

MONTGOMERY COUNTY



Request for Proposal (RFP) #16-05
for

On-Call Professional Engineering
Services for Transportation Projects

Issue Date: June 30, 2015
Proposal Due Date and Hour: July 29, 2015

Montgomery County Purchasing Department
755 Roanoke Street, Suite 2C
Christiansburg, VA 24073-3179

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On-Call Professional Engineering Services for Transportation
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COUNTY OF MONTGOMERY
RFP #16-05

ISSUE DATE: JUNE 30, 2015

**On-Call Professional Engineering Services
for Transportation Projects**

(TO BE COMPLETED AND RETURNED)

GENERAL INFORMATION FORM

QUESTIONS: All inquiries for information regarding this solicitation should be directed to: Heather M. Hall, C.P.M., Procurement Manager, Phone: (540) 382-5784; faxed to (540) 382-5783, or e-mail: hallhm@montgomerycountyva.gov

DUE DATE: Sealed Proposals will be received until July 29, 2015, up to and including 3:00 p.m. Eastern Standard Time. Failure to submit proposals to the correct location by the designated date and hour will result in disqualification.

ADDRESS: Proposals should be mailed or hand delivered to: **Montgomery County Purchasing Department, 755 Roanoke Street, Suite 2C, Christiansburg, Virginia 24073-3179.** Reference the Due Date and Hour, and RFP number in the lower left corner of the return envelope or package.

COMPANY INFORMATION/SIGNATURE: In compliance with this Request For Proposal and to all conditions imposed herein and hereby incorporated by reference, the undersigned offers and agrees to furnish the services and goods in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Full Legal Name (print)		Federal Taxpayer Number (ID#)	Contractor's Registration
Business Name / DBA Name / TA Name and Address		Payment Address	Purchase Order Address
Contact Name/Title		Signature (ink)	Date
Telephone Number	Fax Number	Toll Free Number	E-mail Address

COUNTY OF MONTGOMERY
RFP# 16-05

On-Call Professional Engineering Services for Transportation Projects

I. PURPOSE: Montgomery County is soliciting proposals from qualified consulting engineering firms to provide On-Call Professional Engineering Services for Transportation Projects on an as-needed basis for Montgomery County capital improvement projects during the performance period of this contract with Montgomery County (the "County") entered into in pursuant to this Request for Proposals (this "RFP").

II. BACKGROUND:

Montgomery County is located in the southwestern part of Virginia in the region known as the New River Valley. This region takes its name from the New River, the nation's oldest and the world's second oldest river, and includes the counties of Floyd, Giles, Montgomery, Pulaski, and the City of Radford. The County has a land area of 393 square miles and lies in the broad picturesque area between the Appalachian Plateau and the Blue Ridge Mountains. Topography varies from gently rolling to steep mountainous terrain, with elevations varying from 1,300 to 3,700 feet above sea level. The majority of the County is at an elevation of 2,000 feet.

Today the Towns of [Blacksburg](#) and [Christiansburg](#), the County seat, are the population centers of the County and are located approximately 35 miles southwest of the City of Roanoke. Blacksburg is home to [Virginia Polytechnic Institute and State University](#) (Virginia Tech). Founded in 1872 as a land-grant college, Virginia Tech is the largest university in Virginia and one of the country's leading research institutions. The County had a 2013 population of 96,867. (This includes two incorporated towns, Blacksburg and Christiansburg, with a combined population of approximately 63,661).

The County is governed by an elected seven member Board of Supervisors who appoints a County Administrator.

III. STATEMENT OF NEED:

Qualified engineering firms shall demonstrate the ability to provide the following comprehensive services for transportation system projects:

- Surveying (including preparation of right of way and/or easement plats)
- Roadway Design Plans
- Bridge and/or Structure Plans
- Geotechnical Borings and Analysis
- Environmental Reviews & Permitting (including Permit Sketches)
- Hydrologic and Hydraulic Analysis (including Stormwater Management & Scour Analysis)
- Traffic Data Collection and Analysis
- Pavement Marking, Signage and Signal Plans
- Utility Relocation and/or Adjustment Plans
- Specifications (including Special Provisions)
- Right of Way Acquisition for Donated Right of Way

- Cost Estimation
- Construction Engineering and Inspection

This work is to be accomplished utilizing computerized design and drafting systems compatible with the VDOT's automated design and drafting systems. VDOT's roadway design system is GEOPAK Civil Design Software and the drafting system is Microstation. This project will be developed utilizing VDOT's policies and procedures and FHWA's guidelines. All surveys, designs, plans, reports, specifications, and cost estimates shall be prepared in accordance with all VDOT publications found at www.virginiadot.org/business/manuals-default.asp. These manuals include, but are not limited to, the Roadway Design Manual (RDM); Road and Bridge Standards/Specifications; VDOT Locally Administered Projects Manual; Instructional & Informational Memoranda (I&IM); Manual on Uniform Traffic Control Devices (MUTCD); Utility Relocation Manual; Virginia Work Area Protection Manual; VDOT Pavement Design Guide for Subdivisions and Secondary Roads, VDOT Drainage Manual; VDOT Construction Manual; and Environmental Requirements; and the latest revisions thereto.

The aim of this RFP is to contract with two or more A/E's who will agree to be available to provide these services, as needed, in a timely manner, thereby reducing the County's cost and time for advertising, and generally to increase the County's efficiency in obtaining professional services.

The purpose and intent of this RFP is to solicit proposals for Term Contracts for such professional architectural and/or professional engineering services to be provided on an 'as needed' basis pursuant to Project Orders issued during the contract term. The contract shall be renewable, at the County's option, up to four (4) additional one year periods.

IV. CONFLICT OF INTEREST:

At any time, Montgomery County may consider projects assigned under this contract to be delivered through a design-build option. If Montgomery County decides to deliver a project through design-build option, the successful consultant and any of its team members may not be allowed to participate in ANY subsequent design-build contracts related to that project. Furthermore, Montgomery County will notify the successful consultant regarding the change in its intent of delivery method in advance. The Conflict of Interest determination will be made on a case by case basis at such time.

V. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS:

A. GENERAL REQUIREMENTS:

1. RFP Response: In order to be considered for selection, Offerors must submit a complete response to this RFP. One (1) original and six (6) copies of each proposal must be submitted to:

Heather M. Hall, C.P.M., Procurement Manager
Montgomery County Purchasing Department
755 Roanoke Street, Suite 2C
Christiansburg, VA 24073-3179

Identify on outside of envelope: **Sealed RFP # 16-05**

RFP Due date/Opening date and hour: **July 29, 2015**

The Offeror shall make no other distribution of the proposal.

2. Proposal Preparations:

- a. Proposal shall be signed by an authorized representative of the Offeror. All information requested should be submitted. The Procurement Manager will review all proposals to ensure required information is included. Failure to submit all information requested may result in a request to submit the missing information. Proposals which are substantially incomplete or lack key information may be rejected as incomplete. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals will be reviewed and evaluated by a Committee as designated by the County.
- c. Proposal should be prepared simply and economically, providing a straight forward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
- d. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirements as it appears in the RFP. If a response covers more than one page, the proposal should contain a table of contents which cross references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
- e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
- f. Ownership of all data, materials and documentation originated and prepared for the County pursuant to the RFP shall belong exclusively to the County and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Section 2.2-4342D of the Code of Virginia, in writing, either before or at the time the data or other materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be

identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.

B. SPECIFIC REQUIREMENTS:

1. Proposals should be as thorough and as detailed as possible so that the County may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following information/items as a complete proposal and in the following order:

- Transmittal letter
- Table of Contents
- Understanding of Scope of Work
- Response to RFP Expression of Interest Items 2-15
- **Standard Form (SF) 330 Part I** – one combined for the project team
- **Standard Form (SF) 330 Part II** – one for each firm
- Team Organization Chart – Section D Standard Form (SF) 330 Part I
- A table or matrix containing the requested information in item 15
- Full size copies of Commonwealth of Virginia SCC and DPOR supporting registration/licensing documentation for each firm (including that of each pertinent branch office)

- Full size copies of Commonwealth of Virginia DPOR registration certificate for the Key Personnel
- Firm Data Sheet
- Certification Regarding Debarment Form
- DBE Commitment and Confirmation Letter (if applicable)

- Furnish current SF 330 Part II for each firm involved, and one (1) combined SF 330 Part I for the project team. Please follow the instructions included on the form, unless indicated otherwise within this RFP.

- As referenced in SF 330 Part I, Section D (Organizational Chart of Proposed Team), a one page organizational chart showing all firms involved and key personnel assignments and responsibilities is required to be included.

- Indicate **KEY PERSONNEL ONLY** resumes in SF 330 Part I, Section E (Resumes of Key Personnel Proposed for This Contract). Key personnel are defined as those to whom the contract will be assigned and who will be performing the actual management of the work and be responsible for inspection, administrative and design services. Each resume shall be limited to one page per person with a font no less than 10 point.

Furthermore, all individuals identified as Key Personnel in the EOI shall remain on the Consultant's Team for the duration of the procurement process and, if the consultant is awarded a contract, the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the County's Project Manager for approval, who, at his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Consultant's Team at any time during the procurement process may result in elimination of the Consultant's Team from further consideration.

- In SF 330 Part I, Section F (Example Projects Which Best Illustrate Proposed Team's Qualifications for This Contract), limit example projects to no more than ten (10).
- In SF 330 Part I, Section G (Key Personnel Participation in Example Projects), limit example projects to no more than ten (10). The example projects listed in Section G (#29) should match the example project list provided in Section F.
- In SF 330 Part I, Section H (Additional Information), the consultant should detail the plan to assure the County that the staff submitted for evaluation will be available for the services requested by the RFP. Section H of SF 330 Part I is limited to a maximum of ten (10) pages with a font no less than 10 point. This section should describe the organization of the proposed project staff indicating the role of each by individual. If sub-consultants are proposed, the role of each sub-consultant should be discussed. List any computer and CADD equipment and any specialized computer software packages that you will use on projects involving VDOT reviews.
- The County may receive funds from Federal Grant Sources for projects that are administered by VDOT. Requirements of this Section apply to project assignments from the County when Federal and State Funds are used either in part or whole to complete the Engineering, Construction or Administration of a Project. Experience as a Consultant on similar type Federal Grant Funded Municipal Level Projects with respect to eligibility as a Contractor under the Requirements of this Section should be demonstrated by the Prospective Offeror.

All firms submitting a proposal (prime consultants, joint ventures and sub-consultants) must have internal control systems in place that meet Federal requirements for accounting. These systems must comply with requirements of 48CFR31, "Federal Acquisition Regulations (FAR), Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." All firms for a project (Prime Consultants, Joint Ventures and Sub-consultants) must submit their FAR audit data to the County within 10 work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within 10 work days, negotiations may be terminated by the County and the next most qualified team will be invited to submit a proposal.

The selected consultant will be required to submit Title VI Forms and Certificates of Insurance and update these documents annually for the duration of the contract.

- Give names and detailed addresses of all affiliated and/or subsidiary companies. Indicate which companies are subsidiaries. If a situation arises in responding to this questionnaire where you are unsure whether another firm is or is not an affiliate, doubt should be resolved in favor of affiliation and the firm should be listed accordingly.

Affiliate - Any business entity which is closely associated to another business entity so that one entity controls or has the power to control the other entity either directly or indirectly; or, when a third party has the power to control or controls both; or where one business entity has been so closely allied with another business entity through an established course of dealings, including but not limited to the lending of financial wherewithal, engaging in joint ventures, etc. as to cause a public perception that the two firms are one entity. Firms which are owned by a holding company or a third party, but otherwise meet the above conditions and do not have interlocking directorships or joint officers serving are not considered affiliates.

- In 2 page(s) or less, provide information that will indicate your firm's ability to meet accelerated project schedules while considering the review time of VDOT and regulatory agencies.
- A project approach discussion is neither required nor desired, although a project approach should be an integral part of the technical presentations.
- Please indicate, by executing and returning the attached Certification Regarding Debarment forms, if your firm, sub-consultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of Federal or State funds:
 - Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.
 - Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years.
 - Does have a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Any of the above conditions will not necessarily result in denial of award, but it will be considered in determining offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in Federal criminal prosecution or administrative sanctions.

- If the prime consultant or sub-consultant does not have the in-house capability to provide non- professional services, each with an estimated cost of \$5,000 or greater, such as diving services, soil drilling, sampling services or laboratory testing, these services must be subcontracted in accordance with State procurement procedures once a contract is executed, with no DBE or SWaM credit in the selection of the most qualified firm or team. Clearly

indicate these services in the EOI. Offeror shall acknowledge understanding of this in the Proposal.

- Each business entity (prime and sub-consultants) on the proposed team who is practicing or offering to practice professional services in Virginia, including, but not limited to, those practicing or offering to practice engineering, surveying, hydrologic and hydraulic analysis, geotechnical analysis and landscape architecture, should provide evidence including full size copies of appropriate commercial professional registrations and licenses for all main and branch offices proposed for this Project, as well as providing full size copies of appropriate individual registrations/licenses for those professional occupations per the requirements listed below. The EOI should convey the requested information for each regulant by the use of a concise table or matrix. (All full size copies of the Commonwealth of Virginia State Corporation Commission (SCC) and Department of Professional and Occupational Regulation (DPOR) supporting registration documentations should be included in the EOI and will not be counted towards page restriction):

- .1 The Commonwealth of Virginia SCC registration detailing the name, registration number, type of corporation and status of the business entity.
- .2 For this Project/Contract, the Commonwealth of Virginia DPOR registration information for each office practicing or offering to practice any professional services in Virginia: Provide the business name, address, registration type, registration number, and expiration date.
- .3 For this Project/Contract, the Commonwealth of Virginia DPOR license information for each of your Key Personnel practicing or offering to practice professional services in Virginia: Provide the name, the address, type, the registration number, and the expiration date. Provide the office location where each of the Key Personnel is offering to practice professional services.
- .4 For this Project/Contract, the Commonwealth of Virginia DPOR license information for those services not regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (i.e. real estate appraisal): the business name, the address, the registration type, the registration number, and the expiration date.

Failure to comply with the law with regard to those requirements in Virginia (whether federal or state) at the time of the EOI submittal regarding your organizational structure, any required registration with governmental agencies and/or entities, and any required governmental licensure, whether business, individual, or professional in nature may render your EOI submittal(s), in the sole and reasonable discretion of the Department, non-responsive and in that event your EOI submittal(s) may be returned without any consideration or evaluation.

VI. EVALUATION AND AWARD OF CONTRACT:

A. Award of Contract: A minimum of three consultants will be selected for further evaluation and technical presentations (the “short list”). If less than three expressions of interest are received, Montgomery County will contact the VDOT Project Coordinator to determine if the selection may continue. VDOT will obtain concurrence from FHWA to proceed with the selection process. Montgomery County shall select the offeror which, in its opinion, has made the best proposal, and shall begin negotiations with that offeror. If a mutually agreeable contract cannot be finalized with the top-ranked offeror, then negotiations with that offeror will be formally terminated and negotiations with the second-ranked offeror will begin. Montgomery County may cancel the Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. (Section 2.2-4359D, Code of Virginia.) The County reserves the right to award a contract to more than one firm as a result of this solicitation. The award document will be a contract incorporating by reference all the requirements, terms, and conditions of the solicitation and the contractor’s proposal as negotiated. See Attachment B for sample contract form.

B. Evaluation Criteria: Proposals shall be evaluated by the County using the following criteria:

<u>EVALUATION CRITERIA</u>	<u>WEIGHT</u>
1. Method and plan for providing services	40
<ul style="list-style-type: none">• Understanding of Scope• Proposed Approach	
2. Qualifications and experience	40
<ul style="list-style-type: none">• Team Experience• Organization Capabilities	
3. References	15
<ul style="list-style-type: none">• Quality of workmanship and performance of the consultant: Past performance on contracts with respect to such factors as control of costs, coordination and quality of work, and ability to meet schedules.	
4. Organizational requirements	5
<ul style="list-style-type: none">• Responsible-in-charge in the firm must be a registered professional engineer in their state of residence and also registered professional engineer in the Commonwealth of Virginia.• Firm must be registered to do business in Virginia.• Team members must identify such potential conflicts of interest (COI) or a real or perceived competitive advantage.• Planned DBE/SWaM Involvement	

VII. RESERVATION OF RIGHTS: Montgomery County reserves the right to award in part or in whole, to more vendors, or to reject any or all proposals, whichever is deemed to be in its best interest.

VIII. OPTIONAL PRE-PROPOSAL CONFERENCE:

An optional pre-proposal conference will be held July 14, 2015 at 10 a.m. at 755 Roanoke Street, Suite 2C. The purpose of this conference is to allow potential Offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend. If you plan to attend the pre-proposal, please call Jessica Hamrick by July 13, 2015 at (540) 382-5784 or email hamrickjn@montgomerycountyva.gov. Directions to the Government Center can be found <https://www.google.com/maps/dir//755+Roanoke+St,+Christiansburg,+VA+24073/@37.1310524,-80.3929124,17z/data=!4m3!1m4!3m3!1s0x884d93b75be54a7d:0x54c5fb38bfd155f4!2s755+Roanoke+St,+Christiansburg,+VA+24073!3b1!4m7!1m0!1m5!1m1!1s0x884d93b75be54a7d:0x54c5fb38bfd155f4!2m2!1d-80.3929124!2d37.1310524>

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

IX. PROFESSIONAL SERVICES CONTRACT & CONTRACT PERIOD

The County will provide to the selected firm an approved notice of award (the "Notice of Award") and three copies of the Contract. The Contract must be executed and returned with proof of insurance within ten (10) business days of the date indicated on the Notice of Award (See Exhibit C). The Contract term will be for one(1) year and renewable for on-call, as-needed engineering services every one (1) year from the contract award date for up to four (4) additional 1-year periods upon approval of the County. By submission of a proposal on this RFP, offeror agrees to the contents of the Professional Service Agreement, both in form and substance in its entirety.

X. CONTRACT ADMINISTRATION:

The County of Montgomery will identify a Contract Administrator and shall use all powers under the contract to enforce its faithful performance. The Contract Administrator, or his/her designee, shall determine the amount, quantity, acceptability, fitness of all aspects of the services and shall decide all other questions in connection with the services. The Contract Administrator, or his/her designee, shall not have the authority to approve changes in the services which alter the concept or which call for an extension of time for this contract. Any modifications made must be authorized by the Montgomery County Purchasing Department through a written amendment to the contract.

A. Services

The County reserves the right to obtain any services provided pursuant to this RFP by soliciting additional requests for proposals if determined to be in the County's best interest to do so.

The Consultant's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the work.

The Consultant shall ensure that any construction contract document, including any drawings, plans, etc., is in compliance with all requirements of any ordinance, regulation, rule and any other law applicable to the work.

The professional consulting engineering firm's selection as the County's Consultant shall not be deemed as having guaranteed or granted to the Consultant any work under the Contract. Such work will be assigned on an as needed basis and in the sole discretion of the County.

B. Task Order/Award Procedures

Once the contract negotiations have commenced, the County may issue formal task order requests to the Consultant for transportation projects on an as-needed basis, and as outlined in Sections I and II of this solicitation. Subsequent to the Consultant Interviews, the County may request a meeting with the selected Consultant to discuss potential projects. Based upon subsequent meetings and/or negotiations, the Consultant will be asked to prepare a written task proposal to provide the necessary services to accomplish a task assignment.

XI. PAYMENT PROCEDURES: The County will authorize payment to the Contractor after receipt of Contractor's correct invoice for services rendered. Invoices shall be sent to:

Montgomery County Administration
Attn: F. Craig Meadows
755 Roanoke Street, Suite 2E
Christiansburg, VA 24073

ATTACHMENT A TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

http://www.montgomerycountyva.gov/filestorage/16277/16344/16633/16661/RFP_terms_and_conditions.pdf

SPECIAL TERMS AND CONDITIONS

AUTHORIZED USERS: Additional State agencies, institutions and/or other public bodies may be added or deleted to receive the goods or services resulting from this solicitation. The addition or deletion of authorized users shall be made only by written modification to the contract. Such modification shall name the specific agency added or deleted and the effective date.

SEVERAL LIABILITY: Montgomery County will be severally liable to the extent of its purchases made against any contract resulting from this solicitation. Applicable departments, institutions, agencies and Public Bodies of the Commonwealth of Virginia will be severally liable to the extent of their purchases made against any contract resulting from this solicitation.

VDOT Terms and Conditions

1. Disadvantaged Business Enterprises (DBEs) Goals for this Contract

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmb.state.va.us/>) under the **VDOT DBE Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBEs as potential subcontractors. The consultant is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE whereby the DBE promises not to provide services to other consultants is prohibited.

The DBE contract goal for this procurement is 0 %; however, the Department feels that these services support 10% DBE participation.

In accordance with the Governor's Executive Order No. 33, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE Web site (<http://www.dmb.state.va.us/>) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as

potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited. If portions of the services are to be subcontracted to a DBE or SWaM, the following needs to be submitted with your EOI and both must reference the project number(s) for the services:

- a.) Written documentation of the prime's commitment to the DBE or SWaM firm to subcontract a portion of the services, a description of the services to be performed, and the percent of participation.
- b.) Written confirmation from the DBE or SWaM firm that it is participating, including a description of the services to be performed and the percent of participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet and submitted as part of the consultant's proposal. A copy of the form is provided as part of this attachment.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis. A copy of the form is provided as part of this attachment.

If a DBE or SWAM is not certified, the DBE or SWAM must become certified with the Virginia Department of Minority Business Enterprise prior to the consultant's response being submitted. If a DBE or SWAM is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWAM subcontractors. DBE or SWAM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWAM credit will be awarded only for work actually being performed by themselves and their subcontractors only if the subcontractors are DBEs or SWAMs. A DBE or SWAM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

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

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms.

The prime consultants are encouraged to achieve all or a percentage of the required DBE participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. For further information on the BOWD Center and to view the DBE profiles, go to

www.virginia.gov/business/BOWD.asp. The BOWD Center can be contacted at (804) 662- 9555 or via email to BOWDCenter@vdot.virginia.gov.

Offeror should clearly indicate the proposed use of SWaM and DBE firms for this project, including percentage of work to be assigned on net task assignments during the course of the contract.

2. All business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission (A Business Registration Guide is available on the Internet at <http://www.state.va.us/scc/division/clk/brg.htm>). Foreign Professional corporations and Foreign Professional Limited Liability Companies must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional and Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (<http://www.state.va.us/dpor>). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the commonwealth. All branch offices which offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet this criterion prior to submitting an EOI to the County of Montgomery. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.
3. The **County of Montgomery** will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
4. All firms submitting proposals (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." All firms selected for a project (prime consultants, joint ventures and subconsultants) must submit their FAR audit data to the Montgomery County within ten work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within the ten work days, negotiations will be terminated by Montgomery County and the next most qualified team invited to submit a proposal.
5. The County of Montgomery assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within ten work days of notification of selection when requested by VDOT. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000. A copy of the form is provided as part of this attachment.

6. The County of Montgomery does not discriminate against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.
7. USDOT Order 1052.2 Appendix A -During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (*Recipient*) or the (*Name of Appropriate Administration*) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (*Recipient*), or the (*Name of Appropriate Administration*) as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (*Recipient*) shall impose such contract sanctions as it or the (*Name of Appropriate Administration*) may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract. or procurement as the (*Recipient*) or

the (*Name of Appropriate Administration*) may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (*Recipient*) to enter into such litigation to protect the interests of the (*Recipient*), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. USDOT Order 1050.2 - APPENDIX A

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

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (*Recipient*) or the (*Name of Appropriate Administration*) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (*Recipient*), or the (*Name of Appropriate Administration*) as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (*Recipient*) shall impose such contract sanctions as it or the (*Name of Appropriate Administration*) may determine to be appropriate, including, but not limited to:

- (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract. or procurement as the (*Recipient*) or the (*Name of Appropriate Administration*) may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (*Recipient*) to enter into such litigation to protect the interests of the (*Recipient*), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

9. GOOD FAITH EFFORT

(Federally Funded Project with DBE Goal: **until further notice, DBE goals will not be assigned to consultant service contracts**)

The Department will be accepting what consultants submit in their Expressions of Interest regarding good faith efforts. If a firm that has submitted good faith effort documentation makes the short list, the procuring Division Administrator (cannot be delegated unless he/she will be out of the office for more than 5 work days) along with a representative of the EO Division will determine if the good faith effort is acceptable.

When there is a contract goal, a consultant must make good faith efforts to meet it. The consultant can do so either through obtaining enough DBE participation to meet the goal or documenting the good faith efforts it made to do so. These means of meeting contract goal requirements are fully equivalent. 49 CFR Part 26 (the Rule) explicitly provides that the Department must not disregard showings of good faith efforts, and it gives consultants the right to have the Department reconsider a decision that their good faith efforts were insufficient. The Department is prohibited from denying a contract to a consultant simply because it did not obtain enough DBE participation to meet the goal. The Department must seriously consider consultants' documentation of good faith efforts. To make certain that consultants' showings are taken seriously, the Rule requires the Department to offer administrative reconsideration to consultants whose good faith efforts showings are initially rejected.

The Rule also ensures flexibility for consultants by requiring that any contract goal be waived entirely for a prime consultant that demonstrates that it made good faith efforts but was still unable to meet the goal.

When the Department sets a contract goal, the basic obligation of consultants is to make good faith efforts to meet it. They can demonstrate these efforts in either of two ways, which are equally valid. First, they can meet the goal, by documenting that they have obtained commitments for enough DBE participation to meet the goal. Second, even though they have not met the goal, they can document that they have made good faith efforts to do so. A refusal by the Department to accept valid showings of good faith is not acceptable under the Rule.

The Rule makes clear that the Department is not to use a "conclusive presumption" approach, in which the apparent successful consultant is summarily found to have failed to make good faith efforts simply

because another consultant was able to meet the goal. However, the performance of other consultants in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful consultant fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant could have met the goal. It does not, by itself, prove that the apparent successful consultant did not make a good faith effort to get DBE participation, however. On the other hand, if the apparent successful consultant fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants, the Department may view this, in conjunction with other factors, as evidence of the apparent successful consultant having made good faith efforts. The fact that some additional costs may be involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet a DBE contract goal, as long as such costs are reasonable.

If the Department determines that the apparent successful consultant has failed to meet the requirements of a good faith effort, the Department must, before awarding the contract, provide the consultant an opportunity for administrative reconsideration. The Department intends that the process be informal and timely. The Department will ensure that the process is completed within a brief period (e.g., 5-10 days) to minimize any potential delay in procurements. The consultant will have an opportunity to meet with the reconsideration official, but a formal hearing is not required. As part of this reconsideration, the consultant must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Department's decision on reconsideration will be made by an official who did not take part in the original determination that the consultant failed to meet the goal or make adequate good faith efforts to do so. The consultant must have the opportunity to meet in person with the reconsideration official to discuss the issues of whether it met the goal or made adequate good faith efforts to do so. The Department will send the consultant a written decision on reconsideration, explaining the basis for finding that the consultant did or did not meet the goal or make adequate good faith efforts to do so. The Department's reconsideration personnel consist of the Commissioner's DBE Review Panel.

It is up to the Department to make a fair and reasonable judgment whether a consultant that did not meet the goal made adequate good faith efforts. It is important for the Department to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant has made. The efforts employed by the consultant should be those that one could reasonably expect a consultant to take if the consultant were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. The Department's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

If DBE is prime, they will be allowed to count toward goals the work they commit to performing with their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE consultants on prime contracts will be expected to make the same outreach efforts as other consultants.

When a DBE participates in a contract, the Department will count only the value of the work actually performed by the DBE toward DBE goals. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a

commercially useful function on that contract. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function. If a DBE firm loses certification, its work no longer counts toward the DBE goal.

All consultants will be required to submit the following information to the Department with the EOI:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The percentage amount of the participation of each DBE firm participating;
- Written documentation of the prime consultant's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

The Department has prepared a list based on Federal Regulations of some of the kinds of efforts that consultants may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The Department does not require that a consultant do any one, or particular combination, of the things on the list, nor is the list intended to be exclusive or exhaustive; it merely offers examples. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a consultant has made good faith efforts, it will usually be important for the Department to look not only at the different kinds of efforts that the Consultant has made, but also of the timeliness, quantity, and intensity of these efforts.

The Department offers the following examples of efforts that may be considered:

A. Soliciting through all reasonable and available means (e.g., attendance at project showings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant must solicit this interest within sufficient time to allow the DBEs to participate effectively. The consultant must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract.

D. (1) Negotiating in good faith with interested DBEs. It is the consultant's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate

DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

D. (2) A consultant using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's costs, qualifications and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the consultant of the responsibility to make good faith efforts. Prime consultants are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations {for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority community organizations; minority contractors' groups; local, state, and Federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

CERTIFICATION REGARDING DEBARMENT
PRIMARY COVERED TRANSACTIONS

Project: On-Call Professional Engineering Services for the Design
of Transportation Projects in Montgomery County

- 1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification.
 - d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature

Date

Title

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS

Project: On-Call Professional Engineering Services for the Design
of Transportation Projects in Montgomery County

- 3) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 4) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature

Date

Title

Name of Firm

FIRM DATA SHEET

Funding: ____ (S=State F=Federal) Project No.: _____
 Division: _____
 EOI Due Date: _____

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all sub consultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data may result in the Expression of Interest not being considered.

Firm's Name, Address and DBE and/or SWaM Certification Number	Firm's DBE or SWaM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE

N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Small Business and Supplier Diversity

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE AND SWAM PAYMENT COMPLIANCE REPORT**

Page(s) _____ Of _____
 (1a) Report No. _____
 (1b) Period Ending _____

(2a) Federally Funded
 (2b) State Funded
 (2c) Order No. _____ (2d) Date of Execution _____
 (2e) Contractor/Subcontractor _____
 (2f) Route No. _____ (2g) Project No. _____ (2h) Contract Id. No. _____
 (2i) FHWA No _____ (2j) District _____

(3) DBE and SWAM Firm Name, Certification No.	(4) Tax I.D. No.	(5) DBE and SWAM Category	(6) Allowable Credit of Contract or Agreement	(7) Allowable Credit		(8) Disallowed Credit (VDOT Use Only)		(9) Type of Work (Indicate Item Numbers & Work Description)
				(7a) This Quarter	(7b) To Date	(8a) This Quarter	(8b) To Date	
Total Dollar Amount Paid by Quarter and To Date by DBE and SWAM Category			DMBE					
			DWBE					
			SBE					
			WBE					
			MBE					

All "amounts paid" to certified DBE and SWAM firms are to be reported and submitted by VDOT's quarterly submittal schedule. See Instructions.

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

Signature and Title of Company Official _____ Date _____
 Print Name and Phone Number of Individual _____
 Completing Report _____

**VIRGINIA DEPARTMENT OF TRANSPORTATION
INSTRUCTIONS FOR
DBE/SWAM PAYMENT COMPLIANCE REPORT – C63**

The Prime Contractor is required to submit a DBE Payment Compliance Report and requested to submit payments made to Small, Women-owned, and Minority-owned (SWAM) Business Enterprises for the designated quarterly reporting period. All amounts paid to **certified** DBE and SWAM businesses are subject to monitoring and enforcement mechanisms. It is the responsibility of the prime contractor to provide evidence of DBE and SWAM payments in response to monitoring and enforcement compliance reviews.

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

- 1a. **Report No.**
Indicate the number of the report you are sending in sequence. For example: If this is the second report you are submitting, enter Report No. 2.
- 1b. **Period Ending**
Indicate the reporting period based on the Reporting Schedule listed in these instructions.
- 2a. **Federally Funded**
Indicate if contract is federally funded.
- 2b. **State Funded**
Indicate if contract is state funded.
- 2c. **Order No.**
Enter the "Call Order" number assigned to your project by VDOT
- 2d. **Date of Execution**
Enter the date the contract was executed by VDOT.
- 2e. **Contractor/Subcontractor**
Enter your company's name.
- 2f. **Route No.**
Enter the highway route number shown in your contract.
- 2g. **Project No.**
Enter the project number assigned to your project by VDOT.
- 2h. **Contract Id. No.**
Enter the contract identification number assigned to your project by VDOT.
- 2i. **FHWA No.**
Enter the FHWA number assigned to your project.
- 2j. **District**
Enter the District where the project under contract is located.
3. **DBE and SWAM Firm Name, Certification No.**
Enter all DBE/SWAM subcontractors utilized and their certification number.

4. **Tax I.D. No.**
Indicate the Federal Employer Identification No.

5. **DBE and SWAM Category** (As certified by the Virginia Department of Minority Business Enterprise)
Designate type of DBE/SWAM business:
DBE: DMBE – Disadvantaged Minority-owned Business
DWBE – Disadvantaged Woman-owned Business

SWAM: SBE – Small Business
MBE – Minority-Owned Business
WBE – Woman-Owned Business

6. **Allowable Credit of Contract or Agreement**
Dollar value of contract or agreement to be performed by the DBE and SWAM during the contract or agreement which is allowable for participation credit.

- 7a. **Allowable Credit This Quarter**
Dollar amount that can be credited for work performed in reporting quarter.

- 7b. **Allowable Credit To Date**
Dollar amount that can be credited for work performed since work commenced.

- 8a. **Disallowed Credit This Quarter**
Dollar amount of payment paid to DBE and SWAM that is NOT allowable for participation credit in reporting quarter.

- 8b. **Disallowed Credit To Date**
Dollar amount of payment that is NOT allowable for participation credit since work commenced.

9. **Type of Work** (Indicate Item Numbers)
State work item(s) performed and give description.

Effective July 1, 2007, All Form C-63s for a particular reporting period shall be submitted in an electronic format to the respective person in responsible charge in each District by the following dates of each calendar year.

REPORTING SCHEDULE

Quarter	Reporting Period	Date Due To Responsible VDOT Residency
1st	July 1 – September 30	Five (5) working days after the reporting period
2nd	October 1 – December 31	Five (5) working days after the reporting period
3rd	January 1 – March 31	Five (5) working days after the reporting period
4th	April 1 – June 30	Five (5) working days after the reporting period

If the submittal date falls on a weekend/holiday, the forms shall be submitted to the VDOT Responsible Charge District Office on the following business day.

INSTRUCTIONS FOR SAVING FORM C-63 DATA IN PDF FORMAT

Please be advised that the information that you have placed on the Form C-63 (PDF format) will not save to the file when you close the file. **To save your information while using the PDF format, you must use the correct procedures outlined below.**

** The following steps will describe the correct procedure for saving the data that you have placed on the PDF version of the Form C-63:

- Step #1** CLICK ON “**File**”
- Step #2** CLICK ON “**Save A Copy**”
- Step #3** CLICK ON “**Save A Blank Copy**”
- Step #4** ENTER your “**Firm Name**” as the File Name
- Step #5** ENTER the “**Order Number**” (see line 2c on Form C-63)
- Step #6** ENTER **Underscore (_)**
- Step #7** ENTER “**Report Number**” (see line 1a on Form C-63) **Step**
- #8** ENTER “**Quarter Ending**” (see line 1b on Form C-63) **Step #9**
- ENTER the “**Year**” (last two digits only)
- Step #10** ENTER “**.pdf**” as the appropriate file ending

EXAMPLE:

Firm Name:	Vdot Construction Co.
Order No.:	A01
Report No.:	5
Quarter Ending:	1st Quarter (Jul.1 – Sept. 30)
Year:	07

Using the information in the example, your file would be saved as:
vdotA01_050107.pdf

ATTACHMENT B

**MONTGOMERY COUNTY, VIRGINIA
SAMPLE PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT, made the _____ day of _____, 2015 by and between MONTGOMERY COUNTY, VIRGINIA, hereinafter referred to as "COUNTY", and _____, a corporation, hereinafter referred to as "ENGINEER".

WHEREAS, the COUNTY requires On-Call Professional Engineering Services for the design of Transportation Projects on an as-needed basis; hereinafter referred to as a "PROJECT" and,

WHEREAS, a PROJECTs may be funded in part by the Virginia Department of Transportation and being administered locally by the COUNTY; and,

WHEREAS, the ENGINEER desires to provide the Engineering Services as requested by the COUNTY; and,

WHEREAS, this Agreement shall be in effect until the completion of a PROJECT including the VDOT final review and approval of the PROJECT's construction documentation; and,

WHEREAS, this Agreement states the duties and responsibilities of the COUNTY and of the ENGINEER related to the providing of such professional services to the COUNTY.

WITNESSETH:

In consideration of the mutual promises contained herein and other valuable consideration, the COUNTY and the ENGINEER agree as follows:

ARTICLE I

ENGINEER'S RESPONSIBILITIES

- 1.1 The ENGINEER shall:
- a. Furnish all labor, materials, equipment, technical and professional services required to perform engineering services as may be described in a Letter of Agreement for each specific PROJECT.
 - b. Perform all services described in the Letters of Agreement and in accordance with generally accepted professional standards. The ENGINEER shall comply with the

requirements, as related to the project, of the County of Montgomery, State of Virginia and Federal governmental agencies and authorities.

- c. Provide additional services not within the scope of the Letters of Agreement as requested and approved by the COUNTY. The cost of the additional services shall be submitted to the COUNTY by the ENGINEER for review and approval. Additional fees shall be based on either a lump sum or hourly not-to-exceed format. Additional services shall be authorized only if approved in writing by the COUNTY.

ARTICLE II

COUNTY'S RESPONSIBILITIES

2.1 The COUNTY shall:

- a. Provide to the ENGINEER all information in possession of the COUNTY which relates to the COUNTY's requirements for a specific PROJECT or which, in the opinion of the COUNTY, is relevant to the ENGINEER's services to be provided on the project.
- b. Review all preliminary drawings and estimates of construction costs; all final construction drawings, easement plats, and contract documents (if needed); all revised estimates of construction costs; and other documents presented by the ENGINEER.
- c. Make all reasonable efforts to provide access for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform the services required under this Agreement.
- d. Designate a person to act as the COUNTY's representative with the ENGINEER with respect to the services to be performed. Such person shall have the authority to transmit instructions, receive information, interpret and define the COUNTY's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the ENGINEER's services.

ARTICLE III
COMPENSATION

- 3.1 Compensation for each PROJECT phase shall be negotiated individually on a lump sum basis, as determined by the defined scope of services and fee proposal in the Letter of Agreement for each specific PROJECT phase. Current VDOT-approved labor rates shall be those in effect at the time of the specific Letter of Agreement. The Engineer's billing rate schedule shall be included with each Letter of Agreement.
- 3.2 Additional reimbursable expenses shall be as defined in the Letters of Agreement.
- 3.3 The ENGINEER shall submit invoices to the COUNTY on a monthly basis for cost incurred, for each individual project, accompanied by a brief narrative outlining the services provided and justifying the invoiced amount. After acceptance by the COUNTY of that portion of the services to which the invoice charges relate, the COUNTY shall pay the amount of invoice within thirty (30) days. Prior to being required to accept any invoice, the COUNTY shall have the right to expend a reasonable time to verify information contained on any invoice and to correct any errors found. Invoices shall be mailed or delivered to:

F Craig Meadows
County Administrator
Montgomery County Administration
755 Roanoke Street, Suite 2E
Christiansburg, VA 24073

- 3.4 Payments made to the ENGINEER shall not be considered as evidence of satisfactory performance, either in whole or in part, of the services by the ENGINEER.

ARTICLE IV
PERFORMANCE SCHEDULE

- 4.1 The ENGINEER shall perform the services with such qualified personnel in sufficient numbers to complete the services according to the performance schedule included in the Letter of Agreement for each specific PROJECT.

ARTICLE V
GENERAL PROVISIONS

- 5.1 In the event that the ENGINEER fails to perform the services within the time provided and within the terms of the Letter of Agreement, the COUNTY may, at its sole option, terminate the services of the ENGINEER. The COUNTY shall send a written termination notice either by hand delivery or certified mail to the ENGINEER of such termination. Termination shall be effective ten (10) days after the date of mailing or when received by the ENGINEER, whichever is sooner. The COUNTY shall not be required to honor requests for payment submitted for services initiated after the effective date of written termination. Upon written application by the ENGINEER prior to the actual date of termination, the COUNTY may, at its discretion, expressly grant an extension of time to the ENGINEER to perform the services or cure any breach of the terms of the Letter of Agreement.
- 5.2 The COUNTY and the ENGINEER bind themselves and any successors and assigns to this Agreement. The ENGINEER shall not assign, sublet, or transfer its obligations pursuant to this Agreement to any third party without the prior written consent of the COUNTY. Nothing hereinafter mentioned shall be construed as creating any personal liability on the part of any officer, agent or employee of the COUNTY. This Agreement shall not be construed as conferring benefits upon any person or entity other than to the COUNTY and the ENGINEER.
- 5.3 The ENGINEER agrees to indemnify and hold harmless the COUNTY, its elected officials, officers, agents, and employees from losses and damages occurring or resulting to any and all persons, firms or corporations, furnishing work, services, materials, or supplies due to the ENGINEER's negligence, failure to perform in accordance with the standard of care set forth in Article 1.1, or intentional wrong doing by the ENGINEER or any of its agents. This indemnification and hold harmless provision applies to all claims and losses resulting to any person, firm, or corporation who may be injured or damaged by the ENGINEER in the performance of this Agreement.
- 5.4 The parties hereto agree that the ENGINEER and any agents, or employees of the ENGINEER, in the performance of this Agreement, act in an independent capacity and not as officers, employees or agents of the COUNTY.

5.5 During the performance of this Agreement, the ENGINEER agrees as follows:

- a. **COMPLIANCE WITH LAWS AND REGULATIONS:** The ENGINEER shall keep fully informed of all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on this Agreement, or which in any way affect the conduct of the services provided by the ENGINEER. It shall at all times observe and comply with, and shall cause its agents, subcontractors and employees to observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the COUNTY and its employees and appointees against any liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its agents, subcontractors or employees. If any discrepancy or inconsistency is discovered between this Agreement and any such law, ordinance, regulation, order, or decree, the ENGINEER shall immediately report the same to the COUNTY in writing.
- b. **VIRGINIA PROHIBITED EMPLOYMENT DISCRIMINATION:** The ENGINEER, its agents, employees, assigns or successors, and any person, firm, or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of the Section 2.2-4311 of the Code of Virginia (1950), as amended.
During the performance of this Agreement, the ENGINEER agrees as follows:
 1. The ENGINEER will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the ENGINEER. The ENGINEER agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 2. The ENGINEER, in all solicitations or advertisements for employees placed by or on behalf of the ENGINEER, will state that the ENGINEER is an equal opportunity employer.
 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The ENGINEER will include the provisions of the foregoing paragraphs “1”, “2” and “3” in every subcontract or purchase order of over ten thousand dollars, so that such provisions will be binding upon each subcontractor or vendor.

- c. **NON-DISCRIMINATION PROVISION:** The ENGINEER agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, sex or national origin; and further agrees to abide by Executive Order No. 11246 entitled “Equal Employment Opportunity,” as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibit discrimination on the basis of age. Section 49 CFR 21 is incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The ENGINEER shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5 40 through 51.5 46 of the Code of Virginia (1950), as amended, the terms of which are incorporated herein by reference.

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

1. Withholding of payments to the ENGINEER under this Agreement until the ENGINEER complies; and/or
 2. Cancellation, termination or suspension of this Agreement, in whole or in part.
- d. **TITLE VI OF THE CIVIL RIGHTS ACT OF 1964:** During the performance of this Agreement, the ENGINEER, for itself, its assignees and successors in interest (herein referred to as “the ENGINEER”), agrees as follows:
1. **Compliance with Regulations:** The ENGINEER will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
 2. **Nondiscrimination:** The ENGINEER, with regard to the services provided by it

after award and prior to completion of this Agreement, will not discriminate on the grounds of race, religion, color, sex, national origin, age or handicap in the selection and retention of sub consultants, including procurements of materials and leases of equipment. The ENGINEER will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.

3. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the ENGINEER of the ENGINEER's obligations under this Agreement.
4. Information and Reports: The ENGINEER will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the COUNTY, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and subconsultants with fifteen (15) or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the ENGINEER or subconsultant is performing in accordance with this Agreement.
5. Sanctions for Noncompliance: In the event of the ENGINEER's noncompliance with the nondiscrimination provisions of this Agreement, the COUNTY shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to: withholding of payments to the ENGINEER under this Agreement until the ENGINEER complies, and/or cancellation, termination or suspension of this Agreement, in whole or in part.

Incorporation of Provisions: The ENGINEER will include the provisions of paragraphs “1” through “5” in every subcontract of \$10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The ENGINEER will take such action with respect to any subcontractor or procurement as the COUNTY or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the ENGINEER becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the ENGINEER may request the COUNTY to enter into such litigation to protect the interests of the COUNTY and, in addition, the ENGINEER may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

In accordance with the Governor's Executive Order No. 33, VDOT also requires the utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of consultant contracts. The ENGINEER shall take all necessary and reasonable steps in accordance with Executive Order No. 33, to ensure that SWaM firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Further, the ENGINEER agrees to provide the COUNTY with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE/SWaM, though no DBE/SWaM goal has been established for the PROJECT.

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

In the event of the ENGINEER's noncompliance with the DBE/SWaM participation

for the services indicated in Expression of Interest in response to the RFP, Attachment D, Scope of Work and Fee Proposal of this Agreement, the COUNTY shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

1. Withholding of payments to the ENGINEER under this Agreement until the ENGINEER complies, and/or
 2. Cancellation, termination or suspension of this Agreement, in whole or in part.
- g. TDD/TTY EQUIPMENT FOR THE DEAF: When seeking public participation through the maintenance of a toll free hot line number and/or publishing project-related materials, the ENGINEER agrees to ensure that all citizens have equally effective communication. The ENGINEER agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The ENGINEER will provide notice of a TDD/TTY number whenever a standard telephone number is provided.
- h. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By signing this Agreement, the ENGINEER certifies that it does not and will not during the performance of this Agreement violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
- i. OCCUPATIONAL SAFETY AND HEALTH STANDARDS: The ENGINEER shall not require any individual employed in the performance of this Agreement to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety as determined under the Occupational Safety and Health Standards promulgated by the United States Secretary of Labor. This provision shall be made a condition of any subcontract entered into pursuant to this Agreement.
- In addition, the ENGINEER shall abide by the Virginia Occupational Safety and Health Standards adopted under Section 40.1 22 of the Code of Virginia (1950), as amended, and will fulfill the duties imposed under Section 40.1 51.1 of the Code of Virginia. Any violation of the aforementioned requirements or duties which is brought to the attention of the ENGINEER by any person shall be immediately abated.
- j. CERTIFICATION REGARDING DEBARMENT: By the execution of this Agreement, the ENGINEER certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 4. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- k. **CORRECTION OF ERRORS:** The ENGINEER shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The ENGINEER will be required, without additional compensation, to correct any errors, including but not limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this Agreement, and shall also reimburse the COUNTY for any costs incurred. Acceptance of the plans or reports by the COUNTY shall not relieve the ENGINEER of the responsibility of subsequent correction of errors.
- Costs incurred by the ENGINEER in correcting errors in the plans or reports and reimbursing the COUNTY for costs incurred by the COUNTY as a result of such error shall be maintained in a separate account. Such account shall be clearly coded and identified, and shall be subject to audit by the COUNTY. Such costs shall not be billed to the COUNTY as a direct charge or an overhead item.
- l. **PAYMENT TO SUBCONTRACTORS:** In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4347 through 2.2-4356 of the Code of Virginia

(1950), as amended), the ENGINEER shall make payment to all subcontractors within seven (7) days after receipt of payment from the COUNTY, or shall notify the COUNTY and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment.

In the event payment is not made as noted, the ENGINEER shall pay interest at the rate of one percent per month to the subcontractor, unless otherwise provided in this Agreement, on all amounts that remain unpaid after seven (7) days except for the amounts withheld according to this Agreement.

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

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

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

1. Since promulgation of the federal requirements implementing Section 1352 of Title 31, U.S.C. (PL 101-121, Section 319) entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.", no federal appropriated funds have been paid and none will be paid, by or on behalf of the ENGINEER, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the ENGINEER shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. The ENGINEER shall require that the language of this certification be included in all subcontracts at all tiers, and that all subcontractors shall certify and disclose accordingly.
- n. **RECORDS:** The ENGINEER and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the ENGINEER's offices at all reasonable times and will be subject to audit and inspection by the COUNTY, VDOT or any authorized representatives of the Federal Government.
- Evidence of costs incurred by a subcontractor shall be made available at its office at all reasonable times during the contract period between the ENGINEER and the subcontractor and for three years after written acceptance by the ENGINEER, for audit and inspection by the COUNTY, VDOT or any authorized representatives of the Federal Government. It shall be the ENGINEER's responsibility to notify the COUNTY, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the ENGINEER's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.
- o. **DRUG-FREE WORKPLACE:** During the performance of this contract, the ENGINEER agrees to:
1. Provide a drug-free workplace for the ENGINEER's employees;
 2. 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 ENGINEER's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

3. State in all solicitations or advertisements for employees placed by or on behalf of the ENGINEER that the ENGINEER maintains a drug-free workplace; and
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

5.6 The ENGINEER shall carry Public Liability Insurance in the amounts specified, including the contractual liability assumed by the ENGINEER:

a. Workman's Compensation and Employer's Liability

Coverage A – Statutory Requirements
Coverage B - \$100,000 Per Occurrence
Coverage C - \$100,000/\$100,000 Accident and/or Disease

b. Automobile Liability, including Owned, Non-Owned, and Hired

Coverage Limits of Liability:
Bodily Injury \$1,000,000 each occurrence
Property Damage \$1,000,000 each occurrence
OR
Single Limit \$2,000,000 each occurrence
Bodily Injury
Property Damage

c. Comprehensive General

Liability Limits of Liability: \$1,000,000 each occurrence
Bodily Injury \$1,000,000 each occurrence
Property Damage
OR
Single Limit \$2,000,000 each occurrence

- Bodily Injury
- Property Damage
- 1. Completed Operation/Products
- 2. Contractual Liability for Specified Agreement
- 3. Personal Injury
- 4. Medical Malpractice

d. Professional Liability

Aggregate \$1,000,000

e. Excess Liability Umbrella Form

Bodily Injury and
Property Damage Combined (See Note 1)

Note 1 – The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Automobile Liability and Comprehensive General Liability, the total amount of coverage can be accomplished through any combination of primary and excess umbrella insurance. However, the total insurance protection provided for Comprehensive General Liability protection or for Automobile Liability protection, either individually or in combination with Excess Liability Umbrella must total \$2,000,000 per occurrence.

Prior to commencing services under this Agreement, the ENGINEER shall furnish the COUNTY with certificates of insurance which indicate the required coverage and that the COUNTY has been named as an additional insured with regard to the automobile and comprehensive general liability insurance policies. No change or cancellation of the insurance coverage mentioned herein shall be made without thirty (30) days prior written notice to the COUNTY.

- 5.7 The COUNTY reserves the right to terminate this Agreement in whole or in part at any time, for any reason and without penalty, by ten (10) days prior written notice delivered either by hand or certified mail to the ENGINEER. At the end of such period, the ENGINEER shall have discontinued all work and services and shall have delivered to the COUNTY all records, drawings, field notes, plans, or other data completed or partially completed. These documents shall become and remain the property of the COUNTY upon receipt of payment by the Engineer. Upon such termination, the Engineer shall be entitled to compensation only per the

terms of its written agreement with the COUNTY, and only through the date of termination or date of receipt of notice, whichever is sooner.

- 5.8 The parties agree that all survey notebooks, reports, plans, drawings, studies, specifications, memoranda, estimates, and computations prepared by and for the ENGINEER in the performance under this Agreement, shall be and remain the property of the COUNTY. Upon termination of this Agreement or completion of the services, the COUNTY shall have the right to such documents without compensation to the ENGINEER. Such documents shall be promptly delivered by the ENGINEER to the COUNTY upon demand. The ENGINEER shall not be responsible to the COUNTY for liabilities resulting from the reuse of such documents for other sites, projects, or applications not related to this specific site.
- 5.9 All notifications made by the parties pursuant to this Agreement, except in those instances where certified mail is required, shall be sent by first class mail, postage prepaid or hand delivered. All notifications, whether by certified mail or registered U.S. Mail, shall be sent, as the case may be, to the following:

COUNTY of Montgomery

F. Craig Meadows
County Administrator
755 Roanoke St. Suite 2E
Christiansburg, VA 24073

Engineer

Name
Title
Address
Address

- 5.10 This Agreement and all Letters of Agreement constitute the entire agreement and understanding between the COUNTY and the ENGINEER. This Agreement shall not be modified or altered, changed, or amended in any respect unless in writing and signed by the parties hereto.
- 5.11 Services contracted during any part of a term will continue through completion of the services without regard to the end of the term and without obligation by the COUNTY to renew this Agreement.
- 5.12 Contractual claims and dispute resolution shall be conducted in accordance with the COUNTY's Purchasing Manual's procedures.

5.13 This Agreement is made and entered into in the COUNTY of Montgomery, Virginia, and shall be governed by the law of the Commonwealth of Virginia and all disputes shall be initiated and litigated only in the Circuit Court of the COUNTY of Montgomery, Virginia.

IN WITNESS THEREOF, duly authorized representatives of the COUNTY and the ENGINEER executed this Agreement on the date set forth above.

County of Montgomery:

Engineer:

By: _____

By: _____

F. Craig Meadows

Title: Montgomery County Administrator

Attest: _____

Attest: _____