



**Administrative Services Division  
Bristol District  
Invitation for Bid (IFB) – Janitorial services  
IFB # 157191**

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Attachments:

- A – Virginia State Corporation Commission Form
- B – Normal and Emergency Contacts
- C – References
- D – Duties and Tasks
- E – Subcontractor Approval Request Form

**RESOURCES BY REFERENCE**

1. General Term and Condition C.1.(d): Anti-Discrimination - [Link to Referenced Training](#)
2. General Term and Condition CC: Civility in State Workplaces – [Link to Referenced Training](#)

**Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.f in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.**

**I. PURPOSE:**

The Virginia Department of Transportation (herein referred to as “VDOT”), an agency of the Commonwealth of Virginia, is soliciting bids from qualified firms to provide janitorial service at the Bristol District Complex, located at 2111 Bonham Road, Bristol, VA 24201. The Contractor shall provide all labor supervision, equipment, materials, and supplies necessary to perform the work as described herein.

**PERIOD OF CONTRACT:** The contract period will be for a one (1) year period with the effective date to be determined at time of award, with the opportunity for four (4) optional, consecutive one-year renewals.

Note to Bidders: This solicitation includes the requirement for the Bidder to submit a Small Business Subcontracting Plan (SBSP) with the electronic bid response in eVA. Bidders selecting “Vendor Will Complete All Work” box must be certified as a small/micro business by the Commonwealth of Virginia, Department of Small Business and Supplier Diversity (DSBSD) by the due date of this solicitation to participate in the SWAM Program.

If the Bidder is the not a DSBSD-certified small business, the “Vendor Plans To Use Subcontractors” box must be selected and the Bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period and any subsequent renewal periods. Reference Special Term and Condition Paragraph 29.

**II. QUESTIONS REGARDING THIS INVITATION FOR BID**

Any questions regarding this Invitation for Bids shall be addressed to Shelby Thornton, [shelby.thornton@vdot.virginia.gov](mailto:shelby.thornton@vdot.virginia.gov). The issuing office shall determine whether any addendum should be issued as a result of any questions or other matters raised. Provide questions by close of business five (5) days prior to the bid due date.

**III. GENERAL:**

For the purpose of clarification, each firm receiving this Invitation for Bid is referred to as a “Bidder” and the Bidder awarded the contract to supply the services is referred to as a “Contractor.” Virginia Department of Transportation is referred to as “Department” or as “VDOT,” and “Representative” refers to the VDOT Contract Administrator who will be administering the contract. This Invitation for Bid states the instructions for submitting bids, the procedure and criteria by which a contract may be awarded, and the contractual terms which will exclusively govern the contract between VDOT and the Contractor.

**IV. SPECIFICATIONS / CONTRACT REQUIREMENTS:**

- A. The Contractor shall provide all labor, equipment, materials, supervision, and cleaning supplies to clean the buildings located on the Bristol District Complex per the attached specifications of this Invitation for Bid (IFB). With the exception of State observed holidays, services shall take place five (5) days a week (Monday –Friday) for daily and weekly tasks, and on weekends for monthly and annual tasks. The supervisor shall report to the VDOT Contract Administrator as necessary to communicate information pertaining to services or problems that may occur. See Attachment D for the schedule and list of Duties and Tasks.
- B. **GENERAL:** The complex consists of approximately 204 offices (includes private offices and cubicles), 9 conference rooms of various sizes, 5 break rooms, and 34 restrooms. The trash can count is approximately 300 cans. **These numbers are estimates only and it is the responsibility of the bidder to verify these counts during the site visit.** The offices and other areas to be cleaned are not physically connected but spread out in various buildings. The buildings are located relative to each other. These buildings include:

- Administration Building #1000003
  - Materials Building #1000006
  - Bridge Building #1000014
  - Traffic & Sign Shop Building #1000024
  - Equipment/Facilities Building #1000025
  - Construction Trailer #1000076
  - Trailer #1000074
  - Trash Receptacles at Fuel Station
1. It should be noted that the office/cubicle layouts are general and subject to change and it is the Contractor's responsibility to verify areas and their arrangement. Although the arrangement of offices and cubicles are subject to change due to varying business conditions, the buildings square footage to be cleaned will not vary.
  2. It is the bidder's responsibility to measure the spaces to be cleaned and to confirm square footage as needed. Bidders may take measurements during the site visit or they may contact the Bristol District Complex Facilities department to schedule an appointment, (276) 696-3406 or (276) 696-3405.

**C. SNOW AND ICE REMOVAL:**

1. The Contractor shall remove snow and ice from all entrances, sidewalks, front and back door steps, exits, etc. (parking lot is not included). In the removal of snow/ice from these areas, it is imperative that all are available for use prior to the regularly scheduled work hours. The Contractor shall provide personnel and the necessary equipment to satisfactorily perform the required services. Service calls may be required at any time. Entrances to the buildings should be opened as wide as possible to allow for normal foot traffic.
2. VDOT will be responsible for supplying the necessary snow and ice melting chemicals. Only those chemicals provided by VDOT shall be used.
3. The Contractor agrees to ensure the availability and sufficient quantity of personnel for the purpose of performing the required snow removal services.
4. The Contractor's employees shall observe and exercise caution and discretion necessary to avoid injury to persons or damage to property of any and all kinds.
5. Considerable care shall be taken to avoid covering or damaging plants and shrubs with snow.
6. All sidewalk areas shall be maintained to be free of snow and ice and be passable throughout the work day.
7. Sidewalks shall be open for traffic no later than 8:00 am. The Contract Administrator or designee shall have the ability to alter the service based on the needs of the complex.

**D. EXPERIENCE:** The Contractor shall have at least two (2) years of experience in cleaning facilities of a similar size and scope to those herein. If requested by VDOT, the Contractor shall provide references to verify their experience.

**E. CONTRACTOR'S PERSONNEL:** The Contractor shall screen and employ only qualified personnel who shall be properly trained and skilled in the performance of their duties. The Contractor shall provide documentation of the completed training for each employee to the Contract Administrator prior to performing work.

1. The Contractor shall immediately remove any employee VDOT determines to be unacceptable.
  2. The Contractor shall employ a sufficient number of qualified personnel who shall consistently perform the described work in the frequencies and manner required as outlined herein.
  3. At no time shall a *new or untrained* employee be permitted on the premises without the Contractor's Representative, or be expected to perform the work without adequate training and familiarity with the contract requirements, and security clearance.
  4. The Contractor's employees shall follow all safety/security procedures requested by VDOT.
  5. The Contractor's employees shall not be loud or boisterous in the conduct of their work duties.
  6. The Contractor's employees shall not open desk drawers or cabinets at any time. The Contractor's employees shall not use or tamper with office machines, equipment, or agency personal property at any time. The Contractor's employees shall not use agency telephones at any time, unless call relates to cleaning operations or security reasons. No long distance calls will be permitted.
  7. All of the Contractor's employees shall wear professional clothing while working on the complex, wear VDOT issued Identification Badges, and conduct their duties in a professional manner.
  8. The Contractor's personnel shall at all times adhere to requirements of OSHA and VOSH regarding employee safety and health as related to work performed on this contract.
- F. **CONTRACTOR FURNISHED EQUIPMENT AND SUPPLIES:** The Contractor shall be responsible for providing all necessary equipment required to perform the services requested in this Invitation for Bid. Space will be provided for all equipment supplied by the Contractor (e.g. vacuums, extractors, brooms, mops, buckets, etc.) which shall remain on the job site during the life of the contract. The equipment shall be maintained in good operating condition and in sufficient quantities to adequately perform all services, and available to the Contractor's employees at all times. All Contractor supplied equipment, tools, and personal safety equipment shall meet or exceed the safety standards specified for such items by the American National Standards Institute Manual (ANSI Z133.1-1994). All equipment shall be labeled with the Contractors name.
- G. **SUPPLIES AND MATERIALS:** The Contractor shall furnish and install various consumable materials as needed, or when the various dispensers for these consumables are empty. Supplies furnished shall be compatible with the existing dispensers. Trash bags supplied shall be of the size of the container in use and must fit so as not to collapse into the container during use. Consumable supplies include but are not limited to: Paper towels, 2-ply toilet paper, hand soap (bottled hand soap shall be supplied where there is no dispenser), and trash can liners to fit existing fixtures/trash cans.
1. All cleaning agents, supplies, and equipment shall be provided by the contractor, labeled with the contractor's name, and stored on-site in the janitor's closets.
  2. Floor cleaning equipment shall be in good working order and have undamaged electrical cords.
  3. The contractor shall furnish all green seal/eco-friendly janitorial products and supplies and shall not use any janitorial supplies or equipment that is injurious to the surface to which it is applied/exposed, or to Department personnel.
  4. The contractor shall provide and maintain MSDS manuals including all products used to the Contract Administrator. A copy shall also be kept and maintained in each janitor's closet. These manuals shall be updated as new products are used, or monthly, whichever occurs first.

**H. Staffing:**

1. The Contractor shall be required to have at least one individual on site from 6:00am to 3:00pm each day who shall be a working supervisor. This individual must be capable of making decisions, be self-motivated, be able to communicate with office staff and have at least one (1) year service with the Contractor's firm as a janitor or supervisor. This individual shall be responsible for providing services listed in Attachment D - Duties and Tasks and on call as needed. The Working Supervisor shall:
  - a. Serve as the primary point of contact for the Contract Monitor/Contract Administrator.
  - b. Perform inspections at completion of services, and overseeing that deficiencies are corrected immediately.
  - c. Be responsible for the keys provided to lock and unlock spaces for cleaning and overall security of the buildings during cleaning.
2. In addition, the Contractor shall provide a janitorial staff of a minimum of two (2) full time employees each day to adequately perform the specified duties and services. These employees shall report to work at 3:00pm and leave no sooner than 9:00pm. The contractor shall assign one of these employees as the working supervisor. The working supervisor shall:
  - a. Serve as the primary point of contact for the Contract Monitor/Contract Administrator.
  - b. Be responsible for the keys provided to lock and unlock spaces for cleaning and overall security of the buildings during cleaning.
  - c. Supervise the work of employees assigned to the location.
  - d. Perform inspections at completion of services, and overseeing that deficiencies are corrected immediately.
  - e. Ensure that all lights are turned off and buildings locked.

**I. SPECIAL OR EMERGENCY CLEANING:** When directed by the VDOT Contract Administrator or designee, by written or verbal order, to clean any area required for a special occasion, or made necessary by an emergency or mishap, the Contractor shall furnish all labor and supervision, equipment and supplies as required, to fulfill the order. The Contractor will be paid for these special or emergency-cleaning situations based on the hourly rate submitted under the Pricing Schedule contained herein. This cleaning will only be for those hours in which a staff member is not present.

**J. BUILDING SAFETY:** Employees of the contractor shall be responsible for reporting fires, hazardous conditions, electrical, plumbing, water, sewage, and construction failure immediately to the VDOT Contract Administrator or designee. Items in need of repair/replacement, including burned out lights, leaky faucets, etc., shall be reported right away and shall be listed on the Daily Inspection Report.

1. In any area where janitorial services are being performed, proper signage (wet floors, closed for cleaning, etc.) shall be used.
2. VDOT shall provide access to the buildings that are to be cleaned. The Contractor shall be given the necessary keys or card access for the duration of the contract, and is responsible for the safekeeping of the keys and badges during the contract period. The Contractor shall not loan or duplicate the keys. In the event the Contractor loses the keys, they will be charged for the replacement of the keys and all locks to the facility. The Contractor shall return the keys and badges when the contract is terminated.

**K. MANNER OF CONDUCTING WORK AT THE JOB SITE:**

1. **SATISFACTION:** All work shall be performed according to VDOT specifications and completed to the satisfaction of the VDOT Contract Administrator. Walk-through inspections will be conducted as needed by the VDOT Contract Administrator. The Contractor's Supervisor shall attend these inspections to ensure that the services provided meet the requirements of the contract. During these walk-through inspections, any deficiencies noted will be given to the Contractor in writing.
2. **COMMUNICATION:** Each crew shall have at least one crewmember that communicates in English (both orally and in writing) and comprehends the English language. This crewmember shall communicate instructions to other crewmembers or coordinate this communication. The English used by this person must be understood by VDOT personnel.
3. **CONTRACTOR'S CONDUCT:** The Contractor shall be responsible for the conduct of all personnel while at the work site.
4. **CONTRACTOR'S PERSONNEL:** The Contractor's personnel shall at all times interact with employees and citizens throughout the Bristol Complex in a courteous and respectful manner. The Contractor's personnel shall refer all public questions concerning work planned, performed or promised to the VDOT Contract Administrator.
5. **BEHAVIOR:** Behaviors displayed by contractor's employees, such as catcalling, whistling, leering, and other similar gestures will not be tolerated. Anyone exhibiting such behavior will be barred from the work site permanently. Repeated incidents may be grounds for termination of the contract at the discretion of VDOT.
6. **APPEARANCE:** Any person working under this contract shall be neat in appearance at all times. Proper dress shall include long pants (slacks) and shirts or blouses with sleeves (short or long and buttoned if required). Clothing should be appropriate for weather conditions.
7. **SIGNS OR ADVERTISEMENTS:** No signs or advertisements shall be posted on VDOT's property without prior written approval by the VDOT Contract Administrator.

**L. AUTHORIZED WORK HOURS:**

1. **SCHEDULES:** All daily and weekly duties and tasks performed under this contract shall be performed Monday through Friday. The Contractor shall provide a detailed schedule of work to be approved by the Contract Administrator. All monthly and annual duties and tasks performed under this contract shall be performed on weekends. These dates must be approved in advance by the VDOT Contract Administrator.
2. **STATE HOLIDAYS:** Work shall not be performed any state or federal holidays.

**V. MANDATORY PRE-BID CONFERENCE:**

A mandatory pre-bid conference will be held at **10:00AM on January 31, 2022** at the **Bristol Complex, located at 2111 Bonham Road, Bristol, VA 24201**. The purpose of this conference is to allow potential bidders an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

Due to the importance of all bidders having a clear understanding of the specifications/scope of work and requirements of this solicitation, **attendance at this conference will be a prerequisite for submitting a bid**. Bids will only be accepted from those bidders who are represented at this pre-bid conference. Attendance at the

conference will be evidenced by the representative's signature on the attendance roster. **NO ONE WILL BE ADMITTED AFTER 10:05AM.**

Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

**A SITE VISIT WILL BE REQUIRED** by bidders to physically visit the complex to familiarize themselves with the area and associated surfaces to be cleaned and to verify estimated quantities in order to be able to provide a solid, firm quote. The Bristol Complex consists of multiple offices spread out over several acres. This site visit will be conducted immediately after the pre-bid meeting.

**VI. METHOD FOR PAYMENT:**

Lines 1-7 of the pricing schedule are for each building within the complex and shall be priced at a monthly price.

Line 8 of the pricing schedule is for the monthly service price to provide high buff to all hard surface flooring.

Line 9 of the pricing schedule is for the annual price to strip/wax all vinyl flooring.

Line 10 of the pricing schedule is for the semi-annual price to clean and polish paneling and wood doors and frames.

Line 11 of the pricing schedule is for carpet cleaning on an as needed basis as determined by the Contract Administrator or designee, and shall be priced by the square foot.

Line 12 of the pricing schedule is pricing for any additional or emergency cleaning and shall be priced by the hour.

Line 13 of the pricing schedule is pricing for snow and ice removal as requested and shall be priced by the hour.

Line 14 of the pricing schedule is pricing for additional deep cleaning and sanitizing services.

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

Payment will be made via check, ACH, or EDI. Payment may also be made via P-Card for invoices within the P-Card limit if the Contractor accepts the State's Small Purchase Charge Card. For questions about eVA please contact eVA Customer Care center at [eVACustomerCare@DGS.Virginia.gov](mailto:eVACustomerCare@DGS.Virginia.gov). For questions about electronic payments please contact DOA at (804) 692-0473 or via email at: [edi@doa.virginia.gov](mailto:edi@doa.virginia.gov).

**VII. INVOICING:**

Invoices shall include the contract number, purchase order number, itemized quantities, unit price, and extended costs based on the contract pricing schedule. No payment will be made for work in progress on the prescribed payment dates. Invoices shall be submitted to the address listed below for all items completed within the designated billing period.

**Virginia Department of Transportation  
Bristol Roadside Section  
Attn: Lelia Lawson  
2111 Bonham Rd.  
Bristol, VA 24201**

In lieu of mailing, invoices may be submitted as an attachment via email to [lelia.lawson@vdot.virginia.gov](mailto:lelia.lawson@vdot.virginia.gov).



## VIII. **BIDDERS INSTRUCTIONS AND PUBLIC BID OPENING:**

- A. **BID SUBMISSION – INSTRUCTIONS:** All bids must be submitted electronically online via [eVA](#) using the bidder’s established eVA Supplier Account. The entire bid response including any/all attachments and any/all addenda must be submitted electronically in eVA no later than the closing date and time stated on the electronic solicitation posting. Faxed, emailed, mailed, or hand-delivered bids will not be accepted.

To submit an online bid, please refer to the online bidding instructions at:

<https://dgs.virginia.gov/globalassets/business-units/dps/documents/vbo/online-bidding-instructions-ifb.pdf>

It is the responsibility of the Bidder to ensure the bid and all required attachments are properly completed, readable and uploaded to eVA by the date and time deadline stated on the electronic solicitation posting. Bidders should allow sufficient time to account for any technical difficulties they may encounter during online submission or uploading of documents. In the event of technical difficulties, suppliers should contact eVA Customer Care at 1-866-289-7367 or via email at [eVACustomerCare@dgs.virginia.gov](mailto:eVACustomerCare@dgs.virginia.gov).

- B. **PUBLIC BID OPENING:** Bids will be opened at the time stated on the Reminders page of the electronic posting of this solicitation, and their contents, per the Virginia Public Procurement Act and Commonwealth of Virginia Vendor’s Manual, will be made public for the information of bidders and others interested.

A public bid opening via teleconference will be hosted by a VDOT representative at 10:30 a.m. February 10, 2022. The conference can be accessed with the below dial-in information:

- **Call:** 224-357-7392
- **Meeting PIN ID:** 180 732 621#

Additionally, conference can be accessed by downloading the free **Google Meet App** on your smart phone.

- **From the Google Meet App, click on “Join a Meeting”**
- **Enter meeting code:** xqd-yqrw-hbo
- **Then select “Join Now”**

The bid opening will begin promptly at the time indicated. At the start of the conference, the VDOT Representative will conduct a roll call to identify the individuals participating on the call. Participants will be requested to provide their names, company, and contact information during the roll call.

If you are unable to access the teleconference at the scheduled time please contact the Contract Officer via email and a bid reading will be provided.

The provisions of § 2.2-4342 of the Code of Virginia, as amended, shall be applicable to the inspection of bids received.

## IX. **GENERAL TERMS AND CONDITIONS:**

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the *Vendors Manual*. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at [www.eva.virginia.gov](http://www.eva.virginia.gov) under “I Sell To Virginia”.



- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their bids, bidders certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

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, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.
  - e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.

- f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
  2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their bids, bidders certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.
- G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.
- H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs:** Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
- I. **CLARIFICATION OF TERMS:** If any prospective bidder has questions about the specifications or other solicitation documents, the prospective bidder should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.
- J. **PAYMENT:**
  1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
  - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
  - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
  - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
  - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351... The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
2. To Subcontractors:
- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:
    - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
    - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
  - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if

necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, *APPLICABLE LAWS AND COURTS*, *ANTI-DISCRIMINATION*, *ETHICS IN PUBLIC CONTRACTING*, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, *DEBARMENT STATUS*, *ANTITRUST*, *MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS*, *CLARIFICATION OF TERMS*, *PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services/furnish the goods and the bidder shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect bidder's physical facilities prior to award to satisfy questions regarding the bidder's capabilities. The Commonwealth further reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder fails to satisfy the Commonwealth that such bidder is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
  2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
    - a. By mutual agreement between the parties in writing; or
    - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of

work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or

- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.
  
- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
  
- Q. **TAXES:** Omitted.
  
- R. **USE OF BRAND NAMES:** Omitted.
  
- S. **TRANSPORTATION AND PACKAGING:** Omitted.
  
- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

**MINIMUM INSURANCE COVERAGES AND LIMITS:**

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.

4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

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

V. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000: 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 on 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 purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

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

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

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

- a. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:
  - (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
  - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.



- b. Refer to Special Term and Condition “eVA Orders and Contracts” to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at [www.eVA.virginia.gov](http://www.eVA.virginia.gov).

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- Y. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.
- Z. **SET-ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY:** This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated as “Micro Business Set-Aside Award Priority” or “Small Business Set-Aside Award Priority” accordingly in the solicitation. DSBSD-certified micro businesses or small businesses also includes DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, bidders/offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of bids/proposals.
- AA. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.
- BB. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- CC. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a “Contract Worker”), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor’s (and any subcontractor’s) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, “State workplace” includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably



should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

**X. SPECIAL TERMS AND CONDITIONS:**

1. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this invitation for bid/request for proposal, no indication of such sales or services to the Virginia Department of Transportation (VDOT) shall be used in the contractor's product literature, press releases or advertising nor shall the contractor state in any of its advertising, press release or product literature that the Commonwealth of Virginia or VDOT has purchased or uses its products or services. The contractor also shall not include VDOT in any client list in advertising and promotional materials.
2. **AUDIT:** The Contractor shall retain all books, documents, papers, accounting records, subcontracting records, and other evidence supporting any of the services performed, and the costs incurred, at all times during the contract period, and for five (5) years after payment of the final invoice or final audit, whichever is later. Such evidence shall be maintained at the Contractor's office and made available to the Department at reasonable times. Such evidence will be subject to audit and inspection at any time by the Department.
3. **AWARD:** The Commonwealth will make the award(s) on a Grand Total basis to the lowest responsive and responsible bidder. The purchasing office reserves the right to conduct any test it may deem advisable and to make all evaluations. The Commonwealth also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.
4. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for sixty (60) days. At the end of the sixty (60) days, the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time, it remains in effect until an award is made or the solicitation is canceled.
5. **BID PRICES:** Bids shall be in the form of a firm unit price for each item during the contract period.
6. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
7. **CLAIMS:** The Contractor shall be responsible for the resolution of any and all damage claims presented to VDOT as a result of operations provided herein. Within 30 days of VDOT's notification to the Contractor of a claim, Contractor shall respond in writing to the claimant and copy VDOT. Failure to properly respond to and resolve claims in a timely manner constitutes unsatisfactory performance and may result in cancellation of the contract and/or removal from the bidders list.
8. **CONTRACTOR IDENTIFICATION CARDS:** The Contractor, the Contractor's supervisors and employees, and any subcontractors shall carry a valid government-issued picture identification card on them at all times when working on VDOT right-of-way or VDOT facilities and/or grounds.

9. **DELAYS IN AWARD:** Delays in award of a contract beyond the anticipated start date may result in a change in the contract period indicated in the solicitation. If this occurs, VDOT reserves the right to award a contract covering the period equal to or less than the initial term indicated in the solicitation.
10. **E-VERIFY PROGRAM:** Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.
11. **ESTIMATED QUANTITIES:** Estimated quantities provided within are reflective of past usage and proposed usage only. The contractor shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown. Factors that may contribute to the actual quantities, frequencies of service and/or level of include, but are not limited to, Executive Orders, Department directives affecting changes in funding allocated for the services described in this solicitation. The quantities are estimates only and VDOT does not guarantee that the contractor will perform the estimated quantities. At VDOT's sole discretion, any or all of the quantities may be added or eliminated and by signing this bid/offer, the bidder agrees that no claims for contractor costs or damages will be allowed for an increase, decrease or elimination of the estimated quantities.
12. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS:** The solicitation/contract will result in multiple purchase order(s) with the eVA transaction fee assessed for each order.
13. **EXECUTIVE DIRECTIVE NUMBER EIGHTEEN CERTIFICATION:** In performing work pursuant to this contract, Contractor shall comply with the provisions of Executive Directive Number Eighteen (ED-18, 2021), *Ensuring a Safe Work Place*, and the Virginia Department of Human Resource Management's policies and procedures implementing ED-18.

Contractor certifies that its employees and employees of Contractor's subcontractors and vendors, who work on-site or engage in-person with the public or VDOT employees under this contract, are fully vaccinated against COVID-19. In the event a worker is not fully vaccinated or refuses to disclose their vaccination status, then Contractor shall require the worker to wear a face covering over their mouth and nose in accordance with guidelines from the Centers for Disease Control and Prevention when indoors and conducting public business. "Fully vaccinated" means that the individual has received all doses of a Food and Drug Administration (FDA) or World Health Organization (WHO) approved vaccination series (including emergency use authorization) and at least two weeks have elapsed since the final dose.

14. **FEDERALLY IMPOSED TARIFFS:** In the event that the President of the United States, the United States Congress, Customs and Border Protection, or any other federal entity authorized by law, imposes an import duty or tariff (a "tariff"), on an imported good that results in an increase in contractor's costs to a level that renders performance under the Agreement impracticable, the Commonwealth may agree to an increase to the purchase price for the affected good. No increase in purchase price may exceed 25% of the additional tariff imposed on the goods imported or purchased by the contractor that are provided to the Commonwealth under this Agreement.

Prior to the Commonwealth agreeing to a price increase pursuant to this Section, the contractor must provide to the Commonwealth, the following documentation, all of which must be satisfactory to the Commonwealth:

- evidence demonstrating: (i) the unit price paid by contractor as of the date of award for the good or raw material used to furnish the goods to the Commonwealth under this Agreement, (ii) the

applicability of the tariff to the specific good or raw material, and (iii) contractor's payment of the increased import duty or tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient in detail and content to allow the Commonwealth to verify that the tariff is the cause of the price change.

- a certification signed by contractor that it has made all reasonable efforts to obtain the good or the raw materials comprising the good procured by the Commonwealth at a lower cost from a different source located outside of the country against which the tariff has been imposed.
- a certification signed by contractor that the documentation, statements, and any other evidence it submits in support of its request for a price increase under this Section are true and correct, and that the contractor would otherwise be unable to perform under this Agreement without such price increase.
- as requested by the Commonwealth, written instructions authorizing the Commonwealth to request additional documentation from individuals or entities that provide the good or the raw materials to verify the information submitted by contractor.

If the Commonwealth agrees to a price increase pursuant to this Section, the parties further agree to add the following terms to this Agreement:

- During the Term and for five (5) years after the termination of this Agreement, contractor shall retain, and the Commonwealth and its authorized representatives shall have the right to audit, examine, and make copies of, all of contractor's books, accounts, and other records related to this Agreement and contractor's costs for providing goods to the Commonwealth, including, but not limited to those kept by the contractor's agents, assigns, successors, and subcontractors.
- Notwithstanding anything to the contrary in this Agreement, the Commonwealth shall have the right to terminate this Agreement for the Commonwealth's convenience upon 15 days' written notice to contractor.

In the event the import duty or tariff is repealed or reduced prior to termination of this Agreement, the increase in the Commonwealth's contract price shall be reduced by the same amount and adjusted accordingly.

- Any material misrepresentation of fact by contractor relating in any way to the Commonwealth's payment of additional sums due to tariffs shall be fraud against the taxpayer's of the Commonwealth and subject contractor to treble damages pursuant to the Virginia Fraud Against Taxpayers Act.

15. **INSPECTION OF JOB SITE:** My signature (including electronic signature) on this solicitation constitutes certification that I have inspected the job site and am aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, will not be considered by the Commonwealth.
16. **LABELING OF HAZARDOUS SUBSTANCES:** If the items or products requested by this solicitation are "Hazardous Substances" as defined by § 1261 of Title 15 of the United States Code (U.S.C.) or "Pesticides" as defined in § 136 of Title 7 of the United States Code, then the bidder, by submitting his bid, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the bidder does not violate any of the prohibitions of Title 15 U.S.C. § 1263 or Title 7 U.S.C. § 136
17. **MINORS ON THE WORK SITE:** No minors, under the age of eighteen, will be allowed on the VDOT work site(s) where this contract will be performed, except those employed by the Contractor as allowed by the Child Labor Laws of the United States government and the Child Labor Laws of the Commonwealth of Virginia.

18. **OPEN AND CONCEALED CARRY OF FIREARMS:** It is the policy of the Commonwealth that open and concealed carry of firearms shall be prohibited in offices occupied by executive branch agencies, unless held by law enforcement, authorized security, or military personnel authorized to carry firearms in accordance with their duties. Therefore, the Contractor shall comply with the requirements of Executive Order 50, Virginia Department of General Services Directive 16 and Regulations Banning Concealed Firearms in Offices Owned or Occupied by Executive Branch Agencies, 1 VAC 30-105, Virginia Department of Human Resources Management Policy 1.80, and any other applicable laws or policies consistent with the above mentioned laws and policies. VDOT shall retain the right to expel any person from its premises who is violating this policy, in addition to pursuing any other remedies which may be available under this Agreement and applicable laws.
19. **PRIME CONTRACTOR RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing the work under this contract and all approved subcontractors that he may utilize, using their best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is fully responsible for the acts and omissions of their subcontractors and of persons employed by them as he is for the acts and omissions of their own employees
20. **PROPRIETARY INFORMATION:** All information submitted to VDOT is subject to disclosure under the Freedom of Information Act (2.2-3700 et seq. of the Code of Virginia) unless a specific exclusion applies. To claim an exclusion under the Virginia Public Procurement Act (2.2-4300 et seq. of the Code of Virginia), for data or materials submitted as part of a procurement transaction or prequalification application that you believe are trade secrets or proprietary information, you must file:
  - 1) a written request, either before or at the time the data or materials are submitted, that:
    - Invokes the protection of 2.2-4342 of the Code of Virginia
    - Identifies the specific data or other materials you seek to exclude and protect by using some distinct method such as highlighting or underlining. (Only identify the specific words, figures, or paragraphs that are claimed to be trade secrets or proprietary information; the identification of an entire document, line item, or total price is not acceptable and may result in rejection of the claim for protection); and
    - States the reasons why protection is necessary, and a
  - 2) redacted copy of your submittal that deletes or blocks all data or material which is identified as a trade secret or proprietary information in the written request.
21. **PROSECUTION OF WORK:** During the prosecution of work, the VDOT Representative will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workmen or the general public; for failure to carry out orders; for such periods, as he may deem necessary due to unsuitable weather; for conditions considered unsuitable for the prosecution of the work for any other condition or reason deemed to be in the public interest.
22. **RECORDS EXCLUSION FROM PUBLIC DISCLOSURE:** Pursuant to the provisions of §2.2-3705.6 (22) of the Code of Virginia, trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation Assurance and Compliance Office for the purpose of an audit, special investigation, or any study requested by the Assurance and Compliance Office in accordance with law may, subject to a determination by the Assurance and Compliance Office as described herein, be withheld from public disclosure under the Virginia Freedom of Information Act (FOIA). To enable the Assurance and Compliance Office to identify data or records that may be subject to this exclusion from disclosure under FOIA the private or nongovernmental entity shall, in accord with procedures adopted by the Assurance and Compliance Office, make a written request to the Assurance and Compliance Office of the Virginia Department of

Transportation invoking such exclusion upon submission of the data or other materials for which protection is sought; identifying with specificity the data or other materials for which protection is sought; and stating the reasons why protection is necessary.

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

If litigation directly or indirectly results from or arises out of a granted exemption, the contractor will be responsible for all litigation costs incurred by contractor and/or VDOT associated with such litigation. In no event shall the Virginia Department of Transportation or its officers, employees or agents be liable to the contractor as a result of any disclosure of records or data collected by the Department, its officers, employees or agents, pursuant to an audit, special investigation, or any study requested by the Assurance and Compliance Office, whether or not the Assurance and Compliance Office has determined that the requested exclusion from disclosure under FOIA is necessary to protect the trade secrets or financial records of the private entity, and in no event shall the Virginia Department of Transportation, or its officers, employees, or agents be liable to the contractor for any damages or other claims arising directly or indirectly from a determination that the exclusion from public disclosure will not be granted.

23. **REFERENCES:** Bidders should provide a list of at least three (3) references where similar goods and/or services have been provided. Each reference shall include the name of the organization, the complete mailing address, the name of the contact person, the email, and the telephone/fax number. Submit references by completing and uploading Attachment C.
24. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth for four (4) successive one (1) year periods under the terms and conditions of the original contract except as stated in a. and b. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
  1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the **Other Services** category of Table 3 of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
  2. If during any subsequent renewal periods, the Commonwealth elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the **Other Services** category of Table 3 of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
25. **SAFETY AND HEALTH STANDARDS:** It is a condition of the contract, and shall be made a condition of each subcontract entered into pursuant to the contract, that the Contractor and any Sub-Contractor shall not require any worker employed in performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to their health or safety, as determined under construction safety and health standards promulgated by the US Secretary of Labor in accordance with Section 107 of the *Contract Work Hours and Safety Standards Act*. The Contractor shall comply with the Virginia Occupational Safety and Health Standards adopted under Section 40.1-22 of the *Code of Virginia*



and the duties imposed under Section 40.1-51.1 of the *Code*. Any violation of the requirements or duties that is brought to the attention of the Contractor shall be immediately abated. Additionally at a minimum, all Contractor personnel shall comply with the following, unless otherwise determined unsafe or inappropriate in accordance with OSHA regulations: Hardhats shall be worn while participating in or observing all types of field work when outside of a building or outside of the cab of a vehicle, and exposed to, participating in or supervising construction. Respiratory protective equipment shall be worn whenever an individual is exposed to any item listed in the OSHA Standards as needing such protection unless it is shown the employee is protected by engineering controls. Adequate eye protection shall be worn in the proximity of the grinding, breaking of rock and/or concrete, while using brush chippers, striking metal against metal or when working in situations where the eyesight may be in jeopardy. Class 3 safety garments shall be worn by all exposed to vehicular traffic and construction equipment. Standards and guidelines of the current *Virginia Work Area Protection Manual* shall be used when setting, reviewing and removing traffic controls. Flag persons shall be certified according to the Virginia Flagger Certification Program. No person shall be permitted to position themselves under any raised load or between hinge points of equipment without first taking steps to support the load by the placing of a safety bar or blocking. Explosives shall be purchased, transported, stored, used and disposed of by a Virginia Certified Blaster in possession of a current criminal history record check and a commercial driver's license with hazardous materials endorsement and a valid medical examiner's certificate. All federal, state and local regulations pertaining to explosives shall be strictly followed. All electrical tools shall be adequately grounded or double-insulated. Ground fault Circuit Interrupter (GFCI) protection must be installed in accordance with the *National Electrical Code* (NEC) and current Virginia Occupational Safety and Health Agency (VOSH) regulations. No person shall enter a confined space without training, permits and authorization. Fall protection is required whenever an employee is exposed to a fall six feet or greater.

26. **SAFETY DATA SHEETS:** Safety Data Sheets and descriptive literature shall be provided with the bid for each chemical and/or compound offered. Failure on the part of the bidder to submit such data sheets may be cause for declaring the bid as nonresponsive/eliminated from further consideration
  
27. **SECURITY REQUIREMENTS:**
  - A. All Vendors, Contractors or other Persons accessing VDOT's Critical Infrastructure Information (CII)/Sensitive Security Information (SSI) material in any form shall be required to comply with VDOT's *CII/SSI Policy Guide for Employees, Vendors, Contractors or other Persons Accessing VDOT's CII/SSI*. This guide can be located at; <http://www.virginiadot.org/business/const/CII-CriticalStructureInformation.asp>
  - B. A Criminal History Record Check (CHRC), through VDOT Personnel Security Section (PSS), shall be required of all personnel of the Contractor and all subcontractors of the contractor for work conducted at all VDOT locations, where VDOT is directly responsible for the day-to-day management of staff, or the individual has unrestricted access to Critical Infrastructure (CI), Critical Infrastructure Information (CII), Sensitive Security Information (SSI), or Personally Identifiable Information (PII).
  - C. All direct costs for the CHRC will be the responsibility of the Contractor.
  - D. All individuals undergoing the CHRC shall be required to complete and sign any VDOT required forms necessary to release personal information and agree to non-disclosure of VDOT critical, sensitive or personal information.
  - E. CHRC records search timelines vary depending on records found on file (if any). In the event non-favorable criminal history records exist, VDOT reserves the right to approve or deny issuance of any Suitability Clearance to perform work on VDOT contracts and projects. Upon denial, appeal may be made to the VDOT Personnel Security Section for review by the Suitability Committee and/or VDOT Chief Deputy Commissioner.

- F. Upon CHRC review and approval of suitability clearance, Contractor and subcontractor (if any) personnel shall be required to obtain a VDOT issued access identification badge prior to working on VDOT's premises or facilities.
  - G. Contractor and subcontractor personnel shall wear VDOT-issued access identification badge at or above waist level on the outermost garment at all times while on VDOT's premises or facilities.
  - H. For safety concerns regarding the badge display requirement, the VDOT Contract Administrator, Project Manager or designee may waive the above requirement. The Contractor and subcontractor personnel shall possess the VDOT access identification badge at all times to be available for display.
  - I. The Contractor shall return all VDOT access identification badges on the day any personnel is no longer assigned to VDOT's premises or facilities and upon contract expiration. The Contractor shall notify Contract Administrator within eight business hours upon discovery of any lost, stolen or damaged access identification badge. Failure to return access identification badges or notify the Contract Administrator that access identification badge has been lost, stolen or damaged may be cause for debarment. See Commonwealth of Virginia, Vendor's Manual Section 7.20.
  - J. The Contractor shall be responsible for requiring its personnel and subcontractors to notify Contractor whenever personnel are charged with any criminal violation and to notify Contractor of the outcome of any trial or other proceeding relating to final disposition of any criminal charge or violation. Contractor shall be responsible for notifying the PSS as well as the VDOT Contract Administrator or Project Manager whenever its personnel or subcontractor personnel is/are charged with any criminal violation and for notifying the PSS as well as the VDOT Contract Administrator or Project Manager of the outcome of any trial or other proceeding relating to final disposition of any criminal charge or violation. Contractor shall notify the PSS, and VDOT Contract Administrator or Project Manager no later than the next regular business day upon learning or receiving notification that personnel of Contractor or subcontractors has/have been charged with a criminal violation and upon learning or receiving notification regarding the outcome of any trial or other proceeding relating to final disposition of any criminal charge or violation.
  - K. In the event of loss, suspected loss or compromise of any VDOT CII/SSI material, the Contractor having or having had possession of the said CII/SSI material will immediately upon having knowledge of the loss, suspected loss or compromise of any VDOT CII/SSI material, notify the VDOT Contract Administrator or Project Manager. If the loss is a result of a theft or suspected theft, of either the actual CII/SSI material or any device containing or storing CII/SSI material, the Contractor will immediately file a report with a law enforcement agency having jurisdiction and forward a copy of the report to the VDOT Contract Administrator or Project Manager.
28. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid the identification number issued to it by the State Corporation Commission (SCC). 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 or as otherwise required by law is required to include in its bid a statement describing why the bidder is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the bidder was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.



29. **SUBCONTRACTORS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract. Refer to Attachment E.
30. **SUBMISSION OF SMALL BUSINESS SUBCONTRACTING PLAN, EVIDENCE OF COMPLIANCE WITH SMALL BUSINESS SUBCONTRACTING PLAN, AND SUBCONTRACTOR REPORTING:**
- A. Submission of Small Business Subcontracting Plan: It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. **All bidders are required to submit a Small Business Subcontracting Plan.** The contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status when they have received DSBSD small business certification. No bidder or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids. Reference “Note to Bidders” under Purpose Statement.
- B. Evidence of Compliance with Small Business Subcontracting Plan: Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution timely reports substantiating compliance in accordance with the small business subcontracting plan. If a variance exists, the contractor shall provide a written explanation. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds a certification as such by the DSBSD. Payment(s) may be withheld until the purchasing agency confirms that the contractor has certified compliance with the contractor’s submitted Small Business Subcontracting Plan or is in receipt of a written explanation of the variance. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.
- C. Prime Contractor Subcontractor Reporting:
1. Each prime contractor who wins an award greater than \$100,000, shall deliver to the contracting agency or institution on a monthly basis (**by the 5<sup>th</sup> business day of each month**), all applicable information for each subcontractor listed on the Small Business Subcontracting Plan that are DSBSD-certified businesses or Employment Services Organizations (ESOs). The contractor shall furnish the applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor’s eVA account.
  2. In addition each prime contractor who wins an award greater than \$200,000 shall deliver to the contracting agency or institution on a monthly basis (**by the 5<sup>th</sup> business day of each month**), all applicable information on use of subcontractors that are **not** DSBSD-certified businesses or Employment Services Organizations. The contractor shall furnish the all applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor’s eVA account.
31. **TERM OF CONTRACT:** The contract period will be for a one (1) year period with the effective date to be determined at time of award, with the opportunity for four (4) optional, consecutive one-year renewals.
32. **TERMINATION OF CONTRACT:** If the Contractor fails to provide quality goods or services in a professional manner and in accordance with applicable laws, regulations or bid provisions, solely as

determined by VDOT and, upon receipt of notice from VDOT does not correct the deficiency within a reasonable period of time (not to exceed seven (7) calendar days unless otherwise agreed to by VDOT), VDOT reserves the right to terminate the contract by giving written notice to the Contractor. Upon termination VDOT may procure the services from another contractor in accordance with the Default term within the General Terms and Conditions.

33. **UNBALANCED BID:** If the unit prices in the bid are mathematically and materially unbalanced, the bid may be rejected as non-responsive. A mathematically unbalanced bid is one where some unit prices are nominal prices and others are enhanced prices, or where the individual unit prices are unusually high or low in relationship to VDOT's estimate and do not evenly carry a proportionate share of the total cost of the goods and/or services plus profits. Where a bid is mathematically unbalanced, VDOT will review the estimated quantities and determine whether the bid is also materially unbalanced, meaning that there is doubt as to whether the bid is substantially likely to result in the lowest ultimate cost to the Department.
  
34. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Commonwealth's satisfaction at the contractor's expense.