



Loudoun County, Virginia

INVITATION FOR BID

**TASK ORDER CONTRACT FOR TRAFFIC CALMING AND OTHER
SAFETY RELATED IMPROVEMENTS TO INCLUDE RELATED ROAD
MAINTENANCE**

ACCEPTANCE DATE: **June 8, 2021** prior to 4:00 p.m. "Local Atomic Time"

IFB NUMBER: RFQ 310782

ACCEPTANCE PLACE:

Loudoun County Government Center
1 Harrison Street, S.E., **1st Floor, Procurement Bids and
Proposals Drop Box**
Leesburg, Virginia 20175

Due to restrictions surrounding the COVID-19 pandemic, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, VA 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

ALL HAND DELIVERED BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 p.m. Bids will be opened and announced by the Procurement Division staff via audio/video teleconference at 4:30 p.m. (Atomic time) on the Acceptance Date. To participate in the audio portion of the opening, please dial the number provided in the Instruction to Bidders and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using GoToMeeting with the instructions included in the Instructions to Bidders.

Please contact the Contracting Officer designated on the front cover of the solicitation with any questions regarding this process. Bidders are strongly encouraged to check the County's website routinely for updates.

PLEASE NOTE:

Bid Forms. Bid forms may be downloaded from the County's web site:
www.loudoun.gov/procurement.

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

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

Kristy D. Varda, NIGP-CPP, CPPO, CPPB
Contracting Officer
(571) 258-3144

E-mail address: kristy.varda@loudoun.gov

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

Issue Date: May 5, 2021

IF YOU NEED ANY REASONABLE ACCOMMODATION FOR ANY TYPE OF
DISABILITY IN ORDER TO PARTICIPATE IN THIS PROCUREMENT, PLEASE
CONTACT THIS DIVISION AS SOON AS POSSIBLE.

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MAINTENANCE**

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ATTACHMENT 1: COUNTY – CONTRACTOR AGREEMENT (CONTAINED HEREIN)
ATTACHMENT 2 LOUDOUN COUNTY REVISION TO THE VDOT DIVISION 1
GENERAL PROVISIONS
ATTACHMENT 3: TASK ORDER SCHEDULE OF BID ITEMS

Authorized By: s/Kristy D. Varda, NIGP-CPP, CPPO CPPB Date: May 5, 2021
Contracting Officer

1.0 PURPOSE

- 1.1 The County of Loudoun, Virginia (County) seeks to award one (1) or more, with a maximum of (3), Task Order Contracts to qualified general contractors to provide for roadway related construction on an as-needed basis at various locations within Loudoun County over a one (1) year Base Term and up to four (4) one (1) year additional Option Terms. Work under the resulting contracts may be done on Virginia Department of Transportation (VDOT) or other public right-of way. A Task Order Contract is a competitively bid, firm fixed priced, indefinite quantity contract. The Work includes a collection of Tasks that have pre-established unit prices. Task orders will be used for the accomplishment of various traffic calming or traffic safety improvement projects to include related road maintenance. The Work to be performed will be in general conformance with the VDOT Traffic Calming Guide for Neighborhood Streets.
- 1.2 These Contract(s) will generally be utilized to accomplish small to medium sized, Projects with a typical Task Order value within the range of \$10,000-\$100,000. However, Task Orders in the \$1,000 to \$5,000 range may occur common. The typical Work is anticipated to include, but not be limited to, Projects such as: speed humps, crosswalk refuge, guardrail installation and street sweeping, etc. The maximum value of any individual Task Order is not expected to, but may, exceed \$200,000. The County makes no guarantee as to amount of Work.
- 1.3 For the purposes of these Contracts, a Loudoun County "Purchase Order" is described as a "Task Order".

2.0 COMPETITION INTENDED

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

3.0 OVERVIEW OF THE CONTRACT

- 3.1 This Contract is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual Projects at different sites within Loudoun County, often simultaneously. The Projects will be related to traffic calming and traffic safety improvements to include related road maintenance.
- 3.2 The Process - As Projects are identified by the County, the County will prepare a Detailed Scope of Work and issue a Request for Price Proposal to the Contractor. The Contractor will then prepare a Package for the Project

including a Price Proposal, Progress Schedule, any Incidental Design, a list of proposed subcontractors, and other requested documents. If all contents of the Price Proposal Package are found to be acceptable by the County, a Task Order may be issued.

- 3.4 Task Orders - A separate Task Order will be issued for each Project prior to the commencement of any Work by the Contractor, except in a declared State of Emergency as provided in Section 6.8.F.(5). A Task Order will reference the Detailed Scope of Work and set forth the Task Order Completion Time and the Task Order Amount. The Task Order Amount is determined by multiplying the pre-established Unit Prices for the appropriate tasks required to complete the Detailed Scope of Work by the appropriate quantities. The Task Order Amount shall be a lump sum, fixed price for completing the Detailed Scope of Work. Unforeseen/latent conditions, additions to and deletions from the Detailed Scope of Work will be addressed by amending the original Task Order.

3.5 Contractor Selection for Each Project

The County may award an individual Task Order to any selected contractor. Selection of the Contractor and award of the Task Order will be in compliance with established County procedures and based on one or more of the following criteria:

- A. Rotational selection among all contractors, unless otherwise determined by the County.
- B. Size of project, as it relates to the County's independent cost estimate or other competent cost estimates.
- C. Balancing of workload on an annual basis (Task Order dollar volume and construction backlog) among contractors.
- D. Evaluation of past and current performance on Task Orders of a similar nature and type of work, project size, construction management challenges, schedule performance, design management requirements, etc.
- E. Contractor's responsiveness to the County on Task Orders.
- F. Management of Task Order dollar volume within bonding limitations of the Contractor.

- 3.6 Description of the Work - The Work will be set forth in the Detailed Scope of Work for individual Task Orders. The Contractor is required to complete each Detailed Scope of Work for the Task Order Amount within the Task Order Completion Time. The table below provides additional details on what section from the Schedule of Bid Items could be included in a Task Order.

All Potential Items (See below for Detail)

Traffic Calming Measures	Signing	Pavement Marking	Asphalt & Concrete	Erosion & Sediment Control	Misc.
Additional \$200 Fine Sign	X				
Pole Mounted Speed Display Sign	X		X		
Chicane	X	X	X	X	X
Choker	X	X	X	X	X
Crosswalk Refuge	X	X	X	X	X
Curb Refuge (Bulb-out)	X	X	X	X	X
Raised Crosswalk	X	X	X	X	X
Raised Intersection	X	X	X	X	X
Raised Median Island	X	X	X	X	X
Speed Hump	X	X	X	X	X
Speed Lump	X	X	X	X	X
Speed Table	X	X	X	X	X

3.7 Work Sites - The Contractor will be required to perform Work at any site located within Loudoun County. It is anticipated that the Work will be distributed randomly throughout the geographic area comprising the County and the Contractor may be required to perform Work at multiple sites simultaneously.

3.8 Responsiveness

A. The Contractor shall have a point of contact (i.e., voice mail or answering machine) where messages can be left. There should be a response no later than twenty-four (24) hours from when the message was left. Repeated failure to respond within the allotted timeframe shall, at the option of the County, result in non-renewal or termination of the Contract.

B. The County has the option of declaring any needed work to be an emergency. **In the event of a natural or manmade disaster or any other catastrophes, the Contractor, when so directed, shall respond within two (2) hours of notification. See Section 6.8.F.(5).**

3.9 All Work performed by the Contractor under the Contract shall meet all VDOT Specifications, applicable state and local codes, ordinances and regulations. The Contractor shall be required to obtain all required permits and inspections to include a VDOT Land Use Permit. Loudoun County permit fees shall be waived for Work done pursuant to the resultant Contract. Upon issuance of

each Task Order the Contractor shall immediately apply for all required permits.

4.0 DISCREPANCIES

Should a bidder find discrepancies in the plans and/or specifications or be in doubt as to the meaning or intent of any part thereof, the bidder shall request clarification from the County in writing, not later than ten (10) working days prior to the bid opening. Any changes to the IFB that result from such a clarification request will be communicated through a written addendum and posted on the Procurement home page at www.loudoun.gov/procurement. Failure to request such a clarification is a waiver of any claim by the bidder for additional expenses because its interpretation was different than the County's.

5.0 BIDDER'S MINIMUM QUALIFICATIONS

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

The following criteria shall be met in order to be eligible for this contract:

- 5.1 Debarment: By signing the Miscellaneous Bid Information Form contained in the IFB, bidders are certifying that bidder is not currently debarred by any local or state government or the Federal Government. Bidders shall provide in their bid, documentation related to all debarments that occurred within the last ten (10) years.
- 5.2 The Construction Contractor submitting a bid must demonstrate successful experience in the construction of traffic calming and safety improvements within the VODT Right-of-Way, similar to the scope contained herein. Demonstration of this experience shall be by means of providing a minimum of five (5) project references with minimum construction costs of \$50,000 that have been completed within (5) five years from the date of this IFB. All project references provided must demonstrate successful experience in the type of construction required by this project.

Each project references should include:

- Name and location of the project.
- Final construction cost.
- Final completion date and project duration.
- Project description of sufficient detail to allow determination of projects size. Project references shall also include:
 - Photographs of all key aspects of the work of sufficient quality to demonstrate the quality of the Bidders work.

- Name, address, current phone number, and e-mail addresses of owners.

Bidder hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference. The County intends to contact owners provided as references to verify information provided. Failure of the owner to respond to the County's inquiry may be cause for the County to require additional references meeting the requirements of this IFB Section be submitted.

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

5.3 Contractor License: Bidders, whether resident or nonresident of the Commonwealth of Virginia, shall possess a valid Virginia Class A Contractor license. Bidders shall include a copy of the Class A Contractor license in their bid.

5.4 Verification of Bonding Capability. Bidder shall include in their bid a letter from a surety or insurance company (with a Best's Financial Strength Rating of A or better and Financial Size Category VII or higher by A.M. Best Co.) stating that the Bidder is capable of obtaining a \$300,000 performance and payment bond, which bonds will cover the Projects and any warranty periods. The letter of surety shall clearly state the rating categorization noted above and reference the estimated contract value as identified in herein, in a manner similar to the notation provided below:

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

6.0 TERMS AND CONDITIONS

The County-Contractor Agreement ("Contract" or "Agreement") with the successful bidder will contain the following Terms and Conditions. **These Terms and Conditions are not negotiable.**

6.1 Contractual Authority

- A. The extent and character of the Work to be performed by the Contractor shall be subject to the general control and approval of the

Director of the Department of Transportation and Capital Infrastructure, or their authorized representative(s). The Contractor shall not comply with requests and/or orders issued by other personnel.

- B. Any change to the Contract must be approved in writing by the Purchasing Agent/Contracting Officer and the Contractor.

6.2 Contract Documents

Except for titles, subtitles, headings, running headlines, tables of content and indices (all of which are listed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall comprise the resultant Contract between the County and the Contractor pursuant to this IFB:

- A. The County-Contractor Agreement (Attachment 1),
- B. The County's Invitation for Bid (IFB) No. RFQ 310782 (which includes the Contract Terms and Conditions including any Addenda,
- C. IFB Attachment 2 - The Loudoun County Revisions to the VDOT Division 1 General Provisions,
- D. IFB Attachment 3 - the Task Order Schedule of Bid Items,
- E. The Contractor's bid submission (all parts),
- F. Notice of Award,
- G. Performance and Labor and Material Payment Bonds and Insurance Certificates provided by Contractor,
- H. Task Orders, Requests for Price Proposals, and Detailed Scopes of Work (including any referenced supplemental Specifications and/or drawings) issued by the County,
- I. The Contractor's Price Proposals, and
- J. Written Modifications to the Agreement, signed by both parties, issued after the Contract has been executed.

6.3 Technical Specifications

- A. Latest version of the VDOT Road & Bridge Specifications and the VDOT Road & Bridge Standards as supplemented
- B. Loudoun County Revisions to the 2020 VDOT Road and Bridge Specifications Division I General Provisions (Attachment 2). This document shall replace the VDOT Division 1 Specifications.
- C. 2011 Edition of the Virginia Work Area Protection Manual and 2009 Edition for Manual on Uniform Traffic Control Devices
- D. Latest Virginia Department of Environmental Quality (DEQ) Erosion and Sediment Control Handbook, DEQ Erosion & Sediment Control Inspector and Responsible Land Disturber Certifications.

- E. Supplemental Specifications, Special Provisions and Special Provision Copied Notes contained herein.

6.4 Definitions

- A. *Addendum or Addenda*: the additional Contract provisions issued in writing by the County prior to the receipt of bids.
- B. *Agreement*: the County-Contractor Agreement. The Agreement may also be referred to herein as the Contract or the Task Order Contract. Reference to the Agreement may also include collective reference to the Contract Documents.
- C. *Base Term*: the one (1) year period commencing from the date of the execution of the Agreement.
- D. *Contract Documents*: each of the various parts of the Agreement referred to in Section 6.2 hereof, both as a whole and severable.
- E. *Contractor*: the party identified as such in the County-Contractor Agreement, whether corporation, firm or individual, or any combination thereof, and its, their, his or her successors, personal representatives, executors, administrators and assigns. Anytime the term Contractor is used it means the Contractor or the Contractor's authorized representative.
- F. *County*: Loudoun County, Virginia or Loudoun County's authorized representative.
- G. *Day*: calendar day unless explicitly stated otherwise.
- H. *Detailed Scope of Work*: A document setting forth the Work the Contractor is obligated to complete for a particular Task Order.
- I. *Final Completion*: The date of Final Completion of the Work is the date determined by the County when the Work is totally complete, to include punch list work, in accordance with the Contract Documents and the County may fully occupy and utilize the Work for the use for which it is intended.
- J. *Holidays*: New Year's Day, Martin Luther King Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, Christmas Eve, Christmas Day and any other day officially recognized by the County as a non-working day for County staff.
- K. *Incidental Design*: includes abbreviated drawings, sketches, and calculations, striping plan, shop drawings, modified or supplemental Technical Specifications and as-built drawings.
- L. *Install, Deliver, Furnish, Supply, Provide and Other Such Words*: such words mean the Work in question shall be put in place by the Contractor ready for use unless expressly provided to the contrary.

- M. *Task Order*: Under this Agreement, a Loudoun County “Purchase Order” is described as a “Task Order”. Each individual Project to be accomplished under this Contract will be through the issuance of a Task Order. Each Task Order will reference a Detailed Scope of Work and state a firm fixed price (Task Order Amount), time duration for the completion of the Work (Task Order Completion Time), and any special conditions that might apply to that specific Task Order.
- N. *Task Order Amount*: the firm fixed price, lump sum amount indicated on each specific Task Order that the County is obligated to pay the Contractor upon completion of the Detailed Scope of Work in conformity with all terms of the Contract Documents.
- O. *Task Order Completion Time*: the period of time allotted for the Contractor to achieve Final Completion of a Task Order.
- P. *Task Order Contract*: see Agreement above.
- Q. *Notice To Proceed Date*: the date contained on the Task Order which designates when the Contractor is authorized to begin Work.
- R. *Option Term*: additional one (1) year periods for which the Contract can be extended by mutual agreement of the Contractor and the County. The Contract contains four (4) Option Terms.
- S. *Progress Schedule*: a critical path or bar chart schedule submitted by the Contractor and subject to approval by the County showing the overall Task Order Completion Time and subdivided for each critical operation therein.
- T. *Project*: collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Task Orders.
- U. *Price Proposal*: the Contractor prepared document quoting a lump sum, fixed price for the completion of the Detailed Scope of Work referenced in the Request for Price Proposal.
- V. *Price Proposal Package*: the Contractor prepared package that in addition to the Contractor’s Price Proposal contains, when appropriate, a proposed Progress Schedule for completing the Work, drawings, sketches, permits, catalog cuts, technical data, samples, subcontractor information, and other such documentation as the County may require for a specific Task Order.
- W. *Purchase Order*: the written obligation document under the Contract and referred to as a “Task Order” throughout the Contract Documents.
- X. *Request for Price Proposal (RFPP)*: a written request to the Contractor to prepare a Price Proposal for the Detailed Scope of Work referenced therein.

- Y. *Schedule of Values*: the Contractor provided allocation of the Task Order Amount to various portions of the Work pertaining to a specific Task Order used as the basis for County's review of the Contractor's applications for payment.
- Z. *Shop Drawings*: drawings, schedules, data, catalogue cuts, manufacturers' published recommendations, charts, bulletins, brochures, illustrations, circulars, roughing drawings or formulae distributed by Contractors, subcontractors, manufacturers, material men, or suppliers for use in installing Work.
- AA. *Site*: the area upon or in which the Contractor's operations are carried on, and such other areas adjacent thereto as may be designated as such by the County.
- BB. *Specifications*: all of the directions, requirements and standards of performance applying to the Work as hereinafter detailed and designated in the Technical Specifications in the Contract Documents or any modification or supplement thereto.
- CC. *Subcontractor*: any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or his Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.
- DD. *Sub-subcontractor*: any person, firm or corporation, other than employees of the Subcontractor, who or which contracts with the Subcontractor or his Sub-subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Sub-subcontractor.
- EE. *Unit Price*: the price published in the Task Order Pricing Schedule for a specific task. The Unit Prices are fixed for the duration of the Contract. Each Unit Price is comprised of the labor, equipment and materials costs to accomplish that specific task.
- FF. *Work*: the furnishing by Contractor of all labor, materials, equipment and other incidentals necessary or convenient for the completion of the Task Orders issued pursuant to the Agreement.

6.5 Contract Base Term and Optional Terms

- A. The Base Term shall be for one (1) year from the date of the execution of the Agreement. The Agreement may be renewed based upon on

the same terms and conditions, other than Bid Adjustment Factors, at the expiration of the Base Term upon mutual agreement of the parties. The renewal may be for up to four (4) additional one (1) year periods (Option Terms). The total duration of the Agreement, inclusive of all Option Terms, shall not exceed five (5) years.

- B. Notice of intent to exercise an Option Term will be given to the Contractor in writing by the County, ninety (90) days before the expiration date of the current term.

6.6 Price Escalation/De-escalation

Any increase in prices or rates after the initial term or any renewal term shall be limited to the prior year's increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), Special Indexes, all items less food and energy (unadjusted for seasonal changes) for the current twelve (12) month period. In no circumstances shall any increase exceed four percent (4%) per year.

Provided the contractor provides sufficient documentation, they County may consider price escalation in addition to the above paragraph.

6.7 Price Adjustments for Asphalt

- A. Due to the fluctuations in asphalt prices, adjustments (increases and decreases) for asphalt provided under the Contract will be allowed with the Contractor's Price Proposal.
- B. The VDOT Price Adjustment Index for Asphalt is set at cost per short ton for May 2021 (issue date of IFB). This cost will become the basis for determining any future price adjustments to asphalt prices.
- C. The difference between this index and the current index will determine the amount of the adjustment. Current index is defined as the index published by VDOT at the time the Price Proposal is accepted by the County. This is with the understanding that the project will be started within the next thirty (30) calendar days. Should a delay to the start of the project occur that is not caused by the contractor, the published VDOT index at the time of the revised proposal request will be utilized, and any increase/decrease in the price proposal for asphalt will be made. Any delays caused by the contractor will **not** result in an adjustment to the asphalt adjustment.

Once the information above is identified, the process defined in SP109-000100-03, Virginia Department of Transportation Special Provision for Asphalt Material Price Adjustment, dated September 6, 2019 will be followed.

6.8 Ordering Procedure

- A. Initiation of a Task Order - As a need arises or exists for performance by the Contractor; the County will meet with the Contractor to determine the scope of the Project. The Contractor may be asked to

visit the site; however, they are not required to be part of the development of the Project scope.

- B. Detailed Scope of Work (DSOW); Development and Issuance of a Request for a Price Proposal (RFPP) - Upon completion of the scoping process, the County shall draft a DSOW and compile, as necessary, any sketches, drawings, photographs, and Specifications required to adequately document the Project and potential Work. The County shall issue a final DSOW and a Request for Price Proposal (RFPP). The Contractor will then be required to prepare a Price Proposal for the proposed Project and Work. The DSOW, unless modified by the County, will be the basis on which the Contractor develops its Price Proposal Package and the County will evaluate the same. The Contractor does not have the right to refuse to perform any task or Work in connection with a particular Project.

The RFPP will include at a minimum, the following information:

- (1) Task Order Number
 - (2) Project Location
 - (3) Brief Project Description
 - (4) Detailed Scope of Work
 - (5) Technical Drawings
 - (6) Price Proposal Due Date
- C. The County may, at its option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if the Contractor and the County cannot agree on the quantities required, or for any other reason as determined by the County. In all such cases, the County shall issue a Supplemental Task Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.
- D. If the Contractor requires additional information to clarify the Detailed Scope of Work before preparing the Task Order Proposal, the Contractor will make such request quickly so that the Price Proposal can be submitted on time.
- E. Preparation of the Price Proposal - Contractor will prepare its Price Proposals in accordance with the following:
- (1) **Pre-priced Tasks:** For Pre-priced Tasks the Contractor shall identify the task and quantities required from the Technical Specifications necessary to complete the DSOW.
 - (2) **Non Pre-priced Tasks:** Non Pre-priced Tasks shall be separately identified and submitted in the Price Proposal.

Information in support of the Non Pre-priced Task shall include, but is not limited, to the following:

- a. Catalog cuts, specifications, technical data, drawings, or other information as required evaluating the task.
- b. If the Contractor performs the Work with its own forces, it shall submit three (3) independent quotes for all material to be installed and shall, to the extent possible, use pre-priced labor and equipment from the Technical Specifications. If the Work is to be subcontracted, the Contractor shall submit three (3) independent bids from Subcontractors. The Contractor shall not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use. The County may require additional quotes and bids if the suppliers and Subcontractors are not acceptable or if the prices are deemed (in the sole judgment of the County) not to be reasonable. If three (3) quotes or bids for materials or subcontracted work cannot be obtained, the Contractor will provide in writing to the County, for County approval, the reason why three (3) quotes cannot be submitted. If the explanation is accepted by the County, the Contractor may provide less than three (3) quotes.
- c. The final price for Non Pre-priced Tasks shall be according to the following formula:

For Work Performed with the Contractor's Own Forces:

A = The hourly rate for each trade classification multiplied by the quantity;

B = The hourly, weekly, or monthly rate for each piece of equipment multiplied by the quantity;

C = Lowest of three independent quotes for all materials.

Total for Non Pre-priced Tasks performed with Contractor's own forces = (A+B+C)

For Work Performed by Subcontractors:

D = Lowest of three subcontractor quotes

Total for Non Pre-priced Tasks performed by Subcontractors= D

- d. After the cost for a Non Pre-priced Task has been approved, the County may determine that such cost shall be fixed for all future Price Proposals and will not

require three (3) quotes for price determination. The County reserves the right to request the Contractor provide current quotes for any Non Pre-priced Task approved previously.

- e. The County's determination as to whether a task is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive.

F. Contractor's Price Proposal Package:

- (1) The Contractor's Price Proposal Package shall include, at a minimum:
 - a. Price Proposal (Detail and Summary)
 - b. Non Pre-priced Task Support (if applicable)
 - c. Catalog Cuts, Technical Data Or Samples
 - d. List Of Anticipated Subcontractors, Anticipated Subcontract Values
 - e. Proposed Progress Schedule
 - f. Certificates For Any Special Insurance Required
 - g. Sample Warranties Or Guarantees For Materials, Equipment Or Systems Proposed
- (2) The Contractor's Price Proposal Package shall be submitted by the date indicated on the RFPP. All incomplete Price Proposal Packages shall be rejected. The time allowed for preparation of the Contractor's Price Proposal Package will depend on the complexity and urgency of the Task Order but should average between seven (7) and fourteen (14) days. On complex Task Orders, such as Task Orders requiring extensive approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the Price Proposal Package and will be so reflected in the Price Proposal Package due date entered on the RFPP.
- (3) The Contractor shall provide all Incidental Design services required in connection with a particular Task Order including drawings and information required for filing.
- (4) Contractor shall make all necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings and sketches, calculations and other documents and information that may be required thereof. If the Contractor is required to pay an application fee for filing a Project, a fee to obtain a VDOT Land Use Permit, or any other permit fee to any City, State or some other government or regulatory agency, then the amount of such fee paid by the

Contractor for which a receipt is obtained shall be treated as a reimbursable task for which the County will reimburse the Contractor dollar for dollar (1:1, no markup). All County permit fees shall be waived. The Contractor may include the fees incurred in its Price Proposal. The costs of all activities required to obtain the permits (including expediting services) will be at the Contractor's expense.

- (5) In emergency situations that may include or entirely consist of minor maintenance and repair Task Orders requiring immediate completion, the Task Order Price Proposal Package may be required quickly and the due date will be so indicated on the RFPF or, as described in Section 6.8H, the Contractor may be directed to begin the Work immediately with the paperwork to follow.
- (6) Price Proposals may not contain exclusions that conflict with any requirements in the Contract Documents. Any Price Proposal submitted that contains exclusions may be rejected as non-responsive.

G. Review of the Price Proposal Package and Issuance of a Task Order:

- (1) The County will evaluate (a) the entire Price Proposal and proposed tasks therein and compare these with the DSOW and any estimate the County may have prepared to determine the reasonableness of approach, including the nature and quantity of tasks proposed and the means and methods utilized, and; (b) all other components of the Price Proposal Package.
- (2) The County reserves the right to reject the Contractor's selection of Subcontractors on individual Task Orders. Failure to include the Subcontractor list in the Price Proposal Package submitted on each Task Order shall be cause for rejection of the Price Proposal as non-responsive.
- (3) The County reserves the right to reject a Price Proposal, or any other component of the Price Proposal Package, for any reason. The County also reserves the right not to issue a Task Order if it is determined, in the sole judgment of the County, not to be in the County's best interest. The Contractor shall have no claim to recover any costs arising out of or related to the development of the Price Proposal Package including but not limited to the costs to attend the Joint Scope Meeting, review of the DSOW, all costs associated with preparing a Price Proposal (and any other component of the Price Proposal Package), any Subcontractor costs incurred, and the costs to review the Price Proposal with the County. The County may pursue the performance of such Work by other means.

- (4) By submitting a signed Price Proposal to the County, the Contractor agrees to accomplish the Work set forth in the Detailed Scope of Work in accordance with the Request for Price Proposal at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal prior to delivering it to the County.
- (5) Each Task Order provided to the Contractor shall reference the Detailed Scope of Work and set forth the price to be paid (Task Order Amount) and the Task Order Completion Time. All clauses of the Contract shall be applicable to each Task Order. Each Task Order shall be accepted by the Contractor and approved by the County. A signed copy of the Task Order will be provided to the Contractor. Each Task Order shall include, as a minimum, the following information:
 - a. Task Order Number
 - b. Project Location
 - c. Brief Project Description
 - d. Referenced Detailed Scope of Work and RFPP
 - e. Supplemental Technical Specifications (if applicable)
 - f. Task Order Completion Time
 - g. Acceptance Signature Block for the Contractor
 - h. Approval Block for the County's Authorized Representative
 - i. Notice to Proceed (NTP) Date

- H. In the event that an emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the County. The Contractor shall begin Work as directed, notwithstanding the absence of a fully developed Request for Price Proposal, DSOW, or Task Order. The Contractor shall be compensated in accordance with the Task Order Pricing Schedule and Non Pre-priced Tasks as if the Work had been ordered under the standard ordering procedure.
- I. Each Task Order issued is subject to the Agreement's terms and conditions.
- J. Any Task Order may require the performance of Work at multiple Sites.
- K. Unless otherwise authorized in writing by the County, the Contractor shall make no change which will increase either the Task Order Completion Time or the Task Order Amount.

6.9 Existing Conditions

By executing a Task Order, the Contractor represents that it has visited the Project Site(s) and familiarized itself with the local conditions under which the Work is to be performed. The County does not undertake to represent or warrant Site or local conditions.

6.10 Measurements and Dimensions

By Ordering Material or doing Work which is dependent upon coordination with existing building conditions, the Contractor shall verify all dimensions, elevations, grades and pitch by taking measurements at the building or Site and shall be responsible for the correctness of the same.

6.11 Commencement and Prosecution of the Work

A. Timing

- (1) The Contractor must commence Work on the date set forth in the Task Order. Time being of the essence, the Contractor shall thereafter prosecute the Work diligently, using such means and methods of construction as will assure Final Completion within the Task Order Completion Time set forth in each Task Order.

B. Supervision/Superintendent

- (1) The Contractor shall supervise and direct the Work, using his best skill and attention and he shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work.
- (2) The Contractor shall keep on the Site, during the performance of all Work, a competent, foremen/superintendent who is fluent in English, and any necessary assistants, all satisfactory to the County. The Contractor's project manager/project lead (if different than the foremen/superintendent) must also be fluent in English. Neither the foremen/superintendent nor the project manager/project lead shall be changed for the length of a Task Order Project, except with the prior consent of the County, unless he/she proves to be unsatisfactory to the Contractor and ceases to be in his employ. The on-site superintendent shall represent the Contractor and have authority to act for the Contractor.

C. Project/Contract Meetings

- (1) The Contractor and Subcontractors or their qualified representatives shall attend meetings with County's representatives, at a frequency as determined by the County, for the purpose of coordinating or expediting the Work.

6.12 Progress Schedules/Task Order Completion Time

- A. To enable the Work to be laid out and prosecuted in an orderly and expeditious manner, the Contractor shall submit with each Price Proposal a Progress Schedule, in bar chart or critical path method form, showing:
 - (1) The anticipated time of commencement and completion of each of the critical operations/subdivisions of the Work to be performed under the Task Order;
 - (2) The sequence and interrelationship of each of these operations/subdivisions with the others and with those of other related Task Orders (if any); and,
 - (3) The estimated time required for fabrication or delivery, or both, of critical materials and equipment required for the Work.
- B. Progress Schedules will be negotiated separately for each Task Order. The Contractor's proposed Progress Schedule shall be revised as necessary and as directed by the County, until finally approved by the County, and after such approval, shall be strictly adhered to by the Contractor.
- C. Each Task Order issued shall contain a Notice to Proceed Date (NTP) and a Task Order Completion Time stated in calendar days. The Task Order Completion Time shall include Work to be performed by others under subcontract and provide ample time for anticipated inspections.
- D. If the Contractor fails to adhere to the approved Progress Schedule, he must promptly adopt such other or additional means and methods of construction as will make up the time lost and will assure Final Completion in accordance with such Progress Schedule.
- E. If the Task Order Completion Time is determined to be so short that a Progress Schedule is not necessary or useful (as solely determined by the County) the requirement to submit a Progress Schedule with the Price Proposal Package may be waived in its entirety. However, the Contractor will communicate a proposed Task Order Completion Time (in calendar days) with the submission of the Price Proposal Package.

6.13 Date for Completion

The Contractor must complete the Work within the Task Order Completion Time specified in each Task Order.

6.14 Determining Date of Final Completion

- A. Final inspection of the Work by the County shall be made within five (5) days after receipt of the Contractor's written request. The Work will be deemed finally complete as of the date of such inspection if, upon such inspection, the County determines that the Contractor has achieved Final Completion of the Task Order.

- B. However, if such inspection, in the sole opinion of the County, reveals items of Work still to be performed, the Contractor shall promptly perform them and then request a re-inspection.

6.15 Delays

Time is of the essence. If delay is foreseen, the Contractor shall give immediate written notice to the Division of Procurement. The County has the right to extend the Task Order Completion Date if reasons appear, in the sole judgment of the County, to be valid. Contractor must keep the County advised at all times of the status of the Task Order Progress Schedule. Failure to achieve Final Completion within the Task Order Completion Time (without accepted reasons) or failure to meet Specifications, may result in the County's right to enforce other rights and remedies against Contractor as in 6.16 (B), and authorizes the Division of Procurement to purchase materials, equipment and services elsewhere and charge full increase in cost and handling to defaulting Contractor.

6.16 Time Extensions for Weather

- A. The Task Order Completion Time applicable to each Task Order will not be extended due to inclement weather conditions that are normal to the general locality of Work Site. The Task Order Completion Time applicable to each Task Order includes an allowance for workdays (based on a five (5) day workweek) which, according to historical data, may not be suitable for construction work.
- B. The following is the schedule of monthly anticipated normal inclement weather workdays for the Project location (applicable to each and every Task Order) and will constitute the base line for monthly weather time extension evaluations.

ANTICIPATED NORMAL INCLEMENT WEATHER WORK-DAYS INCLUDED IN THE CONTRACT TIME OF PERFORMANCE											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
7	7	7	7	9	7	7	7	6	6	6	7

- C. The Contractor, in his planning and scheduling of the Work as required by the Contract Documents, shall allow for the normal inclement weather for the locality of the Work Site. If the Contractor believes that the progress of the Work has been adversely affected and that it will directly result in a failure to achieve Final Completion within the Task Order Completion Time, as a result of weather conditions above and beyond the amount normally expected, he

shall submit a written request to the County for an extension of the Task Order Completion Date.

- D. The Contractor shall not be entitled to any money damages whatsoever for any delays resulting from inclement weather, whether normal or abnormal, foreseeable or unforeseeable. The Contractor and County stipulate and agree that for delays due to weather the Contractor's sole relief is a time extension granted in accordance with this Section 6.16 Time Extensions for Weather.

6.17 Changes in the Work

A. County's Right to Make Changes

- (1) The County, without invalidating the Agreement, may at any time change the Detailed Scope of Work referenced in a Task Order by ordering additions to, deletions from, or modifications to the Work. The original Task Order will remain the same and a supplemental Task Order will be developed in accordance to the Ordering Procedure (Section 6.8) for developing all Task Orders set forth in the Agreement. The Contractor hereby expressly agrees that the Contractor shall have no right to a claim for damages or extended overhead because of changes made by the County. All such changes shall be performed under the conditions of the original Task Order and the underlying Agreement, except that any claim for extension of Task Order Completion Time caused thereby shall be adjusted at the time of signing of the Supplemental Task Order. All such changes in the Detailed Scope of Work shall be authorized only by a Supplemental Task Order signed by the County.

B. Cost to the County for Changes

The cost or credit to the County resulting from a change in the Detailed Scope of Work shall be calculated in accordance to the Ordering Procedure (Section 6.8) for developing all Task Orders set forth in the Agreement.

6.18 Business, Professional, and Occupational License Requirement

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

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

6.19 Payment of Taxes

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

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

6.20 Insurance

- A. The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract.
- B. The Contractor shall, during the continuance of all work under the Contract provide, and require that its subcontractors provide, the following:
 - 1. Maintain Workers' Compensation and Employer's Liability to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
 - 2. The Contractor agrees to maintain Comprehensive General Liability insurance to protect the Contractor, its subcontractors, and the interest of the County, its officers, employees, and agents against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverage for explosion, collapse, and underground hazards, where required.
 - 3. The Contractor agrees to maintain owned, non-owned, and hired Automobile Liability insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor. In addition, all mobile equipment used by the Contractor in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.
 - 4. Builder's Risk Policy:

The Contractor shall provide Builder's Risk and Fire and Extended Coverage insurance to protect the County and Contractor and subcontractors. Such insurable value shall reflect any increases to the Contract amount through Change Orders. Policy to be in Builder's Risk Completed Value forms, including the following:

- a. Policies shall be written to include the names of Contractors and County and the words "as their interest may appear";
 - b. All insurance shall be in effect on or before the date when construction work is to commence; and
 - c. All insurance shall be maintained in full force and effect until the final acceptance of the project by the County.
5. The Contractor shall purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents. This insurance shall include the interests of the County, the Contractor and subcontractors.

C. The Contractor agrees to provide the above referenced policies with the following limits. Liability insurance limits may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

1. Workers' Compensation:	
Coverage A:	Statutory
Coverage B:	\$100,000
2. General Liability:	
Per Occurrence:	\$1,000,000
Personal/Advertising Injury:	\$1,000,000
General Aggregate:	\$2,000,000
Products/Completed Operations:	\$2,000,000
Fire Damage Legal Liability:	\$100,000

GL Coverage, excluding Products and Completed Operations, should be on a Per Project Basis

3. Automobile Liability:	
Combined Single Limit:	\$1,000,000
4. Builders' Risk:	100% of Value*

*100% of the insurable value of the Contract. Insurable value does not include site acquisition, site work, grading, infrastructure etc.

5. Boiler & Machinery: (If applicable) \$1,000,000

D. The following provisions shall be agreed to by the Contractor:

1. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five (45) day written notice to the County. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

2. Liability Insurance "Claims Made" basis:

If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:

a. Agree to provide, prior to commencing work under the Contract, certificates of insurance evidencing the above coverage for a period of five (5) years after final payment for the Contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's or subcontractor's work under this Contract, or

b. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

3. a. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VII.

b. European markets including those based in London, and the domestic surplus lines market that operate on a non-admitted basis are exempt from this requirement provided that the Contractor's broker can provide financial data to establish that a market's policyholder surpluses are equal to or exceed the surpluses that correspond to Best's A:VII Rating.

4.
 - a. The Contractor will provide an original signed Certificate of Insurance and such endorsements as prescribed herein.
 - b. The Contractor will secure and maintain all insurance certificates of its subcontractors which shall be made available to the County on demand.
 - c. The Contractor will provide on request certified copies of all insurance coverage related to the Contract within ten (10) business days of demand by the County. These certified copies will be sent to the County from the Contractor's insurance agent or representative. Any request made under this provision will be deemed confidential and proprietary.
 - d. Any certificates provided shall indicate the Contract name and number.
5. The County, its officers and employees shall be endorsed to the Contractor's Automobile and General Liability policies as an "additional insured" with the provision that this coverage "is primary to all other coverage the County may possess." A Certificate of Insurance evidencing the additional insured status must be presented to the County along with a copy of the Endorsement.
6. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities provisions of the Contract.
- E. Contractual and other Liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the County from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors.
- F. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the County. The Contractor shall be as fully responsible to the County for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- G. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
- H. The Contractor and all subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.

- I. Any loss insured under subparagraph 6.21.B.4 is to be adjusted with the County and made payable to the County as trustee for the requirements of any applicable mortgagee clause. The Contractor shall pay each subcontractor a just share of any insurance monies received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each subcontractor to make payments to his sub-subcontractors in similar manner.
- J. When the County finds it necessary to occupy or use a portion or portions of the work prior to substantial completion thereof, such occupancy shall commence with a mutual agreement between the County and Contractor. The insurance company or companies providing the property insurance recognize this contingency and shall provide evidence of such endorsement prior to commencement of work. This insurance shall not be canceled or lapsed for the unoccupied part of the building on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
- K. If an "ACORD" Insurance Certificate form is used by the Contractor's insurance agent, the words "endeavor to" and "... but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.
- L. The Contractor agrees to waive all rights of subrogation against the County, its officers, employees, and agents.

6.21 Hold Harmless

The Contractor shall, indemnify, defend, and hold harmless the County from loss from all suits, actions, or claims of any kind brought as a consequence of any act or omission by the Contractor. The Contractor agrees that this clause shall include claims involving infringement of patent or copyright. For purposes of this paragraph, "County" and "Contractor" includes their employees, officials, agents, and representatives. "Contractor" also includes subcontractors and suppliers to the Contractor. The word "defend" means to provide legal counsel for the County or to reimburse the County for its attorney's fees and costs related to the claim. This section shall survive the Contract. The County is prohibited from indemnifying Contractor and/or any other third parties.

6.22 Safety

All Contractors and subcontractors performing services for the are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all Contractors and subcontractors shall be held responsible for the safety of their employees and

any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.

6.23 Material Safety Data Sheet

By law, the County of Loudoun will not receive any materials, products, or chemicals which may be hazardous to an employee's health unless accompanied by a Material Safety Data Sheet (MSDS) when received. This MSDS will be reviewed by the County, and if approved, the materials, product or chemical can be used. If the MSDS is rejected, the Contractor must identify a substitute that will meet the County's criteria for approval.

6.24 Responsibilities

The Contractor shall be responsible for all damages to persons or property that occurs as a result of his fault or negligence. Contractor shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others. Contractor shall also be responsible for all materials delivered and Work performed until completion and acceptance of the entire Work, except for any completed unit of construction thereof which theretofore may have been accepted.

6.25 Work Standards

All Work performed by the Contractor shall meet the standards set forth by the Contract Documents and all other applicable regulations, codes (federal, state and local), directives, equipment specifications and manufacturer's instructions and recommendations inclusive of equipment or vehicles, supplies, parts or materials utilized to provide the required Work.

6.26 Incidental Design Services

A. The Detailed Scopes of Work under this Contract may, on occasion, require the Contractor to provide Incidental Design services. Examples of Incidental Design include abbreviated drawings, sketches, calculations, shop drawings, modified or supplemental Technical Specifications, and as-built drawings. Accordingly, the Contractor shall:

- (1) Ensure that any Incidental Designs meet all applicable Local, State and Federal (when applicable) regulations or codes and conform strictly to the guidelines and criteria outlined in the Technical Specifications. In case of uncertainty of detail, procedure or conflict, the Contractor shall request additional instruction from the County. The Contractor is responsible for producing competent, properly coordinated and thorough Incidental Design documents.
- (2) Visit all Sites of proposed Work, making the measurements necessary to delineate the extent, character and type of Work required at the Project Sites.

- (3) The Contractor shall bear all costs for such development of said Incidental Design documents.

6.27 As-Built Drawings, Shop Drawings and Samples

The Contractor shall review, approve and submit to the County all As-Built Drawings, Shop Drawings, Product Data and Samples required by and identified as part of the Detailed Scope of Work for approval. The Work shall be in accordance with approved submittals. All As-Built and Shop Drawings shall be provided in a media acceptable to the County.

6.28 Detailed Scope of Work (Including any Drawings) at the Site

The Contractor shall keep at the Site one copy of all Task Orders, Detailed Scopes of Work and associated drawings and applicable Specifications in good order and available to the County at the Site.

6.29 Permits

- A. It shall be the responsibility of the Contractor(s) to comply with County and VDOT ordinances by securing the necessary County Permits, VDOT Land use Permits, to be responsible for obtaining any and all other necessary licenses and permits, and for complying with any applicable federal, state, local or municipal laws, codes or regulations in connection with the prosecution of the Work.
- B. The County shall waive any fees involved in securing permits within the County's jurisdiction. Any actual fees paid by the Contractor to any other governmental entity for permitting will be treated as a reimbursable task for which the County will reimburse the Contractor dollar for dollar (1:1, no markup). The Contractor may include the fees incurred in its Price Proposal. The costs of all activities required to obtain the permits (including expediting services) will be at the Contractor's expense.
- C. Contractor shall acquire all required permits no less than 30 days from the issuance of the Task Order.

6.30 Notice of Required Disability Legislation Compliance

Loudoun County government is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990.

Specifically, Loudoun County, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of

State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

6.31 Ethics in Public Contracting

The provisions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act as set forth in the 1950 Code of Virginia, as amended, shall be applicable to all Contracts solicited or entered into by the County. A copy of these provisions may be obtained from the Purchasing Agent upon request.

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

6.32 Employment Discrimination by Contractors Prohibited

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

- A. During the performance of this Contract, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
 - 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.
- B. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

6.33 Drug-free Workplace

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

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

For the 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 Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

6.34 Faith-Based Organizations

The County does not discriminate against faith-based organizations.

6.35 Immigration Reform and Control Act of 1986

By entering this Contract, the Contractor 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.

6.36 Exemption from Taxes

Pursuant to Va. Code § 58.1-609.1, the County is exempt from Virginia State Sales or Use Taxes and Federal Excise Tax, therefore the Contractor shall not charge the County for Virginia State Sales or Use Taxes or Federal Excise Tax on the finished goods or products provided under the Contract. However, this exemption does not apply to the Contractor, and the Contractor shall be responsible for the payment of any sales, use, or excise tax it incurs in providing the goods required by the Contract, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project. Nothing in this section shall prohibit the Contractor from including its own sales tax expense in connection with the Contract in its Contract price.

6.37 Condition of Items

All items shall be new, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated herein. Verbal agreements to the contrary will not be recognized.

6.38 Substitutions

NO substitutions, additions or cancellations, including those of key personnel, are permitted after award without written approval by the Division of Procurement. Where specific employees are proposed by the Contractor for the work, those employees shall perform the work as long as those employees work for the Contractor, either as employees or subcontractors, unless the County agrees to a substitution. Requests for substitutions will be reviewed by the County and approval may be given by the County at its sole discretion.

6.39 Workmanship, Inspection and Employee Conduct

A. All work under this Agreement shall be performed in a skillful and workmanlike manner. In the event the Consultant provides services that do not conform to the Contract Documents, the Consultant will re-perform such services at no additional cost to the County. The Consultant will be given an opportunity to correct the deficiencies in work. If the deficiency persists beyond thirty (30) days, the County may exercise its rights to terminate the Agreement pursuant to Section 6.53 of this RFP; provided, however, that if the Consultant is diligently pursuing a correction, the County may extend the time for the Consultant to cure the deficiency.

Additionally, the County may, from time to time, make inspections of the work performed under the resulting Agreement. Any inspection by the County does not relieve the Consultant of any responsibility in meeting the resulting Agreement requirements, and shall not constitute approval or acceptance of any work or deliverable.

B. The Consultant and its employees shall be professional and courteous at all times. The County reserves the right to require the Consultant to remove any Consultant employee from County service who the County deems unfit for service for any reason, not contrary to law. The County will provide written notice to the Consultant identifying the employee(s) to be removed and the date by which they must be removed from the project. The Consultant shall provide an approved replacement within thirty (30) days after such notice. This right is non-negotiable, and the Consultant agrees to this condition by accepting the resulting Agreement. The parties agree to work in good faith to address impacts to the project schedule as a result of the removal of project personnel.

C. The Consultant shall provide all of its employees working at County sites with photo identification (frontal face). This identification must be prominently displayed at all times. No one with a felony conviction may be employed under this Agreement. The Consultant MUST remove any employee from County service who is convicted of a felony during his or her employment.

6.40 Guarantee

The Contractor shall be required, at its expense, to correct any Work that is found not to be in conformance with the Contract Documents or due to faulty materials or installation which may occur for a period of one (1) year from the date of completed construction. The Contractor shall, at no expense to the County, replace any defective materials during the period of guarantee. The Contractor shall correct such Work within five (5) working days after written notice from the County.

6.41 Warranty

Contractor warrants to County that the construction, including all materials and equipment furnished as part of this Project, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents, and free of defects in materials and workmanship.

6.42 Cleaning Up

The Contractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or Work. Contractor shall be responsible for the removal of all trash at the end of each day, or more frequently as may be required by the Contract Administrator. At the completion of the Work, he shall remove all his rubbish from and about the building and all his tools, scaffolding and surplus materials and shall leave his Work "broom-clean" or its equivalent, unless more exactly specified in the Detailed Scope of Work.

6.43 Use of the Premises

The Contractor shall confine his plant, his apparatus, the staging and storage of materials, the operations of his forces and the Work to limits indicated by law, ordinances, permits or the Contract Documents and shall not unreasonably encumber the premises with his materials. The Contractor shall not load or permit any part of the Work to be loaded with weight that will endanger its safety. The Contractor shall enforce the County's instructions regarding signs, advertisements, fires and smoking.

6.44 Schedule of Bid Items Unit Prices

Unit Prices contained on the Bidder's Schedule of Bid Items and submitted with the bid shall be inclusive of all labor, materials, equipment, overhead, profit and management costs.

The quantities specified in this solicitation are estimates only and are given for the information of bidders and for the purpose of bid evaluation. They do not indicate the actual quantity that will be ordered since the actual volume will depend upon requirements that develop during the contract period.

6.45 Material Storage

Contractor assumes full, complete and non-delegable responsibility for the security of the equipment so stored. The Contractor assumes full, complete and non-delegable responsibility for determining that the material stored in

this area. Any damage as a result of the Contractor storing materials shall be repaired by the Contractor at no cost to the County.

6.46 Ordering, Invoicing and Payment

All work requested under this Contract shall be placed on a County issued Purchase Order. The Contractor shall not accept credit card orders or payments.

Contractor shall provide a single invoice in duplicate at the end of each project, such statement to include detailed breakdown of all charges, and shall be based on completion of tasks or deliverables for the project. Contractor and County may agree to partial or multiple payments when applicable. Allowance of partial payments will be detailed in the individual Task Order.

Invoices shall be submitted to the "Bill To" address listed on each Task Order (each department/division of the County utilizing this contract may have their own "Bill To" address).

Upon receipt of invoice and final inspection and acceptance of the equipment and/or service, the County will render payment, less retainage if applicable, within forty-five (45) days unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Contractor shall provide complete cooperation during any such investigation. Unless invoice items are questioned, the interest shall accrue at the rate of one percent (1%) per month for any late payments.

Individual Contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide their federal employer identification number on the pricing form.

6.47 Payments to Subcontractor

Within seven (7) days after receipt of amounts paid by the County for work performed by a subcontractor under this Contract, the Contractor shall either:

- A. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- B. Notify the County and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The Contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item B. above.

Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment

and interest requirements as set forth above with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of the County.

6.48 Construction Contract Performance and Payment Bonds

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

- A A performance bond satisfactory to the County, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the faithful performance of the Contract in strict conformity with the plans, specifications and conditions of the Contract. The bond shall be in the amount of \$300,000; and
- B A payment bond satisfactory to the County, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the Contract. Labor and materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site. The bond shall be in the amount of \$300,000.
- C. The amount of the performance and payment bonds shall increase without the necessity of any action by the County, to the same extent the Contract Price increases due to changes.
- D. The condition of the bonds is that if the Contractor shall in every respect discharge itself from its obligations under the Agreement, which Agreement is to be incorporated into the bonds by reference, then the bonds shall be void; otherwise, the bonds shall remain in full force and effect until released by the County.
- E. Surety shall expressly WAIVE any right to receive notice, review, approve any revisions to the plans, profiles, and specifications referred to in the Agreement and no such revision shall in any way affect the obligation of the Surety under the bonds.
- F. Surety shall be deemed to consent to any extension of time granted to Contractor to permit performance of the obligations of the Agreement, whether or not Surety receives notice of such extension

of time, and the liability of Surety under the bonds shall not be discharged or affected by any such extension of time.

- G. If at any time, any surety or sureties become insolvent or are determined by the County to be unable to adequately secure the interests of the County, the Contractor shall within thirty (30) days after such notice from County to do so, substitute an acceptable bond(s) in such form and sum and signed by such other sureties as may be satisfactory to County. The premium on such bond(s) shall be paid by the Contractor at no additional cost to the County provided reasonable justification can be provided by the County for its determination.
- H. A prime Contractor shall not be precluded from requiring each subcontractor to furnish a payment bond with surety thereon in an amount equal to one hundred percent (100%) of the Contract with such subcontractor.

6.49 Construction Contract Bond Forms and Copies; Alternative Forms

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

6.50 Assignment

The Agreement may not be assigned in whole or in part without the prior written consent of the Division of Procurement. The rights and obligations of the Contractor are personal and may be performed only by the Contractor. Any purported assignment that does not comply with this provision is void. This Agreement is binding upon and inures to the benefit of the parties and their respective permitted successors and assigns.

6.51 County's Right to Carry Out Work

- A. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written Notice from the County to commence and continue correction of such default or neglect with diligence and promptness, the County may, without prejudice to any other remedy it may have, rectify such deficiencies as outlined in Section 6.52 County's Right to Perform Work and to Award Separate Contracts. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for

any Architect/Engineer (“A/E”) additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County.

- B. Neither the County nor the A/E nor their officers, agents, assigns or employees are in any way liable or accountable to the Contractor or its surety for the method by which work performed by the County, or at the County’s direction, or any portion thereof, is accomplished or for price paid therefore. Notwithstanding the County’s right to carry out a portion of the Work, maintenance and protection of the Work remains the Contractor’s and Surety’s responsibility as provided for in the Performance Bond and Guarantee of Contractor.

6.52 County’s Right to Perform and Award Separate Contracts

- A. The County reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the Project or other work on the site.
- B. When separate contracts are awarded for different portions of the Project or other Work on the site, the term Contractor in the Contract Documents in each case shall mean and Contractor who executes each separate Agreement.
- C. The County reserves the right to perform Work related to any Task Order with its own forces and to award separate contracts in connection with other portions of any Task Order or other Work on the Site under these or similar Conditions of the Contract. The Contractor shall afford other Contractors working on the same Site reasonable opportunity for the introduction and storage of the other Contractor’s materials and the execution of the other Contractor’s Work. The Contractor shall properly regulate, schedule, connect, and coordinate his Work with any other Contractors on Site.

6.53 Termination

Subject to the provisions below, this Contract may be terminated by the County upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the Contract may be extended upon written approval of the County until said work or services are completed and accepted.

A. Termination for Convenience

The County may terminate this Contract for convenience at any time in which case the parties will negotiate reasonable termination costs.

B. Termination for Cause

In the event of Termination for Cause, the thirty (30) days advance notice is waived and the Contractor shall not be entitled to termination costs.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years

If funds are not appropriated or otherwise made available to support continuation of the performance of this Contract in a subsequent fiscal year, then the Contract shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract.

6.54 Claims and Disputes Procedure

Intentionally Omitted

6.55 Severability

In the event that any provision shall be adjudged or decreed to be invalid by a court of competent jurisdiction, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

6.56 Governing Law/Forum

This Agreement shall be governed and construed in all respects by its terms and by the laws of the Commonwealth of Virginia, without giving effect to its conflicts of laws provisions. Any judicial action shall be filed in the appropriate court in the County of Loudoun, Virginia or in the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia or the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.

6.57 Conflict within the Contract Documents

Should there be a conflict between the Loudoun County Revisions to Division 1 General Provisions and the terms and conditions of this IFB, the IFB shall take precedence.

6.58 Water

A. The Contractor may on occasion need water to perform the work.

(1) In the event the Work is performed in an area served by a public water system (i.e., the Loudoun County Sanitation Authority) the Contractor will arrange for the water usage to be metered and the County will reimburse the Contractor. The Contractor may include the fees incurred in its Price Proposal.

- (2) In the event the Work is performed in an area not served by a public water system, the Contractor shall furnish the water and any related hauling and use shall be included in its Price Proposal.

6.59 Ingress/Egress, Staging and Site Restoration

- A. Ingress and egress shall be limited to designated easements of record and/or through written agreements with individual property owners. The County will direct this process and access details will be included in the Detailed Scope of Work associated with each specific Task Order.
- B. The parking and/or staging of Contractor vehicles, equipment, materials, etc., shall be limited to:
 - (1) Designated easements of record;
 - (2) Areas secured through written agreements with property owners;
 - (3) Designated parking areas subject to the laws of the City, County and the Commonwealth, as applicable.
- C. The Contractor is expected to display the utmost respect for the citizens of the County and their property during performance of the Work. All properties affected by the Work shall be restored, as nearly as possible, to their original condition unless directed otherwise by the County.

6.60 Licensure

To the extent required by the Commonwealth of Virginia (see e.g., 54.1-1100 *et seq.* of the Code of Virginia) or the County, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.

6.61 Authority to Transact Business in Virginia:

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

6.62 Criminal Background Checks

The Contractor shall submit the names, social security numbers, and other information of its employees when requested. This information will only be used by Loudoun County to obtain nation-wide criminal background checks when the County, in its sole discretion, determines it necessary for reasons of security or confidentiality. When this occurs, the Contractor shall not send any workers to the job site whose information has not been provided for the County's background check. If the Contractor needs to have materials delivered to the job site, deliveries from outside vendors must be approved in advance by the project manager. These background checks when requested will be performed at the County's expense.

6.63 County's Right to Stop Work

If the Contractor fails to correct defective Work as required herein or persistently fails to carry out the Work in accordance with the Contract Documents, the County, by a written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, this right of the County to stop the Work shall not give rise to any duty on the part of the County to exercise this right for the benefit of the Contractor or any other person or entity.

6.64 Notices

All notices and other communications hereunder shall be deemed to have been given when made in writing and either **(a)** delivered in person, **(b)** delivered to an agent, such as an overnight or similar delivery service, or **(c)** deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO CONTRACTOR:

TBD

TO COUNTY:

County of Loudoun, Virginia
Division of Procurement
Attn: Purchasing Agent

If sent via (a) or (b)

1 Harrison Street, S. E.
Leesburg, VA 20175

If sent via (c)

PO Box 7000
Leesburg, VA 20177

Notice is deemed to have been received: (i) on the date of delivery if delivered in person; (ii) on the first business day after the date of delivery if sent by same day or overnight courier service; or (iii) on the third business

day after the date of mailing, if sent by certified or registered United States Mail, return receipt requested, postage and charges prepaid.

6.65 Counterparts

This Contract and any amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Contract or any amendment or renewal. A signature by any party to this Contract provided by facsimile or electronic mail is binding upon that party as if it were the original.

6.66 Confidentiality

A. Contractor Confidentiality

The Contractor acknowledges and understands that its employees may have access to proprietary, business information, or other confidential information belonging to the County of Loudoun. Therefore, except as required by law, the Contractor agrees that its employees will not:

1. Access or attempt to access data that is unrelated to their job duties or authorizations as related to this Contract.
2. Access or attempt to access information beyond their stated authorization.
3. Disclose to any other person or allow any other person access to any information related to the County or any of its facilities or any other user of this Contract that is proprietary or confidential. Disclosure of information includes, but is not limited to, verbal discussions, FAX transmissions, electronic mail messages, voice mail communication, written documentation, "loaning" computer access codes and/or another transmission or sharing of data.

The Contractor understands that the County, or others may suffer irreparable harm by disclosure of proprietary or confidential information and that the County may seek legal remedies available to it should such disclosure occur. Further, the Contractor understands that violations of this provision may result in termination of the Agreement.

The Contractor understands that information and data obtained during the performance of this agreement shall be considered confidential, during and following the term of this Agreement, and will not be divulged without the Purchasing Agent's written consent and then only in strict accordance with prevailing laws. The Contractor shall hold all information provided by the County as proprietary and confidential, and shall make no unauthorized reproduction or distribution of such material.

B. County Confidentiality

In addition, the County understands that certain information provided by the Contractor during the performance of this Agreement may also contain

confidential or proprietary information. All information will be maintained in accordance with the Virginia Freedom of Information Act.

6.67 Survival of Terms

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

6.68 Non-Waiver

No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of this Agreement constitute a continuing waiver unless otherwise expressly provided.

7.0 INSTRUCTIONS TO BIDDERS

7.1 Preparation and Submission of Bids

- A. Before submitting a bid, read the ENTIRE solicitation including the Contract Terms and Conditions. Failure to read any part of this solicitation will not relieve a bidder of the Contractual obligations.
- B. Pricing must be submitted on IFB pricing form (Lump Sum) and the Task Order Schedule of Bid Items. Include other information, as requested or required.
- C. All bids must be submitted to the Division of Procurement in a sealed container. The face of the sealed container shall indicate the IFB number, time and date of opening and the title of the IFB.
- D. All bids shall be signed in ink by the individual or authorized principals of the firm.
- E. All attachments to the IFB requiring execution by the bidder are to be returned with the bids.
- F. Bids must be received by the Division of Procurement prior to 4:00 p.m., local Atomic time on the date specified on the cover of this IFB. Atomic time can be verified by visiting <https://time.gov/> and selecting Eastern Time. Requests for extensions of this time and date will not be granted, unless deemed to be in the County's best interest. Bidders mailing their bids shall allow for sufficient mail time to ensure receipt of their bids by the Division of Procurement by the time and date fixed for acceptance of the bids. Bids or unsolicited amendments to bids received by the County after the acceptance date and time will not be considered. Bids will be publicly accepted and logged in at the time and date specified above.
- G. Bids must be submitted via one of the following options:

US Mail to:
County of Loudoun, Virginia
Division of Procurement

PO Box 7000
Leesburg, Virginia 20177-7000.

or

Hand delivered to:
County of Loudoun, Virginia
Division of Procurement
1 Harrison Street, S.E., **1st Floor, Procurement Bids and Proposals Drop Box**
Leesburg, Virginia 20175.

or

Private carrier (UPS/FedEx) to:
Loudoun County Procurement
1 Harrison Street, S.E.,
ATTN: PROCUREMENT BIDS & PROPOSALS
Leesburg, Virginia 20175

Faxed and e-mailed bids will not be accepted.

Please note: Bidders choosing to submit bids via US Mail or UPS/FedEx should allow at least an additional twenty-four (24) hours in the delivery process to ensure bids are received on time.

Due to restrictions surrounding the COVID-19 pandemic, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, VA 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

ALL BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 P.M. Failure by a bidder to address and label their bids in accordance with the requirements of this section may result in bid being delivered to an incorrect location which will ultimately result in bid rejection for late submission.

- H. Each firm shall submit **one (1) original hard copy** and **one (1) electronic copy in a single PDF file on a USB flash drive** of their bid to the County's Division of Procurement as indicated on the cover sheet of this Invitation for Bid.
- I. A public bid opening will be held virtually using GoToMeeting at approximately 4:30 P.M. on the Acceptance date. See the GoToMeeting log in information provided below. To participate in the audio portion of the opening, please dial the number provided below and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using

GoToMeeting with the instructions provided below. Bidders may not participate in the bid opening in-person at this time.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/434262357>

You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (571) 317-3122
- One-touch: <tel:+15713173122,434262357#>

Access Code: 434-262-357

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/434262357>

7.2 Bidder Organization Requirements

The Bidder is defined as the single legal entity who will execute the Contract with the County. Regardless of the Bidders organization such as a corporation, limited liability company, general partnership, joint venture, limited partnership or other form of organization, Bidder shall at the due date of the bids, satisfy the requirements of the Virginia State Corporate Commission (SCC) as identified in these contract documents and possess a valid Federal Tax Identification number. Bids with multiple signatures from multiple firms will not be accepted.

If a Joint Venture submits a bid, a Joint Venture Agreement, signed by individuals authorized to bind each member of the Joint Venture into contracts or agreements, must be included in the bid and this Agreement is subject to approval by the Loudoun County Office of the County Attorney prior to contract award. If the Joint Venture Agreement is not provided in the bid or is not approved by the Loudoun County Office of the County Attorney, the bid may be rejected as non-responsive and or non-responsible. Each member of the Joint Venture should submit a Proof of Authority to Transact Business in Virginia form that is contained in this IFB.

7.3 Questions and Inquiries

Questions and inquiries, both oral and written, will be accepted from any and all bidders. However, when requested, complex oral questions shall be submitted in writing. The Division of Procurement is the sole point of contact for this solicitation unless otherwise instructed herein. Unauthorized contact

with other Loudoun County staff regarding the IFB may result in the disqualification of the bidder. Inquiries pertaining to the Invitation for Bid must give the IFB number, time and date of opening, and the title of the IFB. Material questions will be answered in writing with an Addendum provided, however, that all questions are received **by 5:00 p.m. May 25, 2021**. It is the responsibility of all bidders to ensure that they have received all Addendums and to include signed copies with their bid. Addendums can be downloaded from www.loudoun.gov/procurement.

7.4 Exceptions/Additions

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

7.5 Firm Pricing for County Acceptance

Bid price must be firm for County acceptance for a minimum of one hundred and twenty (120) days from bid opening date. "Discount from list" bids are not acceptable unless requested.

7.6 Proprietary Information

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

7.7 Authority to Bind Firm in Contract

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

If a sole proprietorship, the owner may sign.

If a general partnership, any general partner may sign.

If a limited partnership, a general partner must sign.

If a limited liability company, a “member” may sign or a “manager” must sign if so specified by the articles or organization.

If a regular corporation, the CEO, President or Vice-President must sign. Others may be granted authority to sign but the County requires that a corporate document authorizing him/her to sign be submitted with bid.

7.8 Withdrawal of Construction Contract Bid Due to Error

A bidder for a construction Contract may withdraw its bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing of its claim of right to withdraw its bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

7.9 Incidental and Consequential Damages

No bidder may require contractual language limiting or eliminating liability for incidental and consequential damages.

7.10 Late Bids

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

7.11 Rights of County

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

7.12 Prohibition as Subcontractors under Competitive Sealed Bidding

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

7.13 Vendor/Contractor Preference in Tie Bids

The Division of Procurement and all other departments of the County making purchases of goods, services and construction shall give preference to goods,

services and construction sold by County and State vendors, in that order, in all cases of tie bids, quality and service being equal.

7.14 Antitrust Violations

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

7.15 Basis for Award

Contract award may be made to one (1) or more firms, with a maximum of three (3). Contract award will be made to the lowest responsive and responsible bidder based on the Lump Sum. If the County so elects, subsequent contracts may be awarded to the responsive and responsible bidders with the second and third lowest Lump Sums.

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

7.16 Negotiation with the Lowest Responsible Bidder

Unless all bids are cancelled or rejected, the County reserves the right granted by § 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available whenever such low bid exceeds the available funds. Negotiations with the low bidder may include both modifications of the bid price and the specifications/scope of work to be performed.

7.17 Notice of Award

A Notice of Award will be posted on the County's web site (www.loudoun.gov/procurement).

7.18 Protest

Bidders may refer to §§ 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process. Protests shall be submitted to the Director, Department of Finance and Budget.

7.19 Construction Contract Bid Security

Bid security is required for this Contract. Bid security shall be a bond provided by a surety company selected by the bidder and authorized to do business in Virginia, or the equivalent in cash, or otherwise supplied in a form satisfactory to the County. Bid security shall be in an amount equal to at least \$15,000. When the Invitation for Bid requires security, non-compliance requires that the bid be rejected unless it is determined that the bid fails to comply in a non-substantial manner with the security requirements.

7.20 Construction Contract Bond Forms and Copies; Alternative Forms

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

7.21 Debarment

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

7.22 Proof of Authority to Transact Business in Virginia

A bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder is not required to be so authorized. Any bidder described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by County Administrator.

7.23 Acknowledgement of Contract

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

7.24 W-9 Form Required

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

7.25 Insurance Coverage

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

7.26 Unit Price

In case of errors in extension of pricing from the Schedule of Bid Items, individual unit prices shall govern.

7.27 Condition of Bidding

If required the Contractor agrees to execute and deliver the County-Contractor Agreement on the following pages, in the prescribed form, within ten (10) days of notice of award from the County.

7.28 Legal Action

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



Loudoun County, Virginia

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

PRICING PAGE

Task Order Contract for Traffic Calming and Other Safety Related Improvements to include Related Road Maintenance

(Insert Company Name Above)

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

1. Task Order Contract for Traffic Calming and Other Safety Related Improvements to Include Related Road Maintenance

**Total Cost from Attachment 3 = \$ _____
(for evaluation purposes only)**

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

ITEM:	INCLUDED: (X)
1. W-9 Form (7.24):	_____
2. Certificate of Insurance (7.25):	_____
3. Addenda, if any (Informality):	_____
4. One (1) electronic copy on USB Flash drive	_____

B. Failure to provide the following items with your bid shall be cause for rejection of bid as non-responsive and/or non-responsible. It is the responsibility of the bidder to ensure that it has received all addenda and to include signed copies with their bids (7.3).

ITEM:	INCLUDED: (X)
-------	---------------

- 1. Addenda, if any: _____
- 2. Payment Terms: _____ net 30 or _____ other
- 3. Proof of Authority to Transact Business
in Virginia Form: _____
- 4. Bid Bond (7.19): _____
- 6. Minimum Qualifications to include (Section 5.0):
 - a. Debarment History, if required (5.1) _____
 - b. References (5.2) _____
 - c. Virginia Contractor Class A license, (5.3):
(Include copy of Class A Contractor License certificate in bid.) _____
 - d. Bonding verification Letter (5.4) _____
- 7. Joint Venture Agreement (7.2)
(If required) _____

Person to contact regarding this bid: _____

Title: _____ Phone: _____ Fax: _____

E-mail Address: _____

Name of person authorized to bind the Firm (7.7): _____

Signature: _____ Date: _____

Address: _____

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



Loudoun County, Virginia

www.loudoun.gov/procurement

Department of Finance and Budget

Division of Procurement

1 Harrison Street, S.E., 4th Floor, Leesburg, VA 20175

PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

THIS FORM MUST BE SUBMITTED WITH YOUR BID/PROPOSAL. FAILURE TO INCLUDE THIS FORM SHALL RESULT IN REJECTION OF YOUR BID/PROPOSAL

Pursuant to Virginia Code §2.2-4311.2, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid/proposal the identification number issued to it by the State Corporation Commission ("SCC"). Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the offeror is not required to be so authorized. Any bidder/offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee.

If this bid/proposal for goods or services is accepted by the County of Loudoun, Virginia, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information. **PLEASE NOTE: The SCC number is NOT your federal ID number or business license number.**

A. _____ Bidder/offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

B. _____ Bidder/offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

C. _____ Bidder/offeror does not have an Identification Number issued to it by the SCC and such bidder/offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

Please attach additional sheets of paper if you need to explain why such bidder/offeror is not required to be authorized to transact business in Virginia.

Legal Name of Company (as listed on W-9)

Legal Name of Bidder/Offeror

Date

Authorized Signature

HOW DID YOU HEAR ABOUT THIS INVITATION FOR BID?

RFQ 310782

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

Other _____

SERVICE RESPONSE CARD

RFQ 310782

Date of Service: _____

How did we do?

Please let us know how we did in serving you. We'd like to know if we are serving you at an acceptable level.

How would you rate the way your request for this document was handled?

Excellent Good Average Fair Poor

Did you have contact with Procurement staff?

How would you rate the manner in which you were treated by the Procurement staff?

Excellent Good Average Fair Poor

How would you rate the overall response to your request?

Excellent Good Average Fair Poor

COMMENTS: _____

Thank you for your response!
 We can better assess our service to *you* through feedback from *you*.

Your Name: _____

Address: _____

Phone: _____ (day) _____ evening

**Please return completed form to: Assistant Purchasing Agent • Procurement •
 PO Box 7000 • Leesburg, VA 20177**

ATTACHMENT 1:
COUNTY - CONTRACTOR AGREEMENT

**Task Order Contract for Traffic Calming, Other Safety Related Improvements
and Cleanup**

THIS AGREEMENT for a Task Order Contract (Contract) for General Construction Work, executed in three (3) originals, effective this _____ day of _____, 2021, is by and between the **COUNTY OF LOUDOUN, VIRGINIA** (herein referred to as the "County"), and _____ (herein referred to as the "Contractor").

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

Article 1
CONTRACT DOCUMENTS

- 1.1 This Agreement including the Contract Documents specified below, in their entirety, comprise the Contract, and all are as fully a part hereof as if attached to this Agreement or repeated herein.
- 1.2 The Contract Documents consist of:
 - A. Written Modifications to the Agreement, signed by both parties, issued after the Agreement has been executed
 - B. This Agreement
 - C. The County's Invitation for Bid (IFB) No. RFQ 310782 (which includes the Contract Terms and Conditions), including any Addenda
 - D. IFB Attachment 2 – The Loudoun County Revisions to the VDOT Division 1 General Provisions
 - E. IFB Attachment 3- The Task Order Schedule of Bid Items
 - F. The Contractor's bid submission (all parts)
 - G. Notice of Award
 - H. Performance and Labor and Material Payment Bonds and Insurance Certificates provided
 - I. Task Orders, Requests for Price Proposals, and Detailed Scopes of Work (including and referenced supplemental Specifications and/or drawings) issued under the Contract; and
 - J. The Contractor's Price Proposals submitted under the Contract.

The documents listed in Section 1.2 are in order of precedence should a discrepancy amongst the Contract Documents arise.

Article 2
STATEMENT OF WORK

- 2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work for each Project, as required by the Contract Documents.

Article 3
CONTRACTOR

- 3.1 The Contractor is an independent Contractor and nothing in this Agreement shall be construed as implying the relationship of principal and agent or employer and employee between the County and Contractor, the Contractor's employees or designees. The independent Contractor shall exercise daily control over its employees' activities.

Article 4
TIME OF COMMENCEMENT AND COMPLETION

- 4.1 The Base Term of the Contract is one (1) year from the date of the execution of this Agreement. The Contract may be renewed based upon on the same terms and conditions, other than Bid Adjustment Factors, at the expiration of the Base Term upon mutual agreement of the parties. The renewal may be for up to four (4) additional one-year periods (Option Terms). The total duration of this Contract, inclusive of all Option Terms shall not exceed three (3) years.
- 4.2 The Contractor shall commence the Work promptly upon the date established in each Task Order under the Contract; and the Work shall progress with diligence and in the order which may be reasonably required.
- 4.3 Time is of the essence. The Contractor agrees to achieve Final Completion of the Work within the time specified in each Task Order (therein designated as the Task Order Completion Time).

Article 5
CONTRACT SUM

- 5.1 Contractor acknowledges the Contract is an indefinite-quantity contract for traffic calming and other related safety improvements to include related road maintenance.
- 5.2 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by modification or as otherwise provided in the Contract Documents, the County agrees to pay, and the Contractor agrees to accept as full payment, the Task Order Amount stated on each Task Order issued under the Contract in consideration of the due fulfillment of the conditions of the Contract.
- 5.3 The Contractor shall perform the tasks required by each individual Task Order issued pursuant to this Contract.

Article 6
PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that upon completion of each Task Order the Contractor will deliver to the County an application for Payment for the Work in accordance with the provisions of the Contract Terms and Conditions. Each Task Order will be invoiced separately by the Contractor. Payment under this Contract shall be made as provided in the Contract Terms and Conditions.

Article 7
IMMIGRATION REFORM AND CONTROL ACT OF 1986

- 7.1 By entering this Contract, the Contractor 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.

Article 8
NON-DISCRIMINATION

- 8.1. During the performance of this Contract, the Contractor agrees as follows:
 - A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
 - C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.
- 8.2. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

Article 9
DRUG-FREE WORKPLACE

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

For the 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 Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

Article 10
OTHER REQUIREMENTS

- 10.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond, Bid Bond and Certification of Insurance as required by the Contract Documents.
- 10.1 To the extent required by the Commonwealth of Virginia (see e.g., 54.1-1100 *et seq.* of the Code of Virginia) or the County of Loudoun, the

Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.

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

Article 11

Entire Agreement and Severability

- 11.1 This Agreement including the Contract Documents represents the entire and integrated contract between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Agreement may be amended or changed only by a Modification. Nothing contained in the Contract Documents shall create any contractual relationship between the County, or any agent, consultant, or independent contractor employed by the County and any subcontractor, sub-subcontractor, supplier or vendor of the Contractor, but the County shall be entitled to performance of all obligations intended for his benefit, and to enforcement thereof.
- 11.2 In the event that any provision of this Agreement shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.

Article 12

GOVERNING LAW/FORUM

- 12.1 This Contract shall be governed and construed in all respects by its terms and by the laws of the Commonwealth of Virginia. Any judicial action shall be filed in the Commonwealth of Virginia, County of Loudoun or the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.

12.2 Each of the parties irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either party for any claim, demand, action, or cause of action, arising out of this Agreement. Each of the parties hereby agrees and consents that any such claim, demand, action, or cause of action shall be decided by court trial without a jury.

Witness the following signatures:

COUNTY OF LOUDOUN, VIRGINIA

CONTRACTOR

Division of Procurement
1 Harrison Street, S.E.
Leesburg, Virginia 20175

Phone: (571) 258-3820

Phone: _____

By: _____

By: _____

Name: Kristy Varda, NIGP-CPP, CPPO, CPPB Name: _____

Title: Contracting Officer

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Theresa J. Fontana
Senior Assistant County Attorney