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PART 1
REQUEST FOR PROPOSALS

INSTRUCTIONS FOR OFFERORS

1.0 INTRODUCTION

The Virginia Department of Transportation ("VDOT") submits this Request for Proposals ("RFP") to solicit design-build proposals ("Proposals") from those entities ("Offerors") interested in contracting to serve as the Design-Builder for the widening of Pacific Boulevard from two to four lanes between Sterling Boulevard and Relocation Drive in Loudoun County, Virginia ("Project"). The purpose of this RFP is to determine which Offeror (the "Successful Offeror") will be awarded the Design-Build contract ("Design-Build Contract") for the Project.

The Project priorities are:

- Cost – provide the best price for the scope of work identified in this RFP
- Schedule – minimize Project duration

Offerors Proposals must meet all requirements established by this RFP. Requirements of this RFP generally will use the words "shall", "will", or "must" (or equivalent terms) to identify a required item that must be submitted with an Offeror's Proposal. Failure to meet an RFP requirement will render an Offeror's Proposal non-responsive.

THE RESPONSIVE AND RESPONSIBLE OFFEROR SUBMITTING THE LOWEST PRICE PROPOSAL FOR THE PROJECT WILL BE RECOMMENDED FOR AWARD.

The award of a contract to the Offeror who submitted the lowest price, whose Proposal is responsive and whose Price Proposal is within VDOT's budget for design and construction services will be made in accordance with Part 1, Section 8 of this RFP.

2.0 BACKGROUND INFORMATION

2.1 Project Description

The Project is located in Loudoun County, Virginia, and includes widening Pacific Boulevard (Route 1036) from two to four lanes from the intersection of Sterling Boulevard (Route 846) to the intersection of Relocation Drive (Route 775). The total Project length is approximately 0.4 mile. However, it is noted that this description and length are approximate only and based on the preliminary design shown in the RFP Information Package (CD-ROM). The final project length may vary depending on the Offeror's final design and this fact shall be taken into account in the Offeror's proposal.

Offerors shall note that the Design-Builder has the option of closing Pacific Boulevard for the duration of construction as detailed under Part 2, Section 2.9, of the RFP Documents.

Funds for the Project were appropriated from the Federal American Recovery and Reinvestment Act of 2009 ("ARRA"). Projects funded by the ARRA require an additional level of data reporting therefore reporting on this project will meet the requirements of ARRA. The Design-Builder shall be responsible for meeting all of the reporting requirements under the ARRA.

2.2 Legislative Authority

2.2.1 Section 33.1-12(2)(b) of the *Code of Virginia* authorizes VDOT and the Commonwealth Transportation Board ("CTB") to develop and award contracts using the Design-Build contracting method. In accordance with the law, VDOT completed the Finding of Public Interest ("FOPI") dated September 16, 2009. The FOPI is attached hereto as Attachment 2.2.1.

2.3 Procurement Overview of the Project

2.3.1 VDOT will use a single-phase selection process for the selection of a Design-Builder on the Project. In accordance with the requirements of this RFP, interested Offerors will submit a Proposal consisting of a Letter of Submittal and Price Proposal. Upon completion of the responsiveness review of the Letters of Submittal and Price Proposals, it is anticipated that the Director of Innovative Project Delivery will recommend the Offeror who submitted the lowest bid, whose proposal is responsive and within VDOT's budget to the Chief Engineer for an award of a fixed price Design-Build Contract by the CTB.

2.4 Right-of-Way and Site Acquisition

2.4.1 The Offeror's proposed design shall not exceed the current right-of-way limits shown on the preliminary plans. If Offerors wish to deviate from the current right-of-way limits shown on the preliminary plans, such deviations will be subject to VDOT's prior approval. It will be the responsibility of Offeror to coordinate directly with the affected property owners to acquire such right-of-way. The Offeror shall be responsible for assuming all risks associated with the acquisition of additional right-of-way (if required to accommodate Offeror's unique solution), including but not limited to any public hearings that may be required, acquisition/condemnation costs, legal expenses, expert witness, and/or additional monies awarded by the Courts or given to the property owner in order to reach an agreement after certificate , and no modifications to the Contract Price or Contract Time will be granted or considered.

2.5 Budget

2.5.1 VDOT's current estimated contract value for this Project is $3,250,000.00.

2.6 Project Milestone Schedule

2.6.1 VDOT currently anticipates conducting the procurement of the Project in accordance with the following list of milestones leading to award of the Design-Build Contract. This schedule is subject to revision and VDOT reserves the right to modify this schedule as it finds necessary, in its sole discretion.

	Project Milestones	**Date**	
1.	Advertise RFP	02/01/10	
2.	Pre-Proposal Meeting with Offerors	02/17/10	(10:00 AM prevailing local time)
3.	RFP Questions due to VDOT	02/26/10	(4:00 PM prevailing local time)
4.	VDOT Responses to RFP Questions	03/05/10	
5.	Due Date - Letter of Submittal and Price Proposal	~~TBD*~~04/16/10	(4:00 PM prevailing local time)
6.	Submit Escrow Proposal Documents	~~TBD~~04/22/10	(4:00 PM prevailing local time)
7.	Open Letters of Submittal and Price Proposals	~~TBD~~04/23/10	(9:00 AM prevailing local time)
8.	Notice of Intent to Award	~~TBD~~05/03/10	
9.	CTB Approval / Notice to Award	~~TBD~~05/19/10	
10.	Design-Build Contract Execution	~~TBD~~07/06/10	
11.	Notice to Proceed	~~TBD~~07/07/10	
12.	Substantial Completion	~~TBD~~06/28/11	
13.	Final Completion	~~TBD~~07/11/11	

~~***The date of April 2, 2010 as shown in eVA represents the anticipated issuance of Addendum # 4, which will reflect a revised procurement schedule for the activities noted above with a To Be Determined (TBD) date.**~~

2.6.2 VDOT has established final milestones for contract completion dates for the Project and Offerors should base their proposals on such milestones.

.1 Substantial Completion – the Project shall be substantially complete and open for traffic by the date set forth in Part 1, Section 2.6.1.

.2 Final Completion of the entire Project shall be no later than the date set forth in Part 1, Section 2.6.1.

.3 Offerors are on notice that any earlier completion date(s) identified by Offeror in response to this RFP will be deemed by VDOT as the contractual completion date(s) for this Project.

2.7 VDOT's Point of Contact and Project Reference

2.7.1 VDOT's sole Point of Contact ("POC") for this Project shall be the person designated below. VDOT's POC is the only individual authorized to discuss this RFP with any interested parties, including Offerors. All communications with VDOT's POC about the Project or this RFP shall be in writing, as required by applicable provisions of this RFP.

Name:	Daniele J. Kurze, Program Manager
Address:	Innovative Project Delivery Division Virginia Department of Transportation 1401 East Broad Street Richmond, VA 23219
Phone:	(804) 786-6929
Fax :	(804) 786-7221
E-mail:	Daniele.Kurze@vdot.virginia.gov

2.7.2 VDOT disclaims the accuracy of information derived from any source other than VDOT's POC, and the use of any such information is at the sole risk of Offeror.

2.7.3 All written communications to VDOT from Offerors shall specifically reference the correspondence as being associated with "Pacific Boulevard Widening Project No.1036-053-967, C501, P101, R201".

2.7.4 An RFP Information Package is available on CD-ROM for $50.00. Interested Offerors should complete the RFP Information Package Order Form included as Attachment 2.7.4. The instructions for submittal and payment are included on the form. The RFP Information Package will include the following components:

- Environmental
  - VDOT Permit Determination
  - Categorical Exclusion ("CE")
  - Document Reevaluation for PSE Authorization ("EQ-200")
  - Environmental Certification/Commitments Checklist ("EQ-103")
  - VDOT Water Quality Permit Manual, Revised - March 28, 2006

- Special Provisions/Specifications/Special Copied Notes
  - VDOT Northern Region Specification for Uninterruptible Power Supply ("UPS") – Traffic Signals dated May 22, 2007

- Specification Section 315 – Asphalt Concrete Pavement Design-Build Projects, dated December 12, 2009
- Special Provision for Section 108 – Prosecution and Progress of Work, revised December 17, 2009
- Special Provision for Surface Preparation and Restoration Prior to Plant Mix Overlay, dated December 2, 2009
- Special Provision for Sealing Cracks in Asphalt Concrete Pavements Prior to Overlay, dated December 2, 2009
- Special Provision for Flowable Backfill, revised November 2009
- Special Provision for Non-tracking Tack Coat, dated December 7, 2009
- Special Provision for Planing Asphalt Concrete Pavement, revised November 2009
- Special Provision for Lime Modification of Soils, dated November 23, 2009
- Supplemental Specification Section 214—Hydraulic Cement, dated January 28, 2008
- Supplemental Specification Section 215—Hydraulic Cement Concrete Admixtures, dated January 28, 2008
- Supplemental Specification Section 217 – Hydraulic Cement Concrete, dated October 15, 2008
- Supplemental Specification Section 306 – Lime Stabilization dated, October 2, 2008
- Supplemental Specification Section 315 – Asphalt Concrete Pavement, dated December 7, 2009
- Special Provision Copied Note Section 211 – Warm Mix Asphalt Pavement dated December 7, 2009
- Special Provision Copied Note Section 211 – Surface and Intermediate Mixes using RAP, dated September 24, 2007, reissued July 2008
- Special Provision Copied Note Section 248 – Surface and Intermediate Mixes using RAP, dated December 7, 2009
- Special Provision Copied Note Section 315 – Warm Mix Asphalt Pavement, dated December 7, 2009
- Special Provision for Density Control of Embankments and Backfill, revised – November 26, 2006
- Special Provision for Section 301-Clearing and Grubbing, dated November 15, 2006
- Special Provision for Design-Build Tracking ("DBT") Numbers, dated February 8, 2008
- Special Provision for Square Tube Steel Sign Post, dated July 7, 2005
- Special Provision for ARRA Project Requirements, revised February 1, 2010
- Special Provision for Project Communication and Decision Making for Design-Build Projects, reissued August 2009
- Supplemental Specification Section 522 – Partnering Design-Build Projects, dated December 2, 2009

- Controller Cabinet Foundation and Conduit Placement Details CF-3 (NOVA Region), revised June 15, 2009
- Special Provision for Personnel Requirements for Work Zone Traffic Control, June 11, 2009

- Preliminary Design Files
  - Preliminary Road Plans ("DGN" and "PDF")
  - Geopak Files
  - Digital Terrain Model
  - Scoping Form

- Materials
  - VDOT, Geotechnical Engineering Data Report for Pacific Boulevard Widening, dated December 16, 2009
  - VDOT Materials Division Memorandum Number MD299-07 for Materials Acceptance - October 4, 2007

- Traffic
  - Northern Virginia Traffic Engineering Guidance to Consultants (Included in the RFP Information Package – CD-ROM), dated 2005
  - Traffic Data

- Other
  - Loudoun County Board of Supervisors Endorsement of VDOT's Proposed Design for the Widening of Pacific Boulevard, , dated January 5, 2010
  - Detour Plan
  - Additional Survey for Adjoining Project

2.8 RFP Documents

2.8.1 The documents included in this RFP (collectively the "RFP Documents") consist of the following sections, as well as any attachments and exhibits contained or identified in such sections:

PART 1 – REQUEST FOR PROPOSALS, INSTRUCTIONS FOR OFFERORS
PART 2 – PROJECT TECHNICAL INFORMATION AND REQUIREMENTS INCLUDING RFP INFORMATION PACKAGE (CD-ROM)
PART 3 – LUMP SUM DESIGN-BUILD AGREEMENT
PART 4 – GENERAL CONDITIONS
PART 5 – DIVISION I AMENDMENTS TO STANDARD SPECIFICATIONS

2.8.2 Each Offeror shall review the proposed RFP Documents and provide comments regarding any aspect of such documents to which it has any concern, including but not limited to terms that it considers to be ambiguous or to which it takes exception. Such comments will be

submitted to VDOT's POC within the time set forth in Section 2.6.1 of this RFP. VDOT will review all comments received and, if it deems appropriate, in its sole discretion, may modify such documents through an Addendum. Offerors shall base their Proposals on the terms and conditions of the Design-Build Contract included in the latest issued Addendum.

2.8.3 Addenda to the RFP Documents, if any, will be posted on the VDOT Project website. Hard copies of the Addenda on file will be available upon request. If there is any conflict between the electronic format and hard copy of any RFP Document or Addendum, the hard copy on file shall control.

2.9 Deviations from the RFP Documents

2.9.1 If awarded the Design-Build Contract, an Offeror will be obligated to meet all of the requirements of the RFP Documents. If VDOT is willing to modify a requirement, VDOT will issue an Addendum as appropriate, provided, however, that: (a) VDOT shall have the sole discretion as to the acceptability of any such modifications; and (b) no modifications from the requirements of the RFP Documents will be valid unless they are agreed to by VDOT and set forth in an Addendum.

3.0 GENERAL PROCEDURES AND REQUIREMENTS

This Section provides general information, procedures and requirements related to the pre-submittal period to be followed by all Offerors.

3.1 Offeror's Pre-Submittal Responsibilities and Representations

3.1.1 Each Offeror shall be solely responsible for examining the RFP Documents, including any Addenda issued to such documents, and any and all conditions which may in any way affect its Proposal or the performance of the work on the Project, including but not limited to:

.1 Examining and carefully studying the RFP Documents, including any Addenda and other information or data identified in the RFP Documents;

.2 Visiting the Project site and becoming familiar with and satisfying itself as to the general, local, and site conditions that may affect the cost, progress, or performance of its work on the Project;

.3 Becoming familiar with and satisfying itself as to all federal, state, and local laws and regulations that may affect the cost, progress, or performance of its work on the Project; and

.4 Determining that the RFP Documents are sufficient to indicate and convey understanding of all terms and conditions for the performance of Offeror's work on the Project.

3.1.2 Each Offeror is responsible for promptly giving VDOT written notice, in accordance with the processes set forth in Section 7.0 below, of: (a) all conflicts, errors, ambiguities, or discrepancies that Offeror discovers in the RFP Documents; and (b) aspects of the RFP

Documents that Offeror does not understand. Any failure to do so shall be at Offeror's sole risk, and no relief for error or omission will be provided by VDOT.

3.2 Pre-Proposal Meeting

3.2.1 VDOT will hold a **non-mandatory** Pre-Proposal meeting of potential Offerors on the date set forth in Section 2.6.1 above at the VDOT Northern Virginia District Office, 14685 Avion Parkway, Chantilly, VA at 10:00 AM prevailing local time. No more than three (3) representatives from each Offeror (inclusive of any member of Offeror's team) will be allowed to participate in the Pre-Proposal Meeting.

3.3 Acknowledgment of Receipt of RFP, Revisions and Addenda

3.3.1 Offeror shall provide VDOT the Acknowledgement of RFP, Revisions, and/or Addenda Form (C-78-RFP), set forth as Attachment 3.3.1, with submission of the Proposal, which will serve to acknowledge that Offeror has received this RFP and identify Offeror's representative, who shall be Offeror's single point of contact for the receipt of any documents, notices and addenda associated with this RFP.

4.0 CONTENTS OF PROPOSALS

4.1 General

4.1.1 This Section 4.0 describes the Letter of Submittal and Price Proposal. The format for the presentation of such information is described in Section 6.0.

4.1.2 The Letter of Submittal will consist of all information required under this section. A Letter of Submittal Checklist has been provided for reference in Attachment 4.1.2. The purpose of the checklist is to aid the Offeror in insuring all submittal requirements have been included in the Offeror's Letter of Submittal and to provide a page reference indicating the location in the Letter of Submittal of each submittal requirement.

4.1.3 Offerors shall be aware that VDOT reserves the right to conduct an independent investigation of any information, including prior experience, identified in a Proposal by contacting project references, accessing public information, contacting independent parties, or any other means. VDOT also reserves the right to request additional information from an Offeror during the evaluation of that Offeror's Proposal.

4.1.4 Proposals shall specifically identify any elements that are deemed confidential or proprietary. Offerors shall be prepared upon request to provide justification of why such materials shall not be disclosed under the Virginia Freedom of Information Act in the Code of Virginia. The classification of the entire Proposal document, line item prices, and/or Price Proposals as proprietary or trade secrets is not acceptable.

4.2 Letter of Submittal

4.2.1 The Letter of Submittal shall be on the Offeror's letterhead identifying an individual who serves as the point of contact for the Offeror. Include point of contact's title, address, phone and

fax numbers, and e-mail address. The Letter of Submittal shall be signed by an authorized representative of Offeror's organization. All signatures shall be original and signed in ink.

4.2.2 Identify the name, address and telephone number of the principal officer of the legal entity with whom a Design-Build contract with VDOT would be written (e.g., President, Treasurer, Chairperson of the Board of Directors, etc.).

4.2.3 Identify whether the Offeror will be structured as a corporation, limited liability company, general partnership, joint venture, limited partnership or other form of organization. Identify the team members who will undertake financial responsibility for the Project and describe any liability limitations. If the Offeror is a limited liability company, partnership or joint venture, describe the bonding approach that will be used and the members of such organizations who will have joint and several liability for the performance of the work required for the Project.

4.2.4 Give names and detailed addresses of all affiliated and/or subsidiary companies. Indicate which companies are subsidiaries. If a situation arises in responding to this questionnaire where you are unsure whether another firm is or is not an affiliate, doubt should be resolved in favor of affiliation and the firm should be listed accordingly. An affiliate shall be considered as any business entity which is closely associated to another business entity so that one entity controls or has power to control the other entity either directly or indirectly; or, when a third party has the power to control or controls both; or where one business entity has been so closely allied with another business entity through an established course of dealings, including but not limited to the lending of financial wherewithal, engaging in joint ventures, etc. as to cause a public perception that the two firms are one entity. Firms which are owned by a holding company or a third party, but otherwise meet the above conditions and do not have interlocking directorships or joint officers serving, are not considered to be affiliates.

If an Offeror has no affiliated and/or subsidiary companies other than the Offeror's legal business entity, the Offeror should include a statement in the Letter of Submittal indicating the same.

4.2.5 Provide an 8.5" x 11" copy of the Offeror's VDOT prequalification certificate, or print-out of Offeror's prequalification status from VDOT's online Prequalified List (available at http://www.virginiadot.org/business/resources/prequalified-list.pdf),

4.2.6 All Offerors and Proposals must comply with the law with regard to their organizational structure, any required registration with governmental agencies and/or entities, and any required governmental licensure, whether business, individual, or professional in nature, and nothing herein is intended to contradict, nor to supersede, State and Federal laws and regulations regarding the same. At the time of submitting Proposals, all Offerors shall be eligible, under the law and relevant regulations, to offer and to provide any services proposed or related to the Project. Unless otherwise exempted by § 54.1-401, 54.1-402, or 54.1-402.1, any person, partnership, corporation, or other entity offering or practicing architecture, engineering, or land surveying shall be registered or licensed in accordance with the provision of *Chapter 4, Title 54.1 of the Code of Virginia.* Offerors shall satisfy all commercial and professional registration

requirements, including, but not limited to those requirements of the Virginia State Corporation Commission ("SCC") and the Virginia Department of Professional and Occupational Regulations ("DPOR"):

All business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission (A Business Registration Guide is available on the Internet at http://www.state.va.us/scc/division/clk/brg.htm). Foreign Professional corporations and Foreign Professional Limited Liability Companies (i.e., organized or existing under the laws of a state or jurisdiction other than Virginia) must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional & Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (http://www.state.va.us/dpor). Board regulations require that all branch offices of professional corporations and business entities located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. All branch offices which offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet these criteria at the time of submitting a response to the Request for Proposal to the Department. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.

Each business entity on the Offeror's proposed team who is practicing or offering to practice professional services in Virginia, including, but not limited to, those practicing or offering to practice engineering, surveying, hydrologic and hydraulic analysis and landscape architecture, should provide evidence including full size copies of appropriate commercial professional registrations and licenses for all offices proposed for this Project, as well as providing full size copies of appropriate individual registrations/licenses for those professional occupations listed below (all names of business entities and individual registration/licenses should be included in tabular format in the letter of submittal while all full size copies of SCC and DPOR supporting registration documentation should be included in an Appendix to the Letter of Submittal):

.1 The SCC registration information including the name, registration number, type of corporation and status of the business entity.

.2 For this Project, the DPOR registration information for each office practicing or offering to practice any professional services in Virginia. Provide the business name, address, registration type, registration number and expiration date.

.3 For this Project, the DPOR license detailing for each of your Key Personnel practicing or offering to practice professional services in Virginia. Provide the name, the address, type, the registration number, and the expiration date. Provide the office location where each Key Personnel member is offering to practice professional services in Virginia.

.4 For this Project, the DPOR license detailing for those services not regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (i.e. real estate appraisal): 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 legal 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 render your Proposal, in the sole and reasonable discretion of the Department, non-responsive and in that event your Proposal may be returned without any consideration or evaluation.

4.2.7 Pursuant to Section 8.2.1, declare that the offer represented by the Proposal will remain in full force and effect for one hundred twenty (120) days after the date the Proposal is actually submitted to VDOT ("Letter of Submittal /Price Proposal due date").

4.2.8 Offeror's Team Structure

Offeror shall provide the identity of and information about the following Key Personnel listed below. This information is to be provided on the Key Personnel Resume Form attached hereto as Attachment 4.2.8.

.1 **Design-Build Project Manager** – This individual should be responsible for the overall Project design, construction quality management and contract administration for the Project.

.2 **Design Manager** – This individual shall be responsible for coordinating the individual design disciplines and ensuring the overall Project design is in conformance with the Contract Documents. The Design Manager shall be responsible for establishing and overseeing a quality assurance and quality control ("QA/QC") program for all pertinent disciplines involved in the design of the Project, including, but not limited to, review of design, working plans, specifications, and constructability of the Project.

Licensure/Certification/Training Requirements: This individual shall be a registered, licensed, Professional Engineer in the Commonwealth of Virginia.

.3 **Construction Manager** – This individual, who will be required to be assigned to and on the Project site for the duration of construction operations, shall be responsible for managing the construction process to include all quality control ("QC") activities to ensure the materials used and work performed meet contract requirements and the "approved for construction" plans and specifications.

Licensure/Certification/Training Requirements: This individual shall hold a Virginia Department of Conservation and Recreation ("DCR") Responsible Land Disturber ("RLD") Certification and a VDOT Erosion and Sediment Control Contractor Certification ("ESCCC") or

a statement shall be included indicating this individual will hold these certifications prior to the commencement of construction.

.4 **Quality Assurance Manager ("QAM")** – This individual shall be from a firm that has no involvement with and is not affiliated with any entity performing construction operations for the Project. The QAM shall be responsible for the quality assurance ("QA") inspection and testing of all materials used and work performed on the Project to include monitoring of the contractor's QC program. The QAM will ensure that all work and materials, testing, and sampling are performed in conformance with the contract requirements, and the "approved for construction" plans and specifications.

Licensure/Certification/Training Requirements: This individual shall be a registered, licensed, Professional Engineer in the Commonwealth of Virginia.

4.2.9 Furnish an organizational chart showing the "chain of command" to include the Key Personnel identified in Section 4.2.8 and identifying major functions to be performed and their reporting relationships in managing, designing and constructing the Project. The organizational chart should also include identification of design subconsultants, specialty subconsultants, major subcontractors and the entities responsible for implementing the Offeror's proposed QA/QC program including reporting relationships.

The Offeror shall provide and ensure independent QA and quality control QC for both the design and construction elements of the Project. Two independent testing laboratories will be required, one for QA testing and one for QC testing. The entity(ies) performing QA operations, inspections, sampling and laboratory testing and the entity(ies) performing QC operations, inspections, sampling and laboratory testing shall be unique and independent from one another.

4.2.10 The Offeror should indicate, by executing and returning the attached Certification Regarding Debarment Form(s) Primary Covered Transactions, set forth as Attachment 4.2.10(a) and Certification Regarding Debarment Form(s) Lower Tier Covered Transactions, set forth as Attachment 4.2.10(b), if Offeror, or any affiliated and/or subsidiary companies, or any subconsultant, subcontractor, or any other person or entity identified as a member of Offeror's organization in Section 4.2 associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of Federal or State funds:

.1 Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

.2 Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years.

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

Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administrative sanctions. For the avoidance of doubt, Attachments 4.2.10(a) and 4.2.10(b) shall be separately completed and executed by Offeror, any affiliated and/or subsidiary companies, and all subconsultants, subcontractors, and any other person or entity identified as a member of Offeror's organization in Section 4.2.

4.2.11 Proposal Schedule

Provide a **Proposal Schedule** for the Project. The Proposal Schedule should include: (i) a narrative description of the proposed schedule; (ii) logic relationships, durations, critical path based on the longest path and interim milestones; and (iii) permitting and design review submittals by VDOT. In addition to hard copy, the Offeror shall provide the Proposal Schedule's source document in electronic format on a CD-ROM..

Please note, the **Successful Offeror** shall develop, in addition to the Proposal Schedule included with the Letter of Submittal, a **Baseline Schedule** in accordance with Part 3, Section 11.1.2.

4.3 Price Proposal

4.3.1 Offerors shall complete the Price Proposal Checklist, Attachment 4.3.1, and include with their Price Proposal. The purpose of the Price Proposal Checklist is to aid the Offeror in ensuring all submittal requirements have been included in the submittal.

4.3.2 Offeror shall specify, on the form set forth in Attachment 4.3.2, the Proposal Price, in both numbers and words. Offerors are advised that the prices set forth above shall be considered full compensation to Offeror for all design services, labor, material, equipment, permits, taxes, overhead, profit and any other expenses of any kind applicable to the work to be undertaken by Offeror associated with such work, including but not limited to any escalation, extended site overhead, acceleration of schedule, and/or shift of construction sequencing.

4.3.3 Offeror shall provide a schedule of values for the Price Proposal. This schedule of values shall identify the associated costs of each project activity identified in the Proposal Schedule required by Section 4.2.11 above. The value associated with each activity shall be inclusive of all direct and indirect costs, overhead, profit and any other expenses of any kind. The values and quantities shall be clearly supported by the Escrow Proposal Documents.

4.3.4 Offeror shall submit, for the Price Proposal, a proposed monthly payment schedule showing the anticipated schedule on which funds will be required and the associated dollar value for the work. The value of the monthly payment schedule shall correlate with the Proposal Schedule.

4.3.5 Offeror shall provide the required information set forth in Part 3 (Lump Sum Agreement), Section 6.3, Adjustments to Asphalt, Fuel and Steel Prices.

4.3.6 Offeror shall provide the Proposal Guaranty (C-24) required by Section 102.07 of Part 5, Division I Amendments to Section 100 of the VDOT Road and Bridge Specifications. **If the Price Proposal Guarantee is not submitted with the Price Proposal, then the Offeror shall be deemed non-responsive and will be disqualified from participating in the Design-Build procurement for this project.** A copy of the Proposal Guaranty Form C-24 may be found at http://vdotforms.vdot.virginia.gov/ .

4.3.7 Offeror shall provide the Sworn Statement Forms (C-104, C-105), as set forth in Attachments 4.3.7(a) and 4.3.7(b) respectively.

4.3.8 For those DBE's whom Offeror intends to use as a subcontractor, Offeror shall provide the Minimum DBE Requirements Form (C-111; Attachment 4.3.8(a)), and/or DBE Good Faith Effort Documentation Form (C-49; Attachment 4.3.8(b)), if applicable (including Good Faith Effort supporting documentation), and Certification of Binding Agreement Form (C-112; Attachment 4.3.8(c)).

5.0 PROPOSAL EVALUATION AND RESPONSIVENESS REVIEW

5.0.1 VDOT will open and read publicly on the date and time set forth in Section 2.6.1 the Price Proposals that accompanied the Letters of Submittal and Escrow Documents.

5.0.2 After opening the Letters of Submittal and Price Proposals, VDOT will determine if the Letter of Submittal of the lowest price proposal for the Project is responsive. VDOT shall consider a Letter of Submittal as responsive if the Letter of Submittal includes all of the information described in Section 4.2. If a Letter of Submittal does not include all of the information described in Section 4.2, VDOT may, in its sole discretion, consider such Letter of Submittal to be non-responsive.

5.0.3 Prior to determining responsiveness, VDOT in its sole discretion, may seek clarification on the contents of a Letter of Submittal and Price Proposal documents through any means VDOT desires, including but not limited to, holding interviews, asking written questions of the Offeror(s), seeking written clarifications, conducting discussions on the Letter of Submittal and Price Proposal documents, and soliciting updated documents during the responsiveness review process.

5.0.4 If VDOT considers a Letter of Submittal and Price Proposal to be non-responsive pursuant to this section, VDOT will determine if the Letter of Submittal of the next lowest Price Proposal is responsive in accordance with Sections 5.0.2, 5.0.3, and 5.0.4 herein.

5.0.5 Following VDOT's responsiveness determination to the Letter of Submittal and Price Proposal documents, VDOT will announce the Successful Offeror and issue Notice of Intent to Award.

6.0 PROPOSAL SUBMITTAL REQUIREMENTS

This Section 6.0 describes the requirements that all Offerors must satisfy in submitting Proposals. Failure of any Offeror to submit its Proposal in accordance with this RFP may result in rejection of its Proposal.

6.1 Due Date, Time and Location

6.1.1 All Letters of Submittal, Price Proposals and Escrow Documents must be received by the due date and time set forth in Section 2.6.1 above ("Letter of Submittal/Price Proposal/Escrow Documents Due Date"). Submissions must be delivered to the following individual at the following address:

US Postal Service regular mail, send to:

Mr. W. W. Barker
Administrative Services Division
Virginia Department of Transportation
1401 E. Broad Street
Old Highway Building, 4th Floor
Richmond, VA 23219

Hand delivery, US Postal Service express mail, or private delivery service FEDEX, UPS, etc…, send to:

Mr. W. W. Barker
Administrative Services Division
Virginia Department of Transportation
1st Floor Reception Desk
1201 E. Broad Street
Richmond, VA 23219

Neither fax nor email submissions will be accepted. Offerors are responsible for effecting delivery by the deadline above, and late submissions will be rejected without opening, consideration, or evaluation, and will be returned unopened to the sender. VDOT accepts no responsibility for misdirected or lost proposals.

6.2 Format

If VDOT determines that a Proposal does not comply with or satisfy the format of this section, VDOT may find such Proposal to be non-responsive.

6.2.1 Three separate sealed parcels containing the Letter of Submittal, Price Proposal and Escrow Documents shall be received by the due date and time set forth in Section 2.6.1. If the sealed Letter of Submittal, Price Proposal and Escrow Documents are not received by the above specified date, then the Offeror shall be deemed non-responsive and will be disqualified from

participating in the design-build procurement for this Project. Parcels shall be clearly marked to identify the Project and the Offeror, and to identify the contents as the Letter of Submittal, Price Proposal, or Escrow Documents.

6.2.2 Each Offeror shall deliver one copy of the Letter of Submittal which must bear original signature, and one CD-ROM containing the entire Letter of Submittal in a single cohesive Adobe PDF file.

The Letter of Submittal shall be bound and contained in a single volume, with an identity on its front cover. **Three ring binders are not permissible.**

- The Letter of Submittal shall be:
  - Typed on one (1) side only.
  - Separated by numbered tabs with sections corresponding to the order set forth in Section 4.0.
  - The SOQ Checklist, Form C-78-RFP, Key Personnel Resume Forms and the full size copies of the SCC and DPOR supporting registration documentation should be included in appendices.
  - All information shall be prepared on 8.5" X 11" white paper, except for the Proposal Schedule which may be on 11" X 17" paper, but must be folded to 8.5"X11".

- All printing, except for the front cover of the Letter of Submittal and any appendices, must be
  - Times New Roman, with a font of 12-point.
  - Times New Roman 10 point font may be used for filling out information on the Key Personnel Resume Form. (Note, the format and appearance of the Key Personnel Resume Form should not be modified)
  - Include page number references in the lower right hand corner.

6.2.3 The Price Proposal shall be provided in hard copy, with only one copy being submitted.

6.2.4 The Escrow Documents shall be provided in accordance with Section 11.7 herein.

7.0 QUESTIONS AND CLARIFICATIONS

7.0.1 All questions and requests for clarification regarding this RFP shall be submitted to VDOT's POC in writing in electronic format (submission by email is acceptable). No requests for additional information, clarification or any other communication should be directed to any other individual. **NO ORAL REQUESTS FOR INFORMATION WILL BE ACCEPTED.**

7.0.2 All questions or requests for clarification must be submitted by the due date and time set forth in Section 2.6.1 above. Questions or clarifications requested after such time will not be answered, unless VDOT elects, in its sole discretion, to do so.

7.0.3 VDOT's responses to questions or requests for clarification shall be in writing. VDOT will issue an Addendum to this RFP, if needed. VDOT will not be bound by any oral communications, or written interpretations or clarifications that are not issued in writing or set forth in an Addendum.

7.0.4 VDOT, at its sole discretion, shall have the right to seek clarifications from any Offeror to fully understand information contained in the Proposal and to help evaluate and rank the Offerors.

8.0 AWARD OF CONTRACT, PROPOSAL VALIDITY AND CONTRACT EXECUTION

8.1 Negotiations and Award of Contract

8.1.1 VDOT will review the Proposal submitted by the Offeror with the lowest Price Proposal. If the Proposal is responsive and the Price Proposal is within VDOT's budget for design and construction services, then VDOT will issue a Notice of Intent to Award to the Successful Offeror.

8.1.2 Pursuant to 23 CFR 636.513, VDOT may conduct limited negotiations with the Successful Offeror to clarify any remaining issues regarding scope, schedule, financing or any other information provided by the Successful Offeror.

8.1.3 Pursuant to 23 CFR 636.404, if the Proposal Price submitted by the Offeror with the lowest Price Proposal is not within VDOT's budget for design and construction services, VDOT may establish a competitive range among the Offerors who have submitted a responsive Proposal.

8.1.4 Pursuant to 23 CFR 636.402, 636.404, and 636.406, prior to VDOT establishing a competitive range, VDOT may hold communications with only those Offeror's whose exclusion from or inclusion in, the competitive range is uncertain. Communications will (a) enhance VDOT's understanding of Proposals; (b) allow reasonable interpretation of the Proposal; or (c) facilitate VDOT's evaluation process.

8.1.5 Pursuant to 23 CFR 636.404, after VDOT establishes the competitive range, VDOT will notify any Offeror whose Proposal is no longer considered to be included in the competitive range.

8.1.6 Pursuant to 23 CFR 636.506, 636.507, and 636.508, VDOT will hold discussions with all Offerors in the competitive range. Offerors are advised that VDOT may, in its reasonable discretion, determine that only one Offeror is in the competitive range.

8.1.7 Pursuant to 23 CFR 636.510, VDOT may determine to further narrow the competitive range once discussions have begun. At which point, VDOT will notify any Offeror whose Proposal is no longer considered in the competitive range.

8.1.8 Pursuant to 23 CFR 636.509, at the conclusion of discussions, VDOT, will request all Offeror(s) in the competitive range to submit a final proposal revision, also called Best and Final Offer ("BAFO"). Thus, regardless of the length or number of discussions, there will be only one request for a revised proposal (*i.e.*, only one BAFO).

8.1.9 Pursuant to 23 CFR 636.512, VDOT will review the final proposals in accordance with the review and selection criteria and complete a final ranking of the Offerors in the competitive range, then VDOT will issue a Notice of Intent to Award to the Successful Offeror.

8.1.10 Pursuant to 23 CFR 636.513, VDOT may conduct limited negotiations with the Successful Offeror to clarify any remaining issues regarding scope, schedule, financing or any other information provided by the Successful Offeror.

8.2 Proposal Validity

8.2.1 The offer represented by each Proposal will remain in full force and effect for one hundred twenty (120) days after the Letter of Submittal/Price Proposal/Escrow Documents Due Date set forth in Section 2.6.1. If Award of Contract has not been made by the CTB within one hundred twenty (120) days after the Letter of Submittal/Price Proposal/Escrow Documents Due Date, each Offeror that has not previously agreed to an extension of such deadline shall have the right to withdraw its Proposal.

8.3 Contract Execution and Notice to Proceed

8.3.1 Within fifteen (15) days of Notice of Intent to Award, the Successful Offeror shall deliver to VDOT all pertinent documents in accordance with Section 103 of the Division I Amendments to the Standard Specifications. Upon Award of Contract, VDOT will deliver an executed copy of the Design-Build Contract to the Successful Offeror, who shall execute and deliver such copy to VDOT within seven (7) days of receipt.

8.3.2 VDOT reserves the right to issue Notice to Proceed within fifteen (15) days after execution of the Design-Build Contract.

9.0 RIGHTS AND OBLIGATIONS OF VDOT

9.1 Reservation of Rights

9.1.1 In connection with this procurement, VDOT reserves to itself all rights (which rights shall be exercisable by VDOT in its sole discretion) available to it under applicable law, including without limitation, the following, with or without cause and with or without notice:

.1 The right to cancel, withdraw, postpone or extend this RFP in whole or in part at any time prior to the execution by VDOT of the Design-Build Contract, without incurring any obligations or liabilities.

.2 The right to issue a new RFP.

.3 The right to reject any and all submittals, responses and proposals received at any time.

.4 The right to modify all dates set or projected in this RFP.

.5 The right to terminate evaluations of responses received at any time.

.6 The right to suspend and terminate the procurement process for the Project, at any time.

.7 The right to revise and modify, at any time prior to the Proposal Submittal Date, factors it will consider in evaluating responses to this RFP and to otherwise revise its evaluation methodology.

.8 The right to waive or permit corrections to data submitted with any response to this RFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to this RFP has been completed and closed.

.9 The right to issue addenda, supplements, and modifications to this RFP, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria.

.10 The right to permit submittal of addenda and supplements to data previously provided with any response to this RFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to this RFP has been completed and closed.

.11 The right to hold meetings and conduct discussions and correspondence with one or more of the Offerors responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.

.12 The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFP, including the right to seek clarifications from Offerors.

.13 The right to permit Offerors to add or delete firms and/or key personnel until such time as VDOT declares in writing that a particular stage or phase of its review has been completed and closed.

.14 The right to add or delete Offeror responsibilities from the information contained in this RFP.

.15 The right to appoint and change appointees of the Evaluation Team.

.16 The right to use assistance of outside technical and legal experts and consultants in the evaluation process.

.17 The right to waive deficiencies, informalities and irregularities in a Proposal, accept and review a non-conforming Proposal or seek clarifications or supplements to a Proposal.

.18 The right to disqualify any Offeror that changes its submittal without VDOT approval.

.19 The right to change the method of award or the evaluation criteria and scoring at any time prior to submission of the Proposals.

.20 The right to respond to all, some, or none of the inquiries, questions and/or request for clarifications received relative to the RFP.

.21 The right to negotiate the allocation of prices identified for specific portions of the work depicted within a Price Proposal.

.22 The right to disqualify and/or cease negotiations with an Offeror if VDOT, in its sole discretion, determines that the Offeror's Price Proposal contains unbalanced pricing among the specific portions of work identified therein.

9.2 No Assumption of Liability

9.2.1 In no event shall VDOT be bound by, or liable for, any obligations with respect to the Project until such time (if at all) a contract, in form and substance satisfactory to VDOT, has been executed and authorized by VDOT and, then, only to the extent set forth therein.

9.2.2 VDOT assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP. All of such costs shall be borne solely by each Offeror and its team members.

10.0 PROTESTS

This Section simply summarizes protest remedies available with respect to the provisions of the Code of Virginia that are relevant to protests of awards or decisions to award Design-Build Contracts by VDOT. This section does not purport to be a complete statement of those provisions and is qualified in its entirety by reference to the actual provisions themselves.

In accordance with §2.2-4360, of the *Code of Virginia*, if an unsuccessful Offeror wishes to protest the award or decision to award a contract, such Offeror must submit a protest in writing to VDOT's POC no later than ten (10) calendar days after the award or the announcement posting the decision to award, whichever occurs first. The written protest shall

include the basis for the protest and the relief sought. No protest shall lie for a claim that the selected Offeror is not a responsible bidder.

The protesting Offeror shall concurrently file a copy of its notice of protest with all other Offerors.

Public notice of the award or the announcement of the decision to award shall be given by the public body in the manner prescribed in the terms or conditions of the Invitation to Bid or Request for Proposal. However, if the protest of any Offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection under § 2.2-4342, of the *Code of Virginia*, then the time within which the protest must be submitted shall expire ten (10) calendar days after those records are available for inspection by such Offeror under § 2.2-4342, of the *Code of Virginia*.

VDOT shall issue a decision in writing within ten (10) calendar days of the receipt of any protest stating the reasons for the action taken. This decision shall be final unless the Offeror appeals within ten (10) calendar days of receipt of the written decision, by instituting legal action in accordance with § 2.2-4364, of the *Code of Virginia.*

Pursuant to § 2.2-4362, of the *Code of Virginia*, an award need not be delayed for the period allowed a bidder or Offeror to protest, but in the event of a timely protest, no further action to award the Contract will be taken unless there is a written determination by the Commissioner, or his designee, that proceeding without delay is necessary to protect the public interest or unless the Design-Build Proposal would expire. Further, pursuant to §2.2-4361, of the *Code of Virginia*, pending a final determination of a protest or appeal, the validity of the contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal has been filed.

11.0 MISCELLANEOUS

11.1 Virginia Freedom of Information Act

11.1.1 All proposals submitted to VDOT become the property of VDOT and are subject to the disclosure requirements of Section 2.2-4342 of the Virginia Public Procurement Act and the Virginia Freedom of Information Act ("FOIA") (Section 2.2—3700 et seq. of the *Code of Virginia*). Offerors are advised to familiarize themselves with the provisions of each Act referenced herein to ensure that documents identified as confidential will not be subject to disclosure under FOIA. In no event shall the Commonwealth, the Commonwealth Transportation Commissioner, or VDOT be liable to an Offeror for the disclosure of all or a portion of a Proposal submitted pursuant to this request not properly identified as confidential.

11.1.2 If a responding Offeror has special concerns about information which it desires to make available to VDOT but which it believes constitutes a trade secret, proprietary information, or other confidential information exempted from disclosure, such responding Offeror should specifically and conspicuously designate that information as such in its Proposal and state in

writing why protection of that information is needed. The Offeror should make a written request to the Director of the Innovative Project Delivery Division. The written request shall:

.1 Invoke such exemption upon the submission of the materials for which protection is sought.

.2 Identify the specific data or other materials for which the protection is sought.

.3 State the reasons why the protection is necessary.

.4 Indicate that a similar process with the appropriate officials of the affected local jurisdictions is or will be conducted. Failure to take such precautions prior to submission of a proposal may subject confidential information to disclosure under the Virginia FOIA.

11.1.3 Blanket designations that do not identify the specific information shall not be acceptable and may be cause for VDOT to treat the entire Proposal as public information. Nothing contained in this provision shall modify or amend requirements and obligations imposed on VDOT by applicable law, and the applicable law(s) shall control in the event of a conflict between the procedures described above and any applicable law(s).

11.1.4 In the event VDOT receives a request for public disclosure of all or any portion of a proposal identified as confidential, VDOT will attempt to notify the Offeror of the request, providing an opportunity for such Offeror to assert, in writing, claimed exemptions under the FOIA or other Commonwealth law. VDOT will come to its own determination whether or not the requested materials are exempt from disclosure. In the event VDOT elects to disclose the requested materials, it will provide the Offeror advance notice of its intent to disclose.

11.1.5 Because of the confidential nature of the evaluation and negotiation process associated with this Project, and to preserve the propriety of each Offeror's Proposal, it is VDOT's intention, subject to applicable law, not to consider a request for disclosure until after VDOT's issuance of a Notice of Intent to Award. Offerors are on notice that once a Design-Build Contract is executed, some or all of the information submitted in the Proposal may lose its protection under the applicable laws of the Commonwealth.

11.2 Conflict of Interest

11.2.1 Implementation guidelines for VDOT's policy on organizational conflicts of interest relating to Design-Build procurement are documented in the Innovative Project Delivery Division Memorandum IPD 07-02.0 dated August 1, 2007.
(http://www.virginiadot.org/business/resources/IPD_07_02_0.pdf)

11.2.2 Each Offeror shall require its proposed team members to identify potential conflicts of interest or a real or perceived competitive advantage relative to this procurement. Offerors are notified that prior or existing contractual obligations between a company and a federal or state agency relative to the Project or VDOT's design build program may present a conflict of interest

or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the Offeror shall submit in writing the pertinent information to VDOT's POC.

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

11.2.3 Conflicts of interest and a real or perceived competitive advantage are described in state and federal law, and, for example, may include, but are not limited to the following situations:

1. An organization or individual hired by VDOT to provide assistance in development of instructions to Offerors or evaluation criteria for the Project.

2. An organization or individual hired by VDOT to provide assistance in development of instructions to Offerors or evaluation criteria as part of the programmatic guidance or procurement documents for VDOT's Design-Build program, and as a result has a unique competitive advantage relative to the Project.

3. An organization or individual with a present or former contract with VDOT to prepare planning, environmental, engineering, or technical work product for the Project, and has a potential competitive advantage because such work product is not available to all potential Offerors in a timely manner prior to the procurement process.

11.2.4 VDOT reserves the right, in its sole discretion, to make determinations relative to potential conflicts of interest on a Project specific basis.

11.2.5 VDOT may, in its sole discretion, determine that a conflict of interest or a real or perceived competitive advantage may be mitigated by disclosing all or a portion of the work product produced by the organization or individual subject to review under this section. If documents have been designated as proprietary by Virginia law, the Offeror will be given the opportunity to waive this protection from disclosure. If Offeror elects not to disclose, Offeror may be declared non-responsive.

11.2.6 Offerors shall note that portions of the documents contained in the RFP will include work product developed by Rummel, Klepper & Kahl ("RK&K"), LLP, a Maryland limited liability partnership and Whitman, Requardt & Associates, LLP and that these firms will not be allowed to participate in this procurement as a design-build members. Any Letter of Submittal received in violation of this requirement will be rejected.

11.2.7 Offeror shall note that Dewberry & Davis' LLC provided preliminary and final roadway design for Pacific Boulevard from Route 846 to Route 775, initially designed and constructed as a half section of an ultimate four-lane facility. This roadway design was completed in 2007 and is constructed and open to traffic. The work product developed by Dewberry & Davis LLC is

available upon request by contacting Trudee Hunter at VDOT's Northern Virginia District Office via e-mail at Trudee.Hunter@VDOT.Virginia.gov. This work product is not a part of the RFP Documents for this Project and is being made available for informational purposes only. The work product may not be relied upon as a basis for a proposal.

11.3 Ethics in Public Contracting Act

VDOT may, in its sole discretion, disqualify the Offeror from further consideration for the award of the Design-Build Contract if it is found after due notice and examination by VDOT that there is a violation of the Ethics in Public Contracting Act, § 2.2-4367 of the *Code of Virginia*, or any similar statute involving the Offeror in the procurement of the contract.

11.4 Requirement to Keep Team Intact

The team proposed by Offeror, including but not limited to the lead contractor, the lead designer, Key Personnel, and any other individuals identified pursuant to Section 4.2 above, shall remain on Offeror's team for the duration of the procurement process and, if the Offeror is awarded the Design-Build Contract, the duration of the Design-Build Contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to VDOT's POC, who, at his sole discretion, will determine whether to authorize a change. Unauthorized changes to the Offeror's team at any time during the procurement process may result in the elimination of the Offeror from further consideration.

11.5 Disadvantaged Business Enterprises

The Disadvantaged Business Enterprises ("DBE") contract goal for this procurement is **ten percent (10%)**.

11.5.1 It is the policy of VDOT that DBEs, as defined in 49 CFR Part 26, shall have every opportunity to participate in the performance of construction/consultant contracts. Offerors are encouraged to take all necessary and reasonable steps to ensure that DBEs have every opportunity to compete for and perform services on contracts, including participation in any subsequent supplemental contracts. If a portion of the work on the Project is to be subcontracted out, Offerors must seek out and consider DBEs as potential subcontractors. DBEs must be contacted to solicit their interest, capability and qualifications. Any agreement between an Offeror and a DBE whereby the DBE promises not to provide services to any other Offeror or other contractors/consultants is prohibited.

11.5.2 If a DBE is not certified, the DBE must become certified with the Virginia Department of Minority Business Enterprises ("VDMBE") prior to the Proposal Due Date. If the DBE is a prime, the firm will receive full credit for the planned involvement of their own workforce, as well as the work they commit to be performed by DBE subcontractors. DBE primes are encouraged to make the same outreach. DBE credit will be awarded only for work actually performed by DBEs themselves. When a DBE prime or subcontractor subcontracts work to another firm, the work counts toward DBE goals only if the other firm itself is a DBE. A DBE

must perform or exercise responsibility for at least 30% of the total cost of its contract with its own workforce.

11.5.3 DBE certification entitles a firm to participate in VDOT's DBE Program. However, it does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular type of work.

11.5.4 This Project has federal funding. In accordance with the Governor's Executive Order No. 33, VDOT requires utilization of Small, Women and Minority ("SWaM") Businesses to participate in the performance of state funded projects. VDOT also encourages the utilization of SWaM Firms to participate in the performance of federally funded projects. A list of the DMBE certified SWaM firms is maintained on the DMBE web site (http://www.dmbe.state.va.us/) under the SWaM Vendor Directory link. Offerors are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services in the Design-Build contract. If the Offeror intends to subcontract a portion of the services on the Project, the Offeror is encouraged to seek out and consider SWaM firms as potential subconsultants. The Offeror is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between an Offeror and a SWaM firm whereby the SWaM firm promises not to provide services to other Offerors is prohibited.

11.5.5 When preparing bids for projects with DBE goals, VDOT encourages prospective bidders to seek the assistance of the following offices:

Virginia Department of Minority Business Enterprises
111 East Main Street, Suite 300
Richmond, VA 23219
Phone: (804) 786-2260
Toll Free (VA Only) 1-800-223-0671
www.dmbe.virginia.gov

Metropolitan Washington Airports Authority
Equal Opportunity Programs Department
1 Aviation Circle
Washington, DC 20001
Phone: (703) 417-8625
www.metwashairports.com

Contractors are also encouraged to seek help from the VDOT Districts Equal Employment Opportunity ("EEO") Offices, Central Office Civil Rights Office and the VDOT Business Opportunity and Workforce Development ("BOWD") Center as listed below:

VDOT Central Office
1221 East Broad Street
Richmond, VA 23219
(804) 786-2085

Bristol District
870 Bonham Drive
Bristol, VA 24203
(276) 669-9907

Culpeper District
1601 Orange Road
Culpeper, VA 22701
(540) 829-7523

Fredericksburg District
87 Deacon Road
Fredericksburg, VA 22405
(540) 899-4562

Hampton Roads District
1700 N. Main Street
Suffolk, VA 23434
(757) 925-2519

BOWD
1602 Rolling Hills Drive
Suite 110
Richmond, VA 23229
Phone: (804) 662-9555

Lynchburg District
4219 Campbell Avenue
Lynchburg, VA 24506
(434) 856-8168

Northern Virginia District
14685 Avion Parkway
Chantilly, VA 20151
(703) 383-2341

Richmond District
2430 Pineforest Drive
Colonial Heights, VA 23834
(804) 524-6091

Salem District
731 Harrison Avenue
Salem, VA 24153
(540) 387-5453

Staunton District
811 Commerce Road
Staunton, VA 24401
(540) 332-7888

The following informational websites may also be of assistance:

www.virginiadot.org/business/bu_bizDev.asp

www.virginiadot.org/business/bu-civil-rights-home.asp

11.6 Trainee and Apprenticeship Participation

11.6.1 VDOT will require trainee and apprenticeship participation for this Project. The on-the-job trainee goal for this Project is **one (1)** individual.

11.7 Escrow Proposal Documents

11.7.1 Scope

Pursuant to Section 11.7.5.1 below, each Offeror shall submit to the individual set forth in Section 6.1.1 above, on the RFP Submission Date, one copy of all documentary information generated in preparation of its Proposal. This material is hereinafter referred to as Escrow Proposal Documents ("EPDs"). The EPDs will be held in a secure location at the VDOT Central Office until the Successful Offeror is determined. The EPDs of the Successful Offeror will be transferred to and then held in escrow at the banking institution specified in this Section 11.7.6. EPDs of all other Offerors will be returned to the Offerors following the execution of the Design-Build Contract.

An Escrow Proposal Documents Submission Checklist has been provided for reference in Attachment 11.7.1.

11.7.2 Ownership

.1 The EPDs are, and shall always remain, the property of the Offeror, subject to joint review by VDOT and the Offeror, as provided herein.

.2 VDOT stipulates and expressly acknowledges that the EPDs constitute trade secrets. This acknowledgement is based on VDOT's express understanding that the information contained in the EPDs is not known outside Offeror's business, is known only to a limited extent and only by a limited number of employees of the Offeror, is safeguarded while in Offeror's possession, is extremely valuable to Offeror and could be extremely valuable to Offeror's competitors by virtue of its reflecting Offeror's contemplated techniques of design and construction. VDOT further acknowledges that Offeror expended substantial sums of money in developing the information included in the EPDs and further acknowledges that it would be difficult for a competitor to replicate the information contained therein. VDOT further acknowledges that the EPDs and the information contained therein are made available to VDOT only because such action is an express prerequisite to Award of Contract. VDOT further acknowledges that the EPDs include a compilation of the information used in Offeror's business, intended to give Offeror an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation.

11.7.3 Purpose

EPDs may be used to assist in the negotiation of price adjustments and change orders and in the settlement of disputes and claims. They will not be used for pre-award evaluation of the Offeror's anticipated methods of construction or to assess the Offeror's qualifications for performing the Work or the prices submitted.

11.7.4 Format and Contents

.1 Offerors may submit EPDs in their usual cost estimating format provided that all information is clearly presented and ascertainable. It is not the intention of this Section 11.7 to cause the Offeror extra work during the preparation of the Proposal, but to ensure that the EPDs

will be adequate to enable complete understanding and proper interpretation for their intended use. The EPDs shall be submitted in the language of the Specifications (i.e., English).

.2 It is required that the EPDs clearly itemize the estimated costs of performing the work of each item contained in Offeror's schedule of values. Cost items shall be separated into sub-items as required to present a detailed cost estimate and allow a detailed cost review. The EPDs shall include: estimates for costs of the design professionals and consultants itemized by discipline both for development of the design, all quantity take-offs, crew size and shifts, equipment, calculations of rates of production and progress, copies of quotes from subcontractors and suppliers, and memoranda, narratives, drawings and sketches showing site or work area layouts and equipment, add/deduct sheets, geotechnical reviews and consultant reports, and all other information used by the Offeror to arrive at the prices contained in the Proposal. Estimated costs shall be broken down into estimate categories for each bid items such as direct labor, repair labor, equipment ownership and operation, expendable materials, permanent materials and subcontract costs as appropriate. Plant and equipment, indirect costs, bond rates and calculations, insurance costs and financing should be detailed. The Offeror's allocation of indirect costs, contingencies, and mark-up shall be identified.

.3 All costs shall be identified. For bid items amounting to less than $10,000, estimated unit costs are acceptable without a detailed cost estimate, provided that labor, equipment, materials and subcontracts, as applicable, are included, and provided that indirect costs, contingencies, and mark-up, as applicable, are allocated.

.4 RFP Documents provided by VDOT should not be included in the EPDs unless needed to comply with these requirements.

11.7.5 Submittal

.1 The EPDs shall be submitted in a sealed container to the individual set forth in Section 6.1.1 above, which container shall be clearly marked on the outside with the Offeror's name, date of submittal, Project name, and the words "Escrow Proposal Documents."

.2 Prior to Award of Contract, EPDs of the Successful Offeror will be transferred to the banking institution referenced in Section 11.7.6 and will be examined, organized, and inventoried by representatives of VDOT, together with members of the Offeror's staff who are knowledgeable in how the Proposal was prepared. This examination is to ensure that the EPDs are legible and complete. It will not include review of, and will not constitute approval of proposed construction methods, estimating assumptions, or interpretations of any RFP Documents or the Design-Build Contract. Examination will not alter any condition or term of the Design-Build Contract.

.3 If all the documents required by this Section 11.7 have not been included in the original submittal, additional documentation may be submitted, at VDOT's discretion, prior to Award of Contract.

.4 If the Design-Build Contract is not awarded to the Successful Offeror, the EPDs of the next Offeror to be considered for award shall be processed as described above.

.5 Timely submission of complete EPDs is an essential element of the Offeror's responsibility and a prerequisite to Award of Contract.

.6 If any Offeror's proposal is based upon subcontracting any part of the work, each subcontractor whose total subcontract price exceeds ten percent (10%) of the Total Proposal Price proposed by the Offeror, shall provide separate Escrow Documents to be included with those of the Offeror. Such documents shall be opened and examined in the same manner and at the same time as the examination described above for the highest-scored Offeror.

.7 If the Offeror wishes to subcontract any portion of the work after Award of Contract, VDOT retains the right to require the Offeror to submit Escrow Documents from the subcontractor before the subcontract is approved.

11.7.6 Storage

The Successful Offeror's EPDs shall be stored at SunTrust Bank at the following address:

SunTrust Bank
ATTN: Emily J. Hare
919 East Main Street
7th Floor
Richmond, Virginia 23219
(804) 782-5400

The cost for storing the EPDs will be paid by the Successful Offeror.

11.7.7 Examination

.1 The EPDs shall be examined by VDOT and the Offeror, at any time deemed necessary by VDOT.

.2 VDOT may delegate review of EPDs to members of VDOT's staff or consultants. The foregoing notwithstanding, the EPDs and information contained therein may be used in the resolution of any claim or dispute before any entity selected to resolve disputes and in any litigation or arbitration commenced hereunder. No other person shall have access to the EPDs.

.3 Access to the documents will take place in the presence of duly designated representatives of both VDOT and the Offeror, except that, if the Offeror refuses to be present or to cooperate in any other way in the review of the documents, VDOT may upon notice to the Offeror, review such documents without the Offeror being present.

11.7.8 Final Disposition and Return of EPDs

.1 The EPDs of the unsuccessful Offerors will be returned after the Design-Build Contract has been executed and delivered, after VDOT rejects all of the Proposals or after VDOT terminates its procurement.

.2 The EPDs of the Successful Offeror will be returned to the Offeror at such time as the Design-Build Contract has been completed, final payment has been made, and all claims or disputes arising under or related to the Design-Build Contract have been fully and finally resolved and/or adjudicated.

11.7.9 Execution of Escrow Agreement

The Successful Offeror, as a condition of Award of Contract, agrees to execute the Escrow Agreement in the form set forth in Attachment 11.7.9.

11.8 Administrative Requirements

In addition to the specific submittal requirements set forth in Sections 3.0 and 4.0 above, all Offerors shall comply with the following:

11.8.1 All Offerors and RFP submittals must comply with the law and nothing herein is intended to contradict, nor supersede, any applicable State and Federal laws and regulations. All Offerors shall be eligible at the time of their RFP submittal, under the law and relevant regulations, to offer and to provide all services proposed and related to the Project. Unless exempted by §§ 54.1-401, 54.1-402, or 54.1-402.1 of the *Code of Virginia*, any person, partnership, corporation, or other entity offering or practicing architecture, engineering, or land surveying shall be registered or licensed in accordance with the provision of *Chapter 4, Title 54.1 of the Code of Virginia*. Offerors shall satisfy at the time of their RFP submittal all commercial and professional registration requirements, including, but not limited to the requirements of the State Corporation Commission and the Department of Professional and Occupational Regulations.

11.8.2 In accordance with VA Code § 2.2-4311.1, the Successful Offeror will be required to certify that it does not, and to agree that it shall not, during the performance of the Design-Build Contract, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986. In addition, the Offeror's subcontractors (at all tiers) will be required to provide the same certification and agreement in their subcontract agreements.

11.8.3 All Offerors must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48 CFR 31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23 CFR 172, "Administration of Engineering and Design Related Service Contracts."

11.8.4 VDOT assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) when requested by VDOT to respond to the RFP. This requirement applies to all consulting firms with fifteen (15) or more employees.

11.8.5 VDOT does not discriminate against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

11.8.6 Offerors shall note and comply with the requirements relative to the eVA Business-to-Government Vendor system. The eVA Internet electronic procurement solution, web site portal (http://www.eva.state.va.us), streamlines and automates government purchasing activities in the Commonwealth. The 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 through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detailed information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: http://www.eva.state.va.us. All Offerors must register in eVA; failure to register will result in a proposal being rejected.

11.9 Compliance with the Law in Virginia

Failure to comply with the law with regard to those legal requirements in Virginia (whether federal or state) regarding your ability to lawfully offer and perform any services proposed or related to the Project may render your RFP submittal, in the sole and reasonable discretion of the Department, non-responsive and/or non-responsible, and in that event your RFP submittal may be returned without any consideration or evaluation for selection of contract award.

11.10 Attachments

The following attachments are specifically made a part of, and incorporated by reference into, these Instructions for Offerors:

ATTACHMENT 2.2.1	--	FINDING OF PUBLIC INTEREST ("FOPI")
ATTACHMENT 2.7.4	--	RFP INFORMATION PACKAGE ORDER FORM
ATTACHMENT 3.3.1	--	FORM C-78-RFP (ACKNOWLEDGEMENT OF REVISIONS)
ATTACHMENT 4.1.2	--	LETTER OF SUBMITTAL CHECKLIST
ATTACHMENT 4.2.8	--	KEY PERSONNEL RESUME FORM
ATTACHMENT 4.2.10(a)	--	CERTIFICATION REGARDING DEBARMENT (PRIMARY COVERED TRANSACTIONS)
ATTACHMENT 4.2.10(b)	--	CERTIFICATION REGARDING DEBARMENT (LOWER TIER COVERED TRANSACTIONS)
ATTACHMENT 4.3.1		PRICE PROPOSAL SUBMITTAL CHECKLIST
ATTACHMENT 4.3.2	--	PRICE PROPOSAL FORM
ATTACHMENT 4.3.7(a)	--	FORM C-104 (BIDDER'S STATEMENT)
ATTACHMENT 4.3.7(b)	--	FORM C-105 (BIDDER'S CERTIFICATION)
ATTACHMENT 4.3.8(a)	--	FORM C-111(MIN. DBE REQUIREMENTS)
ATTACHMENT 4.3.8(b)	--	FORM C-49 (DBE GOOD FAITH EFFORTS

		DOCUMENTATION)
ATTACHMENT 4.3.8(c)	--	FORM C-112 (CERTIFICATION OF BINDING AGREEMENT)
ATTACHMENT 11.7.1	--	ESCROW PROPOSAL DOCUMENTS CHECKLIST
ATTACHMENT 11.7.9	--	ESCROW AGREEMENT

END OF PART 1
INSTRUCTIONS FOR OFFERORS