COMMONWEALTH OF VIRGINIA

REQUEST FOR PROPOSAL (RFP) AND CONTRACT

RFP #13-11 RW

ROUTE NUMBER: 620

PROJECT NUMBER: 0620-088-182, RW203

FROM: 0.010 Mi. W. of Int. Rte. 1 and Rte. 620

To: 0.232 Mi. W. of Int. Rte. 1 and Rte. 620

COUNTY OF Spotsylvania

PROPOSALS WILL BE RECEIVED UNTIL: **4:00 p.m. January 7, 2014**

NAME OF CONSULTANT: _____

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

REQUEST FOR PROPOSAL
RFP

ISSUE DATE: December 11, 2013

RFP #13-11RW

The Commonwealth of 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 the acquisition of rights of way on Project **0620-088-182, RW203.** The necessary services required for this project are described in more detail herein.

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

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

Mr. Richard R. Bennett
State Right of Way Director
Right of Way Division
1401 East Broad Street
Richmond, Virginia 23219

In compliance with this Request for Proposal 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: Basis of Payment

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PART I PURPOSE

This Request for Proposal (RFP) seeks the services of a consulting firm to 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 each project according to the laws, rules, regulations, policies, and procedures outlined in Part II hereof.

PART II SCOPE OF SERVICES

A. It is the intent of this CONTRACT that THE CONSULTANT, employing qualified, competent personnel, shall perform all services necessary to prepare appraisals and negotiate all necessary properties required for completion of this project. All services shall be performed in accordance with the terms herein and THE DEPARTMENT's Right of Way and Utilities Manual of Instructions, which is incorporated herein by reference.

THE CONSULTANT agrees to perform the services as set forth herein and furnish and deliver to THE DEPARTMENT final reports accompanied by all necessary documents needed to prepare deeds for recordation or necessary for eminent domain proceedings covering said properties.

B. The following services are required on this project.

1. <u>Appraisal</u>

All appraisal work performed by THE CONSULTANT must be according to the licensing requirements set out in Section 406 of Title 54.1 of the Code of Virginia, as amended, 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 to follow and understand the conclusion reached by THE CONSULTANT, all according to the provisions of Chapter 4 of THE DEPARTMENT's Right of Way and Utilities Manual of Instructions.

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.

THE CONSULTANT, through its appraisals, will be responsible for estimating and completing any sign appraisals (outdoor advertising or on-premise), furnishing parking loss estimates, and determining the fair market values of properties with contaminated soil.

Appraisals are required on the following parcels, which are listed in the order of priority, and THE CONSULTANT shall furnish the type of appraisal specified in accordance with Chapter 4 of THE DEPARTMENT's Right of Way and Utilities Manual of Instructions. The completed appraisal shall be provided to THE DEPARTMENT in the order listed.

PARCEL	LANDOWNER, (LISTED BY HIGHEST PRIORITY)	APPRAISAL TYPE/ PRIORITY FACTORS	DATE TO BE COMPLETED
001	Four Mile Fork Business Center	BAR	02/07/2014
002	Ronald L. & Janet K. Gidlesperger	BAR	02/07/2014
003	Storage Portfolio Bravo II, LLC	BAR	02/07/2014
004	Wilson-Duerdon Partnership	BAR	02/07/2014
005	Al-Ruth, LLC	AA	02/07/2014
006	McAuliff MCEJPEMM, LLC	AA	02/07/2014
008	Kousis Limited Partnership	Narrative (access to rear of shopping centre needs redesign)	02/14/2014
009	Diamond Wawa LLC	AA	02/14/2014
010	Degen Gallahan LLC	Narrative(encroachment to residential dwelling)	02/21/2014
011	Bruce E. & Blaire B. Morris	Narrative (encroachment to residential dwelling)	02/21/2014
012	Walter E. Rabke	BAR	02/28/2014
013	Kevin S. Linhares	Narrative (encroachment to residential dwelling)	02/28/2014
014	Barry D. & Gina Marie Beebe	BAR	02/28/2014
016	Michael Albert Buza	BAR	02/28/2014
017	Petrea Family Limited Partnership	AA	03/07/2014
018	Daniel R. & Peggy J. Sponseller	Narrative (loss of parking. Issue before and after)	03/07/2013
021	Full Armor Family Center	Narrative(Church/Thrift Store loss of parking	03/14/2013
022	Petrea Family Limited Partnership	AA (acquiring mobile home; considered personal property and possible relocation)	03/14/2013
023	Emma L. Kirkman	BAR	03/21/2014
024	Mark Alvin Johnson	BAR	03/21/2014
025	Robert W. Murphy	BAR	03/21/2014
026	Long Branch Ridge Homeowners Assoc.	AA	03/21/2014
027	D'Ella Abington Clark	AA	03/21/2014
028	Loreto Venture	AA	03/28/2014
029	Jason & Tara Hauen	BAR	03/28/2014
031	Robert H. Bailey	Narrative (before/after of residential lot with a residue of lot to be assembled after)	03/28/2014
035	Fredericksburg Columbus Club	AA (access changing from	04/04/2014

PARCEL	LANDOWNER, (LISTED BY HIGHEST PRIORITY)	APPRAISAL TYPE/ PRIORITY FACTORS	DATE TO BE COMPLETED
		side to front)	
037	Donovan L. Humphries	AA	04/04/2014
038	Fredericksburg Lodge #22 Knights of Pythias	Narrative(loss of parking. Possible replacement with adjoining residue)	04/11/2014
039	Board of Trustees of the Holy Cross Anglican Church	AA	04/11/2014
040	Trustees of Fredericksburg Wesleyan Church of Spotsylvania	BAR	04/11/2014

2. Appraisal Review

THE CONSULTANT shall submit the completed appraisal(s) to THE DEPARTMENT for review in the required sequence. Should the evaluation assignment(s) be a Basic Acquisition Report(s), the consultant shall submit the report directly to the THE DEPARTMENT for compliance and approval. THE DEPARTMENT will have ten (10) business days to complete the review process. The review process will be based upon the priority schedule for appraisals set forth in this RFP. Upon completion of the review, THE DEPARTMENT will notify THE CONSULTANT that the appraisal(s) has been reviewed and approved or will request THE CONSULTANT to provide additional information, which is to be submitted by THE CONSULTANT within 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.

3. Court Testimony

In the event that the testimony of THE CONSULTANT or its SUBCONSULTANT 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.

THE CONSULTANT shall keep such records with respect to each appraisal as may be required in connection with such preparation or testimony.

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.

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 DEPARTMENT's Right of Way and Utilities Manual of Instructions.

THE CONSULTANT shall contact the landowner explaining in detail the effects of the proposed acquisition on the lands of the landowner. A bona fide offer based on the approved appraisal is to be made to the landowner in an effort to secure the needed right of way.

THE CONSULTANT shall prepare an RW-24 report (final report of negotiations) at the conclusion of negotiations. This report is to include all data assembled in the landowner contacts. This report shall be submitted to THE DEPARTMENT along with other documents required according to this Section. The negotiation reports shall be prepared in accordance with the provisions of Chapter 5 of THE DEPARTMENT's Right of Way and Utilities Manual of Instructions.

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

over $2,500.00 above the appraised value of a property and must be received prior to the acceptance of an agreement with the landowner.

Negotiation services are required on the following parcels, which are listed in order of priority.

PARCEL	LANDOWNER, (LISTED BY HIGHEST PRIORITY)	DATE TO BE COMPLETED
001	Four Mile Fork Business Center	04/07/2014
002	Ronald L. & Janet K. Gidlesperger	04/07/2014
003	Storage Portfolio Bravo II, LLC	04/07/2014
004	Wilson-Duerdon Partnership	04/07/2014
005	Al-Ruth, LLC	04/07/2014
006	McAuliff MCEJPEMM, LLC	04/07/2014
008	Kousis Limited Partnership	4/15/2014
009	Diamond Wawa LLC	4/15/2014
010	Degen Gallahan LLC	5/1/2014
011	Bruce E. & Blaire B. Morris	5/1/2014
012	Walter E. Rabke	5/15/2014
013	Kevin S. Linhares	5/15/2014
014	BarryD. & Gina Marie Beebe	5/15/2014
016	Michael Albert Buza	5/15/2014
017	Petrea Family Limited Partnership	5/15/2014
018	Daniel R. & Peggy J. Sponseller	5/15/2014
021	Full Armor Family Center	5/30/2014
022	Petrea Family Limited Partnership	5/30/2014
023	Emma L. Kirkman	6/1/2014
024	Mark Alvin Johnson	6/1/2014
025	Robert W. Murphy	6/1/2014
026	Long Branch Ridge Homeowners Assoc.	6/1/2014
027	D'Ella Abington Clark	6/1/2014
028	Loreto Venture	6/1/2014
029	Jason & Tara Hauen	6/1/2014
031	Robert H. Bailey	6/15/2014

PARCEL	LANDOWNER, (LISTED BY HIGHEST PRIORITY)	DATE TO BE COMPLETED
035	Fredericksburg Columbus Club	6/15/2014
037	Donovan L. Humphries	6/15/2014
038	Fredericksburg Lodge #22 Knights of Pythias	7/1/2014
039	Board of Trustees of the Holy Cross Anglican Church	7/1/2014
040	Trustees of Fredericksburg Wesleyan Church of Spotsylvania	7/1/2014

5. Negotiation Review

THE CONSULTANT shall submit the complete Negotiation Package (RW-24 Report) to THE DEPARTMENT for review. This 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 review process will be based upon the priority schedule for negotiations set forth in this RFP. Should the RW-24 package submitted by THE CONSULTANT need corrections, THE CONSULTANT will have five (5) business days to complete said corrections.

6. Relocation

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", 49 CFR, Part 24; the Relocation Assistance and Real Property Acquisition Policies provisions of Title 25.1, Chapter 4 of the Code of Virginia (1950), as amended; the terms of which are incorporated herein by reference, THE CONSULTANT shall perform the following:

a. THE CONSULTANT shall make the initial contact with all displacees confirming all information by letter to the Director of the Right of Way and Utilities Division of THE DEPARTMENT.

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. This will require a detailed inspection of the subject property as well as the available properties for replacement housing.

c. THE CONSULTANT shall determine all necessary moving expenses, if any, for those to be relocated and shall process all moving cost claims. THE DEPARTMENT shall approve all moving expense costs and claims.

d. THE CONSULTANT shall render necessary relocation advisory assistance to all residences or businesses being displaced by the project. THE DEPARTMENT shall furnish a Stage I Relocation Report to THE CONSULTANT.

Relocation assistance services are required on the following parcels, which are listed in order of priority.

PARCEL	LANDOWNER	TYPE OF DISPLACEE	DATE TO BE COMPLETED
022	Petrea Family Limited Partnership	Residential Mobile Home	8/1/2014

7. Relocation Review

THE CONSULTANT shall submit the Replacement Housing Payment and/or Moving Cost computations to THE DEPARTMENT for review. The Replacement Housing Payment and Moving Cost computations will be reviewed by a Department Reviewer according to Chapter 6 of THE DEPARTMENT's Right of Way and Utilities Manual of

Instructions. 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. The review process will be based upon the priority schedule for relocations set forth in this RFP. 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. Eminent Domain Proceeding

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.

Compensation for such services shall be governed by the per diem rates set forth in the fee proposal (Part VIII).

9. 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 this CONTRACT.

THE DEPARTMENT will furnish available aerial photographs, maps, contour maps, etc., 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.

10. Right of Way and Utilities Management System

THE CONSULTANT will be required to supply and support their own computer equipment and software capable to access and utilize the Virginia Department of Transportation's Right of Way and Utilities Management System (RUMS). Minimal configuration of the system:

Operating System: Windows XP or above.

Note: at the time of this document's last update VDOT's standard operating system was Windows XP Professional.

Browser: Internet Explorer 8

- 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 8 has been full tested; since it is the VDOT standard at the time this document was last updated.*
2. *There are known issues with Internet Explorer 9 due to Microsoft changing how Java Script is processed; therefore, do not exceed Internet Explorer 8 until these issue have been addressed.*

3. *Google Toolbar (and other add-ins) can affect the operation of the browser, causing issues with how the application runs with in 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 2007)
2. Adobe Acrobat Reader: VDOT utilizes both Adobe Reader 9 and X at the time this document was last updated.

   Note: There have been issues with the upgrade to Adobe Reader X. These issues are with Adobe Software, the PC Configuration, and other Software. There is no one solution; as stated previously, it is the responsibility of the Consultant to support their own hardware and software.
3. Adobe Acrobat: Standard or Pro version 8 or above (only required for appraisals/appraisal reviews)
4.

11. Notice to Proceed

Written notice to proceed will be given by THE DEPARTMENT prior to any work being done on any element of the project, except as hereinafter provided. THE DEPARTMENT will not be responsible for payment for work done in advance of such notice.

12. Time to Complete Work

All services shall be completed and delivered to THE DEPARTMENT within _____ calendar days after written notice to proceed has been given by THE DEPARTMENT.

For each calendar day that any work remains uncompleted after the contract time specified for completion of the work, the Consultant agrees to pay liquidated damages assessed in the amount of $550.00 per day. The Consultant agrees that because of the unique nature of this project VDOT's actual damages, in the event of delays or failures with respect to the contract services would be extremely difficult or impracticable to determine. The

Consultant agrees further that the liquidated damages set forth are in the nature of compensation and are a reasonable and appropriate measure of the damages that VDOT would incur as a result of delays or failures, and do not represent a penalty. 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.

PART III REPORTING AND DELIVERABLES REQUIREMENTS

A. THE CONSULTANT shall provide a monthly written status report outlining the status of each parcel to be acquired, each displacee to be relocated, and improvements being acquired.

B. THE CONSULTANT shall submit a complete file containing all information and contacts regarding each parcel to be acquired, each displacee to be relocated, and improvements being acquired.

C. All work on this project is to be completed and delivered to THE DEPARTMENT on or before **August 1, 2014**.

D. THE CONSULTANT must furnish a list of their proposed staff for this project and submit their résumé if they are not already on file in THE DEPARTMENT's Right of Way and Utilities Division.

E. If work on this project will not be completed within a year, THE CONSULTANT will be required to submit an approved Attachment A (identified in the financial package on file) showing escalation rates as set forth in this RFP. An escalation rate of .5 percent (.5%) of the average hourly rate per classification is allowed for the first year of the contract, provided that the employees in that classification have not recently received raises (within the last 3 months). An escalation rate of 1.0 percent (1%) of the average hourly rate per classification is allowed for the second and all remaining years of the contract term. This will become a part of the RFP for this project only.

PART IV PRE-PROPOSAL CONFERENCE

A **mandatory** pre-proposal conference will be held at **10:00 a.m. (EST), December 18, 2013 at the Fredericksburg Residency Office located at 86 Deacon Road, Fredericksburg, Virginia 22405 .** The purpose of this conference is to allow an opportunity for clarification and questions concerning this procurement.

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.

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. One original and two copies of each proposal shall be submitted to Commonwealth of Virginia, Department of Transportation. No other distribution of the proposal shall be made by THE CONSULTANT. Electronic responses are not acceptable.

B. eVA Business-to-Government Vendor Registration: 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 either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal/ expression of interest being rejected.

1. eVA Basic Vendor Registration Service: $25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $1,500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding.

2. eVA Premium Vendor Registration Service: $200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $1,500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.

C. Each business entity (prime and subconsultants) proposed on this contract and practicing or offering services in Virginia, should provide evidence of copies of registrations and licenses for all main and branch offices proposed for this Project. Full size copies of appropriate individual registrations/licenses for those professional occupations listed below. (The full size copies of State Corporation Commission (SCC) and Department of Professional and Regulation (DPOR) supporting registration documentations should be included in this submission:

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

2. The DPOR registration detailing the main office practicing or offering to practice any professional services in Virginia: the business name, address, registration type, registration number, expiration date, and licensing details for the associated professional responsible in charge.

3. For this Contract, the DPOR registration detailing for each branch office practicing or offering to practice professional services in Virginia: 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. For this Contract, the DPOR license detailing for each of the Key Personnel practicing or offering to practice professional services in Virginia: 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. For this Contract, the DPOR license detailing for those regulated services other than professional services (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 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 submittal, in the sole and reasonable discretion of the Department, non-responsive and in that event your submittal may not be considered or evaluated.

D. Proposal Preparation:

1. Proposals shall be submitted solely on the plans furnished with the RFP and are not to reflect any revisions made after the issue date of the RFP.

2. Proposals shall be signed by an authorized representative of THE CONSULTANT. Failure to submit all information requested may result in a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information will be rejected by Commonwealth of Virginia, Department of Transportation.

3. All information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women owned businesses and minority owned businesses must be submitted.

4. Proposals shall include the completion of all the forms provided in this RFP in addition to other data submitted regarding THE CONSULTANT's specific plan to accomplish the work within the given time frame and personnel proposed for the project.

5. Ownership of all data, materials and documentation originated and prepared for Commonwealth of Virginia, Department of Transportation pursuant to the RFP shall belong exclusively to Commonwealth of Virginia, Department of Transportation and be

subject to public inspection in accordance with the Virginia Freedom of Information Act. If THE CONSULTANT intends to protect trade secrets and proprietary information submitted with this proposal, THE CONSULTANT must invoke the protection of Section 2.2-4342 of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate the specific works, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line items prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

6. THE CONSULTANT is responsible for all costs of proposal preparation. VDOT is not liable for any cost incurred by a consultant in responding to the RFP.

7. Entries and/or signatures are required at the following locations:
   a. Cover page of RFP
   b. Part II.B.12
   c. Part VII (including certifications)
   d. Part VIII (Fee Proposal)
   e. Firm Data Sheet

E. Interview: Consultants that submit a proposal in response to the RFP may be required to attend an interview and give an oral presentation of their proposal to VDOT. This provides an opportunity for THE CONSULTANT to clarify or elaborate on the proposal. This is a fact finding and explanation session only. Interviews are an option of VDOT and may or may not be conducted.

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. *35%*
3. Cost. *10%*
   (Points to be assigned for cost using the $\frac{\text{Lowest Price Offered}}{\text{Price of offer being evaluated}}$ = % Factor
   X Maximum Pts. Available = Points Assigned)
4. THE CONSULTANT firm's organization capability and ability to perform job on time. *15%*
5. THE CONSULTANT firm's present workload with VDOT. *10%*
6. Past/current and planned participation of small businesses and businesses owned by women and minorities. *15%*

B. Award: Selection shall be made of THE CONSULTANT deemed to be fully qualified and best suited among those submitting proposals based on the evaluation factors included in the Request for Proposals and including price. Price shall be considered but will not be the sole determining factor. VDOT shall award the CONTRACT to the most qualified consultant. VDOT may cancel this Request for Proposal or reject proposals any time prior to an award.

Any offeror who desires to protest the decision to award a contract shall submit such protest in writing to the Department no later than ten days after the announcement of the decision to award.

PART VII CONTRACT DOCUMENT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

Contract Number: _____

This CONTRACT entered into this _____ day of _____, 2013, 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:

SCOPE OF CONTRACT: THE CONSULTANT shall provide the services to THE DEPARTMENT as set forth in the CONTRACT Documents.

The CONTRACT documents shall consist of:

(1) This signed form 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 Proposals RFP **#_13-11RW** dated **December 11, 2013.**

(a) Scope of Services, (Part II)
(b) General Terms and Conditions, (Attachment A)
(c) Special Terms and Conditions; (Part X)
(d) Attachment B
(e) Reporting and Deliverables Requirements (Part III)

(3) THE CONSULTANT's Fee Proposal (Part VIII) dated_____; all of which documents are incorporated herein.

(4) The maximum total compensation payable to the Consultant for services authorized by this Agreement will not exceed $ _____ unless mutually agreed upon by both parties in the form of a Supplemental Agreement.

(5) TIME TO COMPLETE WORK: 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, identified in this CONTRACT.

(6) The Firm Data Sheet (Page C-1)

(7) All services shall be completed and delivered to THE DEPARTMENT within _____ calendar days after written notice to proceed has been given by THE DEPARTMENT.

In WITNESS WHEREOF, the parties sign and cause this CONTRACT to be executed on this the _____ day of _____, 2013.

_____	_____
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 THE VIRGINIA
DEPARTMENT OF TRANSPORTATION

Contract Number: _____

I hereby certify that I am the Commissioner of Highways of the Commonwealth of Virginia, Department of Transportation and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this contract to

a. employ or retain, or agree to employ or retain, any firm or person; or

b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind, except as here expressly states (if any).

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U. S. 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 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 _____, 2013.

_____	_____	_____
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

_____, 2013.

_____	_____	_____
Signature	Title	Date

PART VIII FEE PROPOSAL

This fee proposal is made this ____ day of _____, in accordance with the Request for Proposal RFP #_____13-11RW_____, issued __December 11, 2013_____.

Actual costs not to exceed $141.00 ($85.00 - lodging and $56 .00 MEI)[1] a day will be allowed for meals, lodging, and miscellaneous travel expenses. It will no longer be necessary to submit receipts for meals. Proper supporting documentation by individuals, such as expense reimbursement vouchers, must be maintained in support of the actual travel expenses billed to the Virginia Department of Transportation. Without proper documentation, the costs will not be allowed.

Project **0620-088-182, RW203**

A. Appraisal (Number) 35

Direct Salary Cost

Principal	_____	Hours	x	_____	Rate	=	$0.00
Appraiser	_____	Hours	x	_____	Rate	=	$0.00
Secretary	_____	Hours	x	_____	Rate	=	$0.00
_____	_____	Hours	x	_____	Rate	=	$0.00
_____	_____	Hours	x	_____	Rate	=	$0.00
					Sub-Total	=	$0.00

Non-Salary Cost

Sub-Contracted Appraisal Cost (list by parcel)						=	$0.00
Appraiser	_____	Hours	x	_____	Rate	=	$0.00
Secretary	_____	Hours	x	_____	Rate	=	$0.00
_____	_____	Hours	x	_____	Rate	=	$0.00
_____	_____	Hours	x	_____	Rate	=	$0.00
					Sub-Total	=	$0.00
Meals & Lodging Per Diems	_____	Days	x	_____	Rate	=	$0.00
Computer Cost	_____	Hours	x	_____	Rate	=	$0.00
Auto Rental	_____	Days	x	_____	Rate	=	$0.00
Air Fare	_____	Trips	x	_____	Rate	=	$0.00

From _____ to _____

Company or Personal Car Mileage

	0.00	Miles	x	$0.565	=	$0.00
From _____ to _____ days						
Photography, Film, Developing, Printing, etc.						
	_____	Prints	x	_____	Rate =	$0.00
Photocopying	_____	Sheets	x	_____	Rate =	$0.00
Appraiser Per Diem for Eminent Domain Proceedings (if required)			($)	_____		
				TOTAL FOR APPRAISALS	=	$0.00

B. Negotiations (Number) 35

Direct Salary Cost

Principal	_____	Hours	x	_____	Rate =	$0.00
Right of Way Specialist	_____	Hours	x	_____	Rate =	$0.00
Secretary	_____	Hours	x	_____	Rate =	$0.00
_____	_____	Hours	x	_____	Rate =	$0.00
_____	_____	Hours	x	_____	Rate =	$0.00
					Sub-Total =	$0.00

Non-Salary Cost

Right of Way Specialist	_____	Hours	x	_____	Rate =	$0.00
Secretary	_____	Hours	x	_____	Rate =	$0.00
_____	_____	Hours	x	_____	Rate =	$0.00
_____	_____	Hours	x	_____	Rate =	$0.00
					Sub-Total =	$0.00
Meals & Lodging Per Diems	_____	Days	x	_____	Rate =	$0.00
Computer Cost	_____	Hours	x	_____	Rate =	$0.00
Auto Rental	_____	Days	x	_____	Rate =	$0.00
Air Fare	_____	Trips	x	_____	Rate =	$0.00
From _____ to _____						
Company or Personal Car Mileage						
	0.00	Miles	x	$0.565	=	$0.00
From _____ to _____ days						
Photocopying	_____	Sheets	x	_____	Rate =	$0.00

Negotiation Per Diem for Eminent Domain Proceedings (if required)			($)				
					TOTAL FOR NEGOTIATIONS	=	$0.00

C. Relocation (Number) 1

Direct Salary Cost

Principal		Hours	x		Rate	=	$0.00
Right of Way Specialist		Hours	x		Rate	=	$0.00
Secretary		Hours	x		Rate	=	$0.00
		Hours	x		Rate	=	$0.00
		Hours	x		Rate	=	$0.00
					Sub-Total	=	$0.00

Non-Salary Cost

Right of Way Specialist		Hours	x		Rate	=	$0.00
Secretary		Hours	x		Rate	=	$0.00
		Hours	x		Rate	=	$0.00
		Hours	x		Rate	=	$0.00
					Sub-Total	=	$0.00
Meals & Lodging Per Diems		Days	x		Rate	=	$0.00
Computer Cost		Hours	x		Rate	=	$0.00
Auto Rental		Days	x		Rate	=	$0.00
Air Fare		Trips	x		Rate	=	$0.00
From _____ to _____							
Company or Personal Car Mileage							
	0.00	Miles	x	$0.565		=	$0.00
From _____ to _____ days							
Photocopying		Sheets	x		Rate	=	$0.00
Relocation Per Diem for Eminent Domain Proceedings (if required)			($)				
					TOTAL FOR RELOCATION	=	$0.00

SUB-TOTAL (A+B+C) $0.00

D. Net Fee: $0.00

TOTAL MAXIMUM COMPENSATION PAYABLE (A+B+C+D) **$0.00**

Firm: _____

By: _____

Title: _____

Date: _____

[1] Cost will be broken down between lodging and meals and incidental cost. Cost will be based on the approved State per diem rates for the area.

PART IX GENERAL TERMS AND CONDITIONS

See Attachment A.

PART X SPECIAL TERMS AND CONDITIONS

A. This proposal shall be binding upon THE CONSULTANT for 90 days following the proposal due date. If the proposal is not withdrawn at that time, it remains in effect until an award is made or the solicitation is canceled.

B. Title reports may not be available and in that situation the appraiser will be responsible for verifying ownership and obtaining relative data needed to complete the appraisal.

PART XI BASIS OF PAYMENT

See Attachment B

PART XII FIRM DATA SHEET

See Attachment C

ATTACHMENT A – GENERAL TERMS AND CONDITIONS

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

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

a. The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
b. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that the Consultant is an equal opportunity employer.
c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

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

3. NON-DISCRIMINATION PROVISION: The Consultant agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, sex or national origin; and further agrees to abide

by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibit discrimination on the basis of age. Section 49 CFR 21 is incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The Consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia (1950), as amended, the terms of which are incorporated herein by reference.

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

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

4. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: During the performance of this CONTRACT, the Consultant, for itself, its assignees and successors in interest (herein referred to as "the Consultant"), agrees as follows:

a. Compliance with Regulations: The Consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this CONTRACT.
b. Nondiscrimination: The Consultant, with regard to the services provided by it after award and prior to completion of this CONTRACT, will not discriminate on the grounds of race, religion, color, sex, national origin, age or handicap in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.
c. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this CONTRACT.
d. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall

so certify to the Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and subconsultants with fifteen (15) or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the consultant or subconsultant is performing in accordance with this CONTRACT.

e. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this CONTRACT, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
    1) withholding of payments to the Consultant under this CONTRACT until the Consultant complies, and/or
    2) cancellation, termination or suspension of this CONTRACT, in whole or in part.

f. Incorporation of Provisions: The Consultant will include the provisions of paragraphs "a" through "f" in every subcontract of $10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontractor or procurement as the Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Department to enter into such litigation to protect the interests of the Department and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

Further, the Consultant agrees to provide the Department with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE. [Include the following wording on contract with DBE Goals: The DBE goal for this Contract is ___%.]

In accordance with the Governor's Executive Order No. 33, the Department also requires the utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of consultant contracts. The Consultant shall take all necessary and reasonable steps in accordance with Executive Order No. 33, to ensure that SWaM firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Further, the Consultant agrees to provide the Department with the dollar amount contracted and name of each subcontractor which identifies itself as a SWaM. The Swam goal for this Contract is 10%.

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

DBE/SWAM certification entitles consultants to participate in VDOT's DBE/SWAM program. 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 the event of the Consultant's noncompliance with the DBE participation for the services indicated in the Fee Proposal, of this CONTRACT, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

a. Withholding of payments to the Consultant under this CONTRACT until the Consultant complies, and/or
b. Cancellation, termination or suspension of this CONTRACT, in whole or in part.

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

8. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By signing this CONTRACT, the Consultant certifies that it does not and will not during the performance of this CONTRACT violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

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

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

10. CERTIFICATION REGARDING DEBARMENT: By the execution of this CONTRACT, the Consultant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or

local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

11. LEGAL JURISDICTION: This CONTRACT shall be construed and shall be governed in accordance with the Constitution and the laws of the Commonwealth of Virginia.

12. SEVERABILITY: The declaration by any court, or other binding legal source, that any provision of this CONTRACT is illegal and void shall not affect the legality and enforceability of any other provision of this CONTRACT, unless said provisions are mutually dependent.

13. FINAL ACCEPTANCE AND FINAL PAYMENT: All services performed under this CONTRACT shall be performed in accordance with the current standards, policies, and procedures of the Department, and in the case of projects using federal funds, the Federal Highway Administration (FHWA). All services shall be subject to the approval of the Department through its designated representatives.

Upon receipt of a written notice from the Consultant of completion of the services, the Department will make a review to determine if all services specified in the CONTRACT have been satisfactorily completed. If all services have been satisfactorily completed, the Department will make final acceptance. The Consultant will be notified of final acceptance in writing.

If the review discloses that any services, in whole or in part, are incomplete or unacceptable, the Consultant shall immediately correct the deficiency. Upon completion or correction of the services, another review will be made that will constitute the final review. In such event, providing the services are complete and acceptable, the Department will make the final acceptance and the Consultant will be notified of final acceptance in writing.

When final acceptance has been duly made by the Department, the Consultant shall submit a final estimate voucher. Except as provided for in Section 17, any disputes or claims between the Consultant and the Department or between the Consultant and any subconsultant shall have been resolved prior to the final estimate being submitted. Upon review and approval of the final estimate voucher by the Department, the Consultant will be paid the entire sum due after previous payments are deducted and other amounts are retained or deducted under the provisions of the CONTRACT. Final payment will become due and the final estimate paid within sixty (60) calendar days after approval of the final estimate voucher. The Department will notify the Consultant in writing when the final payment is made. Payments shall be subject to correction at the time of the final audit.

14. CLAIMS FOR ADDITIONAL TIME OR COMPENSATION: Claims for services not clearly authorized by this CONTRACT, or not ordered by the Department by prior written authorization, shall not be paid, nor shall any additional time be granted to complete the services. The Consultant shall notify the Department in writing, and wait for written approval, before it begins providing services not previously authorized. If such notification and approval is not given or the claim is not properly documented, the Consultant shall not be paid the extra compensation, nor be granted any additional time. Proper documentation alone shall not prove the validity of the claim. If the claim is found to be valid, it shall be allowed and paid for in accordance with the terms of a supplemental agreement.

15. CONTRACT MODIFICATION: The Department may, at any time, by written order, make any changes in this CONTRACT which either increase or decrease the services hereunder. If such change causes an increase or decrease in the cost of or the time required for performance of this CONTRACT, an equitable increase or decrease in consideration may be made and this CONTRACT shall be modified in writing by a Supplemental Agreement between the Department and the Consultant. The Supplemental Agreement shall set forth the proposed changes in services, extension of time for completion and adjustment of the compensation, including net fee, to be paid the Consultant, if any. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in this CONTRACT, but nothing in this section shall excuse the Consultant from promptly and diligently proceeding with the prosecution of the services so changed.

16. DELAYS: If the services provided for under this CONTRACT should be delayed due to factors or conditions beyond the control of the Consultant and through no fault or negligence on its part, the Consultant may apply in writing for an extension of time and/or an adjustment in compensation. This request shall be accompanied by substantiating data to justify any extension of time and/or adjustment in compensation. If, in the opinion of the Commonwealth Transportation Commissioner or his duly authorized representative, a delay due to factors and conditions beyond the Consultant's control is justified, the Consultant may be granted an extension of time and/or adjustment in compensation.

17. DISPUTES: Any contractual claim in connection with the services provided, whether for money or other relief, not disposed of by mutual agreement shall be submitted in writing no later than sixty (60) days after final payment; however, written notice of the Consultant's intention to file such a claim shall have been given at the time of the occurrence or beginning of the services upon which the claim is based. Submission of a notice of claim as specified shall be mandatory. Failure to submit such a notice shall be a conclusive waiver of such claim by the Consultant. An oral notice or statement will not be sufficient nor will a notice or statement after the event.

At the time of occurrence or prior to providing the services, the Consultant shall furnish the Department an itemized fee proposal for which additional compensation will be claimed. The Consultant shall keep a separate record of actual cost for the services. Failure on the part of the Consultant to afford the Department proper records of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the

Department's records. The filing of such notice by the Consultant and the keeping of cost records by the Consultant shall in no way establish the validity of a claim. The data furnished by the Consultant shall be subject to a complete audit by the Department or its authorized representative if they are to be used as a basis for claim settlement.

Upon completion of the CONTRACT, the Consultant may, within sixty (60) days from the date of final payment, submit to the Department a written claim for the amount he deems he is entitled to under the CONTRACT. The final payment date shall be that date set forth in a letter from the Department to the Consultant at the time the final estimate is submitted to the Fiscal Division for vouchering. The claim shall set forth the facts upon which the claim is based. The Consultant shall include all pertinent data and correspondence that may substantiate the claim. Within ninety (90) days from receipt of the claim, the Department will make an investigation and notify the Consultant of its decision.

If the consultant is dissatisfied with the decision, he shall notify the Commissioner in writing within thirty (30) days from receipt of the Department's decision that he desires to appear before him, whether in person or through counsel, and present additional facts and arguments in support of his claim. The Commissioner will schedule and meet with the Consultant within thirty (30) days after receiving the request. Within forty-five (45) days from the date of the meeting, the Commissioner will investigate the claim, including the additional facts presented, and notify the Consultant in writing of his decision. If the Commissioner deems that all or any portion of a claim is valid, he shall have the authority to negotiate a settlement with the Consultant subject to the provisions of Section 2.2-514 of the Code of Virginia 1950 as amended. If dissatisfied with the decision, the Consultant shall be entitled to institute judicial review if such action is brought within six months of receipt of the Commissioner's written decision. Any civil action by the Consultant shall be subject to the provisions of Section 2.2-4363 (D) of the Code of Virginia (1950), as amended.

Upon completion of the final audit, the Consultant may, within sixty (60) days from the date of receipt of the final audit letter from the Department, submit to the Department a written claim for the amounts he disputes in the final audit. The dispute resolution process will be the same as outlined above for claims.

Any monies that become payable as the result of claim settlement after payment of the final estimate or final audit dispute resolution will not be subject to payment of interest unless such payment is specified as a condition of the claim settlement.

18. CONFLICTS OF INTEREST: The change in a project delivery method for this contract may result in a potential conflict of interests for the consultant and any of its team members. As such, the scope of services and their role may be revised and redefined to meet the project need as identified by the Department. The consultant and its team members may not be allowed to participate in ANY subsequent contracts (design and/or construction) related to this project. The Conflict of Interest determination will be made in accordance with the department policy. The policy is available at: http://www.virginiadot.org/business/resources/LocDes/IIM-APD-2.pdf

19. COVENANT AGAINST CONTINGENCY FEES: The Consultant warrants that it has not employed or retained any company or person to solicit or secure this CONTRACT and that it has not paid or agreed to pay any company or person, other than a bona fide employee working

solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this CONTRACT.

For breach or violation of this warranty, the Department shall have the right to void this CONTRACT without liability or, at its discretion, to deduct from the CONTRACT price or consideration, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

20. INSURANCE: The Consultant shall furnish the Department a certificate evidencing comprehensive commercial general liability insurance in an amount acceptable to the Department prior to beginning any work on the project, and agrees to maintain this amount throughout the life of this CONTRACT.

The Consultant shall provide the Department with a certificate evidencing professional liability insurance in an amount acceptable to the Department and agrees to maintain this amount through the life of this CONTRACT.

The Consultant shall provide the Department with a certificate evidencing worker's compensation insurance as required by law by an insurer authorized to transact the business of worker's compensation insurance in this Commonwealth or in compliance with Section 65.2-801 of the Code of Virginia (1950), as amended, and agrees to maintain this amount through the life of this CONTRACT.

In the event of a non-renewal or cancellation of such required insurance coverage, thirty (30) days written notice must be given to the Department prior to such non-renewal or cancellation. Certificates evidencing insurance shall be submitted annually to the Department.

21. PROGRESS SCHEDULE AND REPORTS: The Consultant shall furnish the Department a schedule of progress which it proposes to follow throughout the term of this CONTRACT. No services shall commence until such schedule has been approved in writing by the Department. The schedule shall indicate starting and completion times of each significant task for each major element of this CONTRACT, and shall have the capability of indicating the proposed percentage of completion at any point for each element, if so required by the Department.

The Consultant shall submit a monthly progress report in a format acceptable to the Department.

22. PLANS AND REPORTS: Plans and reports shall be completed and delivered to the Department according to the progress schedule or as otherwise directed, in a format acceptable to the Department.

23. CORRECTION OF ERRORS: The Consultant shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The Consultant will be required, without additional compensation, to correct any errors, including but not limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this CONTRACT, and shall also reimburse the Department for any costs incurred. Acceptance of the

plans or reports by the Department shall not relieve the Consultant of the responsibility of subsequent correction of errors.

Costs incurred by the Consultant in correcting errors in the plans or reports and reimbursing the Department for costs incurred by the Department as a result of such error shall be maintained in a separate account. Such account shall be clearly coded and identified, and shall be subject to audit by the Department. Such costs shall not be billed to the Department as a direct charge or an overhead item.

24. LIABILITY, INDEMNIFICATION, STANDARD OF PERFORMANCE: The Consultant shall be responsible for all damage and expense to person or property caused by its negligent activities including, without limitation, those which it chooses to deliver through its subcontractors, agents or employees, in connection with the services required under this CONTRACT. Further, it is expressly understood that the Consultant shall indemnify, defend and hold harmless the Commonwealth of Virginia, the Department, its officers, agents and employees from and against any and all damages, claims, suits, judgments, expenses, actions and costs of every name and description caused by any negligent act or omission in the performance by the Consultant, including, without limitation, those which it chooses to deliver through its subcontractors, agents or employees, of the services under this CONTRACT.

The Consultant shall also be liable for all damages, costs and additional expense incurred by the Department, including but not limited to damages, costs and expenses resulting from claims brought against the Department by the construction contractor(s), caused by the failure of the Consultant to perform the services with the same degree and standard of care and skill normally expected of and provided by consultants in the performance of the same or similar services.

Acceptance of the services by the Department shall not waive any of the rights of the Department contained in this section nor release or absolve the Consultant from any liability, responsibility or duty contained herein.

25. TERMINATION: This CONTRACT may be terminated as follows:

a. By mutual agreement of the parties, in writing and signed by the parties.
b. By the Department without cause, in whole or in part, at any time, with fifteen (15) days advance notice in writing, by the end of which period the Consultant shall have discontinued all services and shall have delivered to the Department all reports, records, drawings, field notes, plans and other data completed or partially completed, which shall become and remain the sole property of the Department. The Department reserves the right to terminate this CONTRACT without the fifteen (15) days advance notice in the event the Consultant avails itself of the Federal or State Bankruptcy Laws or merges with or spins off from an entity. The Department's decision is not subject to review.
c. By the Department without advance written notice, due to the failure of the Consultant to perform the services or fulfill its obligation(s) under this CONTRACT, in which case the Department may take over the services and prosecute the same to completion by further agreement or otherwise, and the Consultant shall be liable to the Department for any excess cost occasioned to the Department thereby.
d. By failure of the General Assembly to appropriate, or the Commonwealth Transportation Board to allocate, sufficient funds to continue the services, in which event the CONTRACT will terminate upon depletion of the then currently appropriated or allocated funds.

26. ASSIGNMENT AND SUBCONTRACTING: This CONTRACT, being intended to secure the personal services of the individuals constituting the firm which is a party to this CONTRACT and referred to collectively as "the Consultant," shall not be assigned, subcontracted or transferred without consent of the Department in writing. This CONTRACT shall inure to the benefit of and shall be binding upon the personal representatives and legal successors of the respective parties hereto. Nothing contained in this CONTRACT is intended or shall be construed to inure to the benefit of any person or entity other than the parties hereto and their legal successors.

The Consultant shall not subcontract or assign all or any part of the services provided under this CONTRACT, except as expressly stated in this CONTRACT, without the prior written approval of the Department. Such consent to subcontract, assign or otherwise dispose of any portion of this CONTRACT shall not be construed to relieve the Consultant of any responsibility for the fulfillment of this CONTRACT. The Consultant is fully responsible for the satisfactory completion of all subcontracted services. Subcontracts shall include all provisions of this CONTRACT, except that retainage need not be withheld on subcontracts, and the Consultant shall be responsible for seeing that these provisions are complied with. No subcontracting by a subcontractor is allowed without prior written approval of the Department.

27. PAYMENT TO SUBCONTRACTORS: In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4342 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subcontractors within seven 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.

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

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

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

28. CONSULTANT RELATIONSHIPS TO CONTRACTORS: The Consultant shall serve only in a consulting and professional capacity and is not by this CONTRACT authorized to be, or represent itself to be, the agent or servant of the Department. The function, duties and responsibilities of the Consultant with respect to any contractor employed by the Department in connection with a project shall be consistent with the preceding sentence, and in no case shall the Consultant assume any of the obligations of the Department to any contractor. The Consultant shall refer any questions from a contractor to the Department.

29. COMPLIANCE WITH LOBBYING RESTRICTIONS (This section only applies to agreements using federal funds.): By signing this CONTRACT, the Consultant certifies that:

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

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

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

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

31. INTELLECTUAL PROPERTY RIGHTS: All rights in intellectual property developed or created pursuant to this CONTRACT shall be the sole property of the Department. "Intellectual property" includes all inventions subject to the U.S. Patent System (including but not limited to new processes, materials, compounds and chemicals), and all creations subject to the U.S. Copyright Act of 1976 (including but not limited to printed material, software, drawings, blueprints, and compilations such as electronic databases).

All copyrightable material created pursuant to this CONTRACT shall be considered work made for hire and shall belong exclusively to the Department. Neither party intends any copyrightable material created pursuant to this CONTRACT, together with any other copyrightable material with which it may be combined or used, to be a "joint work" under the copyright laws. If the whole or any part of any such copyrightable material cannot be deemed work made for hire or is deemed a joint work, the Consultant agrees to assign, and does hereby irrevocably assign, its entire copyright interest therein to the Department and shall execute and deliver such further documents as the Department may reasonably request for the purpose of acknowledging or implementing such assignment.

The Consultant warrants that no individual, other than regular employees of the Consultant or the Department working within the scope of their employment, shall participate in the creation of any intellectual property pursuant to this CONTRACT unless such individual and his or her employer, if any, have signed an intellectual property agreement satisfactory to the Department.

The Department shall have all rights, title and interest in or to any invention reduced to practice pursuant to this CONTRACT. The Consultant shall not patent any invention conceived in the course of performing this CONTRACT.

The Consultant hereby agrees that, notwithstanding anything else in this CONTRACT, in the event of any breach of this CONTRACT by the Department, the remedies of the Consultant shall not include any right to rescind or otherwise revoke or invalidate the provisions of this section. Similarly, no termination of this CONTRACT by the Department shall have the effect of rescinding the provisions of this section.

32. OWNERSHIP OF DOCUMENTS: All documents, which for purposes of this CONTRACT is defined to include but not be limited to, reports, plans, subject data ("subject data" is defined as all information, whether or not copyrighted, that is compiled or delivered or specified to be compiled or delivered under this CONTRACT), drawings, studies, specifications, memoranda, estimates and computations secured by and for the Consultant in the prosecution of this CONTRACT shall become and remain the property of the Department upon termination or completion of the work. The Department shall have the right to use such documents for any public purpose without compensation to the Consultant, other than as hereinafter provided. If the Department uses the documents for a purpose other than for which this CONTRACT has been executed, such use shall be at the risk of the Department.

Except for its own internal use, the Consultant shall not publish or reproduce documents, in whole or in part, in any manner or form, nor shall the Consultant authorize others to do so without the written consent of the Department.

The Department reserves the right to publish initially all documents. The Consultant shall not release or publish any documents without the prior written approval of the Department. Neither the Consultant, nor any subcontractor or any agents, employees or subcontractors thereof, shall publish, participate in the publication of, or make oral presentations regarding any documents, information or material relating to this project, either during or after the term of this CONTRACT, without specific prior written approval of the Department. Any releases to the news media must be approved by and released through the Department.

The terms of this section shall be expressly included in any third-party agreement entered into by the Consultant or by any subcontractor, agents, employees or subcontractors thereof.

33. PUBLICATION PROVISIONS: No documents produced as part of this CONTRACT, and in whole or part with public funds, shall be copyrighted by the Consultant. When the project uses federal funds, any final report shall contain the following:

a. An acknowledgment, "Prepared in cooperation with the U.S Department of Transportation, Federal Highway Administration and the Virginia Department of Transportation";
b. A disclaimer, "The contents of this report reflect the view of the Consultant who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the Federal Highway Administration or the Virginia Department of Transportation. This report does not constitute a standard, specification or regulation.";
c. A statement, if published by either the Department or the Consultant, giving credit to all participating agencies.

In the event the Department does not subscribe to the conclusions of the report, the following statement shall be added: "The opinions, findings, and conclusions expressed in this publication are those of the authors and do not necessarily represent those of the Virginia Department of Transportation."

The terms of this section, and the section entitled "Ownership of Documents" shall be expressly included in any third-party agreement entered into by the Consultant or by any subcontractor, agents, employees or subcontractors thereof.

34. STAFFING BY CONSULTANT: The control and supervision of all phases of the work performed under THIS CONTRACT by THE CONSULTANT shall be under the direction of a Right of Way Manager who has not less than five years experience in the type of work herein described and shall be assigned to the project until all work has been completed or until THE DEPARTMENT agrees in writing that the manager may be replaced or removed. The Right of Way Manager shall hereinafter be called the Project Manager.

A staff of competent Right of Way Specialists, adequate in number and experience to perform the described work in the prescribed time, shall be assigned to the work at all times. Once THIS CONTRACT has been awarded, THE CONSULTANT may staff up or down in order to meet the terms of THIS CONTRACT only with the approval of the Director of the Right of Way and Utilities Division.

The name, title, and experience record of each staff member assigned to this project shall be on file with THE DEPARTMENT or submitted with THIS CONTRACT.

35. CONFERENCES: The Department shall hold an initial conference at a place and time selected by the Department, for the purpose of reviewing the Consultant's schedules, procedures, methods and the clarification of any ambiguities that may then exist. A principal of the Consultant and the Consultant's project manager shall attend the conference.

Progress conferences will be held periodically. The Consultant will prepare and present written information and studies to the Department so it may evaluate the features and progress of the services being provided. Either party may request a conference be held at the office of the requesting party or at a place designated by the Department. Conferences may also be held to inspect the Consultant's services to date at the request of the Department.

36. LIAISON WITH CONSULTANT: The Department may assign and maintain one or more representatives on this CONTRACT at no cost to the Consultant. These representatives shall work in close cooperation with the Consultant to ensure a thorough understanding of all methods and procedures employed by the Consultant. The Consultant shall make such records,

procedures and methods related to this CONTRACT available to these representatives as may be requested.

The Department reserves the right to make such reviews from time to time as it may deem necessary or desirable and to maintain proper liaison.

37. COORDINATION: The Consultant shall coordinate all plan development with the Department to ensure compatibility with programmed and planned road improvement projects in the CONTRACT area.

38. TESTIMONY: In the event that the testimony of the Consultant is required in any legal proceeding in connection with claims brought against or prosecuted by the Department, the Consultant agrees to appear as a witness on behalf of the Department. Payment for appearance will be based on the approved current hourly salary rate and daily per diem rate for each eight-hour day's preparation for, or attendance in, court and one-fourth of this sum for each two hours or fraction thereof.

39. NOTICE TO PROCEED: Work to be performed by the Consultant under this CONTRACT shall begin within five (5) days after receipt of official notice from the Department to proceed. Written notice to proceed will be given by the Department prior to any work being done on any element of this CONTRACT. The Department will not be responsible for payment for services performed in advance of such notice.

40. CONTINGENCY: On CONTRACTS containing a contingency, the contingency shall not be used without written permission of the Department. The additional services provided under the contingency shall not begin until an agreement has been reached with the Department on the manhours and costs required to perform the services. If services are provided under the contingency prior to an agreement being reached with the Department regarding manhours and costs, only those manhours and costs determined to be necessary and reasonable by the Department will be reimbursed.

41. DRUG-FREE WORKPLACE: During the performance of this contract, the Consultant agrees to:

a. Provide a drug-free workplace for the consultant's employees;
b. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
c. State in all solicitations or advertisements for employees placed by or on behalf of the consultant that the consultant maintains a drug-free workplace; and

d. Include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

42. eVA Business-to-Government Vendor Registration: 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 detail information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: http://www.eva.state.va.us. All bidders or offerors must register in eVA; failure to register may result in the bid/proposal/expression of interest being rejected.

43. CRITICAL INFRASTRUCTURE INFORMATION/SENSITIVE SECURITY INFORMATION (CII/SSI): Contract documents or project material containing CII/SSI in whole or in part are subject to the terms of this Section.

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

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

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

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

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

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

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

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

By copying, downloading, or receiving a copy of any documentation containing CII/SSI, or any part thereof, the consultant or any other recipient acknowledges and agrees to the terms of this Section and will advise any individual using these documents, or any part thereof, that they too shall be responsible for safeguarding the CII/SSI in their custody or under their control. The Consultant shall include the terms of this Section, in any further dissemination of any contract documents or project materials containing CII/SSI in whole or in part, and in all subcontracts awarded under this contract.

44. SECURITY REQUIREMENTS and CRIMINAL HISTORY RECORD CHECK:

A Criminal History Record Check (CHRC), through VDOT Personnel Security Section (PSS) and when required through the Virginia Capitol Police, shall be required of all employees of the prime consultant and all subconsultants 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).

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 and pass a fingerprint-based CHRC.

All costs associated with the fingerprint-based CHRC are the responsibility of the prime consultant.

A VDOT issued photo-identification badge is required for each employee of the prime consultant or any sub-consultant who will be performing work 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).

Based upon the results of the fingerprint-based CHRC, VDOT reserves the right to deny access to CII/SSI material and issuance of a VDOT security clearance and a VDOT issued photo-identification badge. Upon denial, there are no available appeals.

Consultants shall return all VDOT access identification badges on the day any employee is no longer assigned to VDOT's premises/work and upon contract expiration. The consultant shall notify VDOT Project 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 Project Manager that access identification badge has been lost, stolen or damaged may be cause for debarment. See: Commonwealth of Virginia, Vendor's Manual Section 7.20.

Consultants 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 then the next regular business day of finding.

Consultants shall include the terms of this Section, in any further dissemination of any contract documents in whole or in part, and in all subcontracts awarded under this contract.

ATTACHMENT B – Basis of Payment

1. ACTUAL COST: For services performed according to the provisions of THIS CONTRACT, THE DEPARTMENT agrees to pay THE CONSULTANT for each project an amount equal to the actual hours expended, multiplied by the Fixed Billable Rate 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, 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 Commonwealth Transportation Commissioner of THE DEPARTMENT or his duly authorized representative. THE CONSULTANT shall ensure that a current Attachment A is on file with the Virginia Department of Transportation (Right of Way & Utilities Division) and shall be updated annually.

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 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.

d. NON-ALLOWABLE COSTS: THE DEPARTMENT's Audit Policy Procedure conforms with that established in the Federal Acquisition Regulations.

3. NET FEE: For services performed according to the provisions of THIS CONTRACT, THE DEPARTMENT agrees to pay THE CONSULTANT its Actual Cost, as defined in this section, plus a NET FEE not to exceed 10% of the direct salary costs for all disciplines of work.

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 this Agreement, 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 this Agreement.

6. CONTRACT TERM: Under this Agreement, assignments may be issued during the 12-month period following the date of execution of this Agreement or when the cumulative total of fees for project assignments reaches the maximum total compensation, whichever occurs first. This period shall be referred to as the "Contract Term".

7. TOTAL COMPENSATION: Except as may be changed according to the Agreement Modification provision of this Agreement, the maximum total compensation payable under this Agreement will not exceed the amount stated in **Part VIII - Fee Proposal**. If during the Contract Term, the cumulative total of all issued project assignments reaches the maximum total compensation limit, no further assignments may be issued during the Contract Term.

8. MONTHLY PARTIAL PAYMENTS: 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.

9. TERMINATION WITHOUT CAUSE: In the event this Agreement 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 contracted for under this Agreement at the time of effective date of termination.

ATTACHMENT C – FIRM DATA SHEET

Project No.: **0620-088-182, RW203**

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.