM businesses.

26. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:**

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, an offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its proposal the identification number issued to it by the State Corporation Commission (SCC). Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Consultant agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of the Consultant's statement describing why the offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Consultant as demonstrating compliance.

27. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of VDOT. In the event that the Consultant desires to subcontract some part of the work specified herein, the Consultant shall furnish VDOT the names, qualifications and experience of its proposed subcontractors using the form attached to the Contract as Attachment F. The Consultant shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.

28. **TERMINATION OF CONTRACT:**

If the Consultant fails to provide quality goods or services in a professional manner and in accordance with applicable laws, regulations or proposal provisions, solely as determined by VDOT and, upon receipt of notice from VDOT does not correct the deficiency within a reasonable period of time (not to exceed seven (7) calendar days unless otherwise agreed to by VDOT), VDOT reserves the right to terminate the contract by giving written notice to the Consultant. Upon termination VDOT may procure the services from another contractor in accordance with the Default term within the General Terms and Conditions.

29. **METHOD FOR PAYMENT:**

Payment will be made (in accordance with the Virginia Prompt Payment Act) within 30 days after receipt of valid invoice and verification of satisfactory goods received and/or completion of work. Invoices shall be submitted to the address listed below for all items completed within the designated billing period.

Invoices may be submitted monthly. Invoices shall include the contract number, purchase order number, itemized quantities, unit price, and extended costs based on the contract pricing schedule. No payment will be made for work in progress on the prescribed payment dates. Work completed will be verified in writing daily by a VDOT Representative and Contractor Foreman on an agreeable format.

Invoice Submittal:

Attn: Right of Way and Utilities Division – Contract Section

1401 E. Broad St.

Richmond, VA 23219

ATTACHMENT J

BASIS OF PAYMENT

1. **ACTUAL COST:** For services performed according to the provisions of the Contract, the Department agrees to pay the Consultant for each project an amount equal to the actual hours approved, for each work classification based upon the scope of work for each project, not to exceed the total number of hours shown in the fee proposal, plus non-salary direct costs identified in the fee proposal based upon actual costs incurred (the total of all such sums being “Actual Cost”), all of which are subject to audit and adjustment.

2. **FIXED BILLABLE RATE:** The “Fixed Billable Rate” shall be based upon the following items:

a. **AVERAGE WAGE RATE PER CLASSIFICATION:** The current average hourly rate for each classification shall be computed by averaging the direct salaries of all personnel under that classification and converting that to an average hourly wage rate. Direct salaries are defined as cost of salaries of appraisers, right of way specialists, relocation specialists, or other personnel, including partners or principals actually performing work or a service, for the time directly chargeable to the project. Cost of time of partners or principals, to the extent that they perform technical or advisory services directly applicable to the project, shall be included in the Fixed Billable Rate at the rates approved by the Department. The time of partners or principals, as stated above, shall be documented by using time sheets as the cost is incurred. Total direct salaries shall not exceed those shown in the fee proposal, except by prior approval of the Commissioner of Highways or his duly authorized representative. The Consultant shall ensure that the current Rate Schedule (Attachment G) is filled out completely and correctly, to include the escalation rates for years 2 and 3. The Rate Schedule will be in effect for the duration of the Contract, as well as the duration of any Task Orders executed prior to the expiration of the Contract.

b. **OVERHEAD COSTS:** “Overhead Costs” are defined as those general administrative and clerical costs at the Consultant’s home office which are necessary to the proper performance

of the services, but cannot be effectively and economically allocated to the project. Cost of time of partners or principals performing administrative duties shall be included in the Overhead Costs. Overhead Costs are expressed as a percentage of direct salaries or other acceptable base.

c. **PAYROLL BURDEN AND OVERHEAD RATE:** The Consultant's most recent "Payroll Burden" (defined below) and overhead rate, audited by an independent certified public accountant or cognizant government agency, established annually in accordance with the Federal Acquisition Regulations, will be applied for the purpose of computing monthly partial payments. Non-allowable costs are those identified in the Federal Acquisition Regulations.

The Consultant and its subconsultants are required to submit Federal Acquisition Regulations (FAR) audits on an annual basis within six months of the end of the Consultant's fiscal year. The Department will approve a provisional payroll overhead (Payroll Burden and overhead) billing rate for the fiscal year submitted. Subsequent estimate vouchers must adjust overhead to the provisional overhead billing rate approved for the fiscal year that has been reviewed, and for billing periods in the next fiscal year until an approved provisional overhead billing rate is established for that year. Increases in the provisional overhead billing rate or actual applied overhead based on audit are not a basis for an increase in the fixed fee or in the maximum compensation payable. The provisional overhead billing rate is subject to post audit prior to final payment. Overhead adjustments for work previously billed will not be allowed until time of final audit.

"Payroll Burden" is defined as sick leave, vacation, and holiday pay of appraisers, right of way specialists, relocation specialists, and other technical personnel, plus payroll excise and unemployment compensation insurance, retirement plan, and life and medical insurance benefits. Costs of company contribution to life insurance, medical insurance, and retirement plan for employees shall be normal and reasonable. Payroll Burden is expressed as a percentage of direct salaries.

4. **NON-SALARY DIRECT COSTS:**

a. Non-salary direct costs shall include purchase and rental of all materials, supplies and equipment necessary for the performance of the services on each assignment and cost of outside professional consulting or contracting services, all at invoiced cost to the

Consultant, plus the cost of communications and reproductions directly chargeable to the project, plus necessary travel and per diem expenses. The purchase cost of all materials, supplies and equipment, which are not for the exclusive use in providing the services included in the Contract, are not allowed as non-salary direct costs and shall be included in the Consultant's overhead. These items include, but are not limited to, fax machines, copiers, computers, software, refrigerators, coffee makers, microwave ovens, cellular telephones, pagers, helmets, tape measures, fire extinguishers, and professional books and references.

b. The cost of motor vehicle rentals and the cost of common carriers shall be the actual cost incurred. The cost of motor vehicle leases shall be the actual cost incurred, subject to audit. Leases must be supported by bona fide documentation from the leasing company and will only be allowed from established companies in the business of leasing vehicles.

c. For use of personal or company owned vehicles, the reimbursable rate per mile stipulated in the cost proposal shall be allowed to cover costs.

d. For personnel in travel status, reimbursement of actual expenses up to the maximum amount per day will be allowed for meals. Reimbursement will not be allowed for meals unless an overnight stay is required. Actual expenses up to the maximum amount per day will be allowed for lodging of personnel in travel status.

e. Total non-salary direct costs shall not exceed those shown in each assignment's proposal, except by prior approval of the Department.

f. Costs of time applied and charged directly to each assignment for the services of special outside consultants, contractors or drafting services shall be included in non-salary direct costs at rates stipulated in the proposal or received by competitive bidding.

g. Invoiced cost to the Consultant of all technical computations for each assignment performed by outside commercial electronic computation services shall be included in non-salary direct costs.

h. In-House Computer Costs: Computer/CADD costs for all technical computations or databases for the project, performed on the Consultant's in-house electronic computer, shall be charged as a separate item at an hourly rate established by a Federal Acquisition Regulations audit and representative of actual costs, not to exceed \$6.00 per hour, or shall be included in the Federal Acquisition Regulations audited overhead rates.

5. ESTIMATED COSTS: A detailed itemized breakdown of allowable costs and computation of all costs and fees has been submitted by the Consultant with the fee proposal in the general form as furnished by the Department, and is hereby incorporated as part of the Contract.

6. MAXIMUM TASK ORDER COMPENSATION: Except as may be agreed by the parties in accordance with Attachment A, Section O of the Contract, the maximum total compensation payable under this Agreement for any Task Order will not exceed the “Maximum Task Order Compensation Payable” as set forth in Attachment H. (fee proposal for individual tasks). If the total compensation billed under a Task Order exceeds the Maximum Task Order Compensation Payable as set forth on the approved Task Order, any overage shall be evaluated for payment in accordance with Section J(1)(d) of Attachment A.

7. TERMINATION WITHOUT CAUSE: In the event the Contract is terminated without cause, payment shall be made on the basis of the Actual Cost incurred up to the effective date of termination, subject to audit, plus a percentage of the Net Fee equal to the percentage completion of the services required under the Contract at the time of effective date of termination.

ATTACHMENT K – FIRM DATA SHEET

Project No.: _____

Right of Way and Utilities Division

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. Proposals not including all of the required data will not be considered.

Firm's Name and Address	Firm's DBE/SWAM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE N = DBE/SWAM Firm Not Certified by DMBE
 NA = Firm Not Claiming DBE/SWAM Status
 YS = SWAM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

ATTACHMENT K**VDOT SPECIAL DBE PROVISIONS FOR CONSULTANT PROJECTS****Use of Disadvantaged Business Enterprises (DBEs) for Project Specific Consultant Projects****A. Disadvantaged Business Enterprise (DBE) Program Requirements**

Any Consultant, subcontractor, 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 subcontractor is defined as any supplier, manufacturer, or subcontractor 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 subcontractor 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 subcontractors and suppliers, whether certified DBE firms or 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 subcontractors contractually to the same at the Consultant's expense.

The Consultant and each subcontractor 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 Section E 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 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. 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, 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 subcontractors. 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 Special 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.

9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the Consultant, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original Consultant in accordance with the requirements of this specification.

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:** 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 subcontractors to be used for the contract to meet the DBE goal.

If, at the time of submitting its proposal, 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 shall be submitted electronically or may be faxed to the Department, but in no case shall the offeror's Form C-111 be received later than two business days after the negotiated contract value has been determined. A revised Form C-48 must be received within ten (10) business days after the negotiated contract value has been determined.

If, at the time of submitting its proposal, 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, 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-112, Certification of Binding Agreement, with the C-111 two business days after the negotiated contract value has been determined. DBE offerors responding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBE firms as subcontractors.

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, 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, C-49, C-111, and C-112 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/> and are attached as Schedule 1, Schedule 2, Schedule 3 and Schedule 4, respectively.

If the most highly qualified (top-ranked) firm 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. **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, 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, 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.
 - i. 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 subcontracting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBE firms to perform the work;
 - ii. Consultant should, using good business judgment, consider a number of factors in negotiating with subcontractors 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. Consultants are not, however, required to accept higher quotes from DBE firms if the price difference can be shown by the Consultant to be excessive, unreasonable, or greater than would normally be expected by industry standards;
- (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 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; contractors' 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

During Proposal Submission:

In order to award a contract to a 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, at the time of submitting its Proposal, knowingly cannot meet or exceed the required DBE contract goal, the offeror's proposal must include Form C-49, 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 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.

During Negotiation: If a Consultant is unable to attain the DBE goal as a result of negotiation with the Department, consideration will be given to an adjustment DBE goal. However the Consultant will be require to demonstrate that it made a Good Faith Effort to attain the goal.

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

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 immediately notify the Department and provide all relevant facts. If a Consultant relieves a DBE subcontractor of the responsibility to perform work under their subcontract, the Consultant is encouraged to 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 such instances, Consultant is expected to seek DBE participation towards meeting the goal during the performance of the Contract.

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

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

Project 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 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 or subcontracted by the DBE to other DBE firms.
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 subcontractor 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 subcontractor 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 subcontractor toward the DBE goal only if the DBE performs a Commercially Useful Function (CUF) on that subcontract, as such term is defined in Section 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 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 under the Contract, for which the Consultant 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.

Department will monitor 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 involved, 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.

H. Verification of DBE Participation and Imposed Damages

Within fourteen (14) days after subcontract execution between Consultant and DBE subcontractors (or subcontract execution between DBE subcontractors and DBE subcontractors), 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. 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 subcontractor.

The Consultant shall also furnish, and shall require each subcontractor to furnish, information relative to all DBE involvement on the project for each quarter during the life of the contract in which participation occurs and verification is available. The information shall be indicated on Form C-63, DBE and SWAM Payment Compliance Report. The Department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the CRO within five (5) business days after the reporting period may result in delay of approval of the Consultant's scheduled payment. The names and certification numbers of DBE firms provided by the Consultant on the various forms indicated in this Special Provision shall be exactly as shown on SBSD's latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Consultant. 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 necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE firm beginning work. Form C-63 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

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 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 subcontractor, 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 in Department projects until such submissions are received.

I. Documentation Required for Semi-final Payment

Consultant must submit Form C-63 to the CRO sixty (60) days prior to date of final completion, set forth on the Baseline Schedule (as updated from time to time in accordance with the Contract). The form must include each DBE firm used on the Contract and the work performed by each DBE firm. The form shall include the actual dollar amount paid to each DBE firm for the accepted creditable work. The form shall be certified under penalty of perjury, or other applicable legal requirements, to be accurate and complete. Department will use this certification and other information available to determine applicable DBE credit allowed to date by Department and the extent to which the DBE firms were fully paid for that work. The Consultant acknowledges by the act of filing the form that the information is supplied to obtain payment regarding the Contract as a federal participation contract. A letter of certification, signed by both the Consultant and appropriate DBE firms, will accompany the form, indicating the amount that remains to be paid to the DBE firm(s).

J. Documentation Required for Final Payment

In anticipation of final payment, Consultant shall submit a final Form C-63 marked "Final" to the CRO, within thirty (30) days of the anticipated date of final completion, as set forth on the Baseline Schedule (as updated from time to time in accordance with the Contract). The form must include each DBE firm used on the Contract and the work performed by each DBE firm. The form shall include the actual dollar amount paid to each DBE firm for the creditable work. Department will use this form and other information available to determine if Consultant and DBE firms have satisfied the DBE goal and the extent to which credit was allowed. 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.

K. 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 subcontractors within seven (7) days after receipt of payment from the Department, or shall notify the Department and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment. Invoices shall be submitted no more frequently than once every 30 calendar days and not less than every 60 calendar days. Subcontractor invoices must be submitted with 60 calendar days of receipt by the Consultant.

For purposes of this Special Provision, a subcontractor'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 subcontractor covered by that partial acceptance to be satisfactorily completed.

Upon Department's payment of the subcontractor'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 subcontractor for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subcontractor's portion of the work shall mean the Consultant has issued payment in full to the subcontractor for that portion of the subcontractor'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 subcontractors contractually to these obligations.

Nothing contained herein shall preclude Consultant from withholding payment to the subcontractor 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 subcontractor.

L. 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 subcontractor'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 prime contract remaining after VDOT issued the notice of its ineligibility shall be counted toward the prime contract goal.

Termination of DBE: If a DBE subcontractor 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.

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 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.

1. 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.

2. 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 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.

3. Proposed Substitution of Another Certified DBE

Upon termination of a DBE firm, Consultant shall use reasonable 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 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.

M. Suspect Evidence of Criminal Behavior

Failure of Consultant or any subcontractor to comply with this Special Provision or any other component of or attachment to the Contract 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.

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

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

Attachments:

- Schedule 1 – Form C-48
- Schedule 2 – Form C-49
- Schedule 3 – Form C-111
- Schedule 4 – Form C-112

Schedule 2 to Attachment K

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

DBE GOOD FAITH EFFORTS DOCUMENTATION
(Nonprofessional Services)

CONTRACT I.D. NUMBER _____

PROJECT NUMBER _____

FHWA NUMBER _____

DISTRICT _____

DATE RFP SUBMITTED _____

OFFEROR'S NAME _____

SIGNATURE _____

TITLE _____

VENDOR NUMBER _____

DBE GOAL FROM RFP _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ SIGNATURE _____

TITLE _____

NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO QUOTE ON THIS PROJECT

INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.

NAMES AND VENDOR NUMBERS OF DBEs SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK	FOLLOW-UP METHODS AND DATES

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

TELEPHONE LOG

DBE(s) CALLED	TELEPHONE NUMBER	DATE CALLED	TIME CALLED	CONTACT PERSON OR VOICE MAIL STATUS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

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THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS

IDENTIFY THOSE ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE OFFEROR IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE OFFEROR'S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO DBE FIRMS.

ITEM(S) OF WORK MADE AVAILABLE	OFFEROR NORMALLY PERFORMS ITEM(S) (Y/N)	ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)	AMOUNT IN DOLLARS	PERCENTAGE OF CONTRACT

NOTE: INFORMATION REQUIRED FOR THIS SECTION CONTINUED ON SHEET 5
ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE OFFEROR MADE AVAILABLE TO DBE FIRMS (Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

ITEM(S) OF WORK MADE AVAILABLE (CONT.)	NAME OF SELECTED FIRM AND VENDOR NUMBER	DBE OR NON-DBE	NAME OF REJECTED FIRM(S)	QUOTE IN DOLLARS	PRICE DIFFERENCE IN DOLLARS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH. PROVIDE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND EMAIL ADDRESSES FOR THE FIRMS LISTED ABOVE.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

ADVERTISEMENTS OR PROOFS OF PUBLICATION.

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE OFFEROR. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

PUBLICATIONS	DATES OF ADVERTISEMENT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

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THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE

NAMES OF AGENCIES (SEE SPECIAL PROVISION FOR 107.15) AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

NAME OF AGENCY	METHOD AND DATE OF CONTACT	RESULTS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO DBEs

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE DBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	INFORMATION PROVIDED	DATE OF CONTACT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ **DATE SUBMITTED** _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE OFFEROR IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE OFFEROR ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

OFFEROR _____ **SIGNATURE** _____

TITLE _____

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY

Schedule 3 to Attachment K

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

MINIMUM DBE REQUIREMENTS FOR NON-PROFESSIONAL CONTRACTS

PROJECT NO. _____

FHWA NO. _____

INSTRUCTIONS

This form shall be used by the Consultant to submit the names of DBE firms to be used on the contract. The Consultant shall indicate the scope of work that each DBE will perform and the allowable credit.

DBE REQUIREMENT _____%

PERCENT ATTAINED BY PROPOSER _____%

Name(s) of DBE(s) To Be Used	Certification	Scope of Work	\$ Amount of Allowable Credit
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL \$			_____

Total Contract Value \$ _____ x Required DBE _____ % = \$ _____

I/We certify that the DBE(s) listed will be used on this contract as stated hereon and assure that during the life of the contract I/We will meet or exceed the participation established hereon.

Offeror

BY _____

Signature

Title

Date

Schedule 4 to Attachment K

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

**CERTIFICATION OF BINDING AGREEMENT
WITH
DISADVANTAGED BUSINESS ENTERPRISE FIRMS**

Project No.:

Federal Project No.:

This form is to be submitted in accordance with the Department's Special Provision DBE participation on nonprofessional services contracts.

It is hereby certified by the below signed Contractors that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed *subcontractor agreement* shall be submitted to the Department within fourteen (14) business days after contract execution.

It is further certified that the aforementioned fully executed subcontractor agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Contractor further represents that the aforementioned fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Contractor shall refer to any Contractor utilizing a DBE subcontractor, in which they are claiming DBE credit toward the contract goal.

Contractors further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).

TO BE SIGNED BY THE PRIME CONTRACTOR AND THE SUBCONTRACTORS

Scope of Work to be Performed:

Amount of Subcontractor Agreement to be executed: \$ _____

Prime Contractor: _____

Signature: _____ Title _____

Date: _____

Subcontractor: _____

Signature: _____ Title _____

Date: _____