



RICHMOND REGIONAL PLANNING DISTRICT COMMISSION

REQUEST FOR PROPOSALS

RFP# 22-03

FINANCIAL AND COMPLIANCE AUDIT

ISSUE DATE:

April 8, 2022

SUBMISSION DEADLINE:

April 27, 2022

RICHMOND REGIONAL PLANNING DISTRICT COMMISSION

REQUEST FOR PROPOSALS

FINANCIAL AND COMPLIANCE AUDIT

RFP #22-03

I. INSTRUCTIONS TO OFFERORS

Proposals will be received but not later than 12:00 p.m., Wednesday April 27, 2022, local time prevailing, for Financial and Compliance audit services for the Richmond Regional Planning District Commission (PlanRVA) for each completed fiscal year beginning July 1, 2021, through June 30, 2026. Consultation on financial and/or accounting matters will begin January 1, 2022, continuing through December 31, 2025.

Submissions should be marked on the outside of the envelope with "Subject RFP #22-03". One signed copy of your proposal must be submitted digitally to finace@PlanRVA.org. Any proposal received after the deadline will not be considered. Failure to comply with these requirements will cause a rejection of the proposal.

PlanRVA reserves the right to reject any or all proposals submitted and also to make award where it appears to be in the best interest of the Commission.

Questions concerning this Request for Proposal should be directed to Martha Heeter, Executive Director, at (804) 323-2033 or MHeeter@PlanRVA.org.

II. BACKGROUND AND PROCUREMENT OBJECTIVES

PlanRVA was formed by local governments in 1968 under the authority of the Virginia Area Development Act and reauthorized by the Regional Cooperation Act of 1995. The Commission is a public body corporate and politic with all the powers and duties granted to it by the laws of the Commonwealth of Virginia including the Virginia Area Development Act and the Regional Cooperation Act of 1995. The purpose of the Commission is to promote the orderly and efficient development of the physical, social, and economic elements of the Planning District by planning, encouraging, and assisting governmental subdivisions to plan for the future. A board of Commissioners appointed from nine member jurisdictions governs the organization. The governing body is comprised of elected officials, local planning commissioners, and business and civic leaders throughout the Region.

The Commission acts as the legal entity that receives funding for the Richmond Regional Transportation Planning Organization (RRTPO) which is the federally designated regional transportation planning organization that serves as the forum for cooperative transportation decision-making in the Richmond Metropolitan Area. The RRTPO was established under Section 134 of the Federal Aid Highway Act of 1973, as amended, for maintaining and conducting a "continuing, cooperative and comprehensive" transportation planning process that results in plans and programs consistent with the comprehensively planned development of the Richmond urbanized area.

The accounts of the Commission are organized based on fund types. The operations of each fund are accounted for by providing a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, and expenditures. Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and how spending activities are controlled.

The Commission follows the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recorded when they become measurable and available to pay liabilities of the current period. Governmental grant revenues are recognized based on expenditures incurred. Revenues not considered available are recorded as deferred revenues. Expenditures are recorded when the liability is incurred.

Historically, the Commission has issued a Request for Proposal (RFP) every three to six years to obtain new viewpoints for advice in the design of appropriate internal control and reporting systems to ensure proper fiscal management, which instills local government confidence in the organization. PlanRVA desires, through this Request for Proposals and a related service contract award to prepare the annual financial and compliance audit report and management letters of for each fiscal year ending June 30 and provide consultation on financial and/or accounting matters for the period beginning January 1, 2022, through December 31, 2025.

III. SCOPE OF WORK

A. The Contractor shall provide professional financial accounting services required to conduct the annual audit. The audit shall be conducted in accordance with:

- *Generally Accepted Auditing Standards.*
- *Government Auditing Standards* issued by the Comptroller General of the United States.
- the provisions of OMB's Super Circular that sets forth guidance on administrative requirements, cost principles and audit requirements for Federal awards.
- *Specifications for Audits of Authorities, Boards, and Commissions* issued by the Virginia Auditor of Public Accounts and Governmental Accounting Standards Board Statement Number 34; and
- *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments.*

The audit shall result in the preparation of financial statements from the audited records of the Commission with the Contractor's opinion thereon. The audit reports shall also include the Contractor's findings and recommendations concerning the financial management practices and the handling of funds.

B. The Contractor shall provide and present a draft audit report to the staff and Audit, Facilities and Finance Committee within sixty (60) days after the end of the fiscal year and submit a final audit report to the Executive Committee and Board on the second

Thursday of October following the end of the audited fiscal year and be available to address the Executive Committee and full Board on any audit findings.

- C. In connection with the preparation of the above noted annual audit report; the Contractor shall submit a detailed financial management letter with recommendations for improvement in internal control, accounting systems and procedures. This management letter is to be issued under separate cover. It should be provided at the same time the annual audit report is provided.
- D. The Contractor shall provide a digital copy of the final audit report for distribution.

IV. SUBMISSION REQUIREMENTS, SELECTION PROCESS AND CRITERIA

A. Proposal Content Requirements

The proposal shall, at a minimum, include the following items:

1. Experience of the Firm. Identify headquarters and nearest office and identify the office that will serve as the managing office of the audit. State the number of years the firm and local office have been in business. Describe the firm's participation in AICPA-sponsored or comparable quality programs. Describe experience in performing required governmental audits according to specifications contained herein, evaluating automated financial management systems, and recommending internal control or reporting changes to improve the client's fiscal management capability and any experience specific to auditing regional public agencies (e.g., planning district commissions, public service authorities, etc.) like PlanRVA.
2. Project Staffing. Describe the experience in government audits of each senior and higher-level person assigned to the audit, the branch office out of which this individual works, years in each job and position while on each audit. Indicate the percentage of time the senior or in-charge auditor will be on-site.

Describe the relevant educational background of everyone assigned to the audit. This should include seminars and courses attended within the past three years.

Describe in detail any additional resources that your firm would have available for review and consultation concerning specific technical matters involved in this audit.

Provide an estimate of the total hours you expect to be spent on this job by management, senior auditor, and staff auditors.

3. Audit Approach. Provide a detailed explanation of the audit approach and illustrations of performed procedures. Include a proposed schedule for project completion for at least the first fiscal year of review and evaluation with recognition that PlanRVA is subject to submission requirements to the Auditor of Public Accounts pursuant to Virginia Code. Please speak, specifically, to the following:

- Time of each significant phase of audit work.

- Use of materiality and how it is calculated.
 - Type of audit program used (tailored to specific engagement, standard government or standard commercial).
 - Use of statistical sampling.
 - Organization of audit team and approximate percentage of time spent on the audit.
 - Typical assistance expected from the PlanRVA staff, generally.
 - Tentative schedule for completed audit within the deadlines specified herein.
4. Proposed fee structure. Please describe the total annual cost for performing the annual audit for the requested period and providing consultation and support throughout each covered fiscal year. Fees may change over the course of the engagement but must be included in this proposal for consideration.

Proposals may include a proposed fee structure for performing other consulting support related to PlanRVA's financial management system evaluation, review of internal controls and policies and procedures.

Proposal offerors are encouraged to review the Criteria for Selection to determine other information which may be supplied to be fully responsive to the criteria upon which the evaluation of the proposal will be based.

B. Submittal Specifications

One (1) signed digital copy of the proposal must be submitted to PlanRVA no later than 12:00, Noon, on April 27, 2022, via email to Finance@PlanRVA.org.

Submittal emails should be clearly marked as being submitted in response to this RFP with the subject line reading "PlanRVA RFP #22-03".

C. Proposal Evaluation Process and Contract Negotiations

1. Selection Process

A proposal evaluation and selection committee, acting on behalf of PlanRVA and consisting of the Chairman of the Audit, Facilities and Finance Committee (or designee), a representative of the Executive Committee (or designee), and PlanRVA Staff, will be organized to review and evaluate all proposals received.

Following the evaluation of the proposals submitted, the Selection Committee shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible, and suitable based on initial responses and with emphasis on professional competence, to provide the required services. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project.

Please include in the response to the RFP your fee for each year of the audit.
No additional fees will be paid for consultation on financial/accounting matters

as issues of this nature arise very infrequently. At the conclusion of discussion, based on the evaluation factors described in the RFP and all information developed in the selection process to this point, the Committee shall select in the order of preference, two or more Offerors whose professional qualifications and proposed services are deemed most meritorious.

A copy of our standard contract General Conditions is included with this RFP. If the contract is satisfactory and advantageous to PlanRVA and the Offeror and the proposed fee are considered fair and reasonable, the award shall be made to that Offeror. Otherwise, discussions with the Offeror ranked first shall be **formally terminated** and discussions will be conducted with the Offeror ranked second, and so on until such contract and the proposed fee can be mutually agreed upon.

PlanRVA reserves the right to reject all proposals received and initiate a new competitive proposal process. Should the Selection Committee, acting on behalf of PlanRVA, determine in writing in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated with and awarded to that Offeror. If negotiations are unsuccessful, PlanRVA reserves the right to issue a new Request for Proposals.

2. Selection Criteria

Responsiveness and completeness of the proposal with respect to this RFP is required. Please be sure to submit a complete proposal as incomplete proposals will not be considered.

In evaluating proposals, the Committee will consider:

- a. Demonstrated ability to comprehensively perform all services detailed in the Request. (20 points)
- b. Organization, size, structure, and financial stability of the firm including qualification as a small, minority, woman-owned, disabled, or veteran-owned business or leverage of partnerships or joint ventures with businesses targeted for increased diversity and inclusion. (20 points)
- c. Demonstrated experience and reputation in financial analysis and audit, particularly with local governments and public authorities dealing with federal grant requirements and compliance. Demonstrated knowledge of requirements for federal and state audit compliance and best practices for management of small organization assets and financial performance. (30 points)
- d. Overall qualifications and capacity of the firm to perform the services required. Experience and qualifications of the proposed personnel assigned to provide the services. (10 points)
- e. Cost of Services including reasonableness of pricing and provisions for escalation over the period of engagement. Proposals that provide favorable scenarios for a support/consulting allowance over the period of engagement will be reviewed with interest. (20 points)

V. CONTRACT FORM, TERM AND OWNERSHIP OF DOCUMENTS

- A. The Contractor chosen will be required to execute the contract in Exhibit 2 or one with substantially similar terms.
- B. The term of this contract will be from the date of contract signing through December 31, 2025. PlanRVA requests the right of extension for subsequent years to be mutually agreed upon by the PlanRVA and the Contractor.
- C. In the event of termination for any reason, all finished or unfinished documents, data, records, and reports prepared by the Contractor under this contract shall become the property of PlanRVA and be delivered by the Contractor or its successor, for use by PlanRVA in completing the audit. Such use by PlanRVA **shall not** result in additional compensation to the Contractor.

VI. INSURANCE

The Contractor shall be required to carry for the life of the contract with PlanRVA, Professional Liability Insurance, with a company licensed to do business in the Commonwealth of Virginia, such as to protect itself and PlanRVA from claims which may arise out of or because of the execution of the work, whether such execution be by the Contractor, his employees, agents, subcontractors, or by anyone for whose acts any of them may be liable. The insurance coverage shall be such as to protect in full PlanRVA and the public from all claims for injury and damage resulting from any actions on the part of the Contractor or his force enumerated above. Insurance limits shall be \$1,000,000 per occurrence and \$1,000,000 aggregate in addition to any other contractual liability assumed by the Contractor, and the Contractor shall deliver a Certificate of Insurance from carrier(s) acceptable to the Contractor specifying such limits to PlanRVA. In addition, the Contractor shall guarantee that the insurer shall agree to give PlanRVA thirty (30) days written notice of its decision to cancel, change or fail to renew coverage for the Contractor.

The Contractor shall provide insurance certificates showing compliance with the above requirements to the satisfaction of PlanRVA before the award of contract. Failure to comply with this requirement may be cause for termination of a resulting contract, in the sole discretion of PlanRVA.

VII. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

- A. The Contractor shall indemnify and hold PlanRVA and its officers, agents, and employees harmless from and defend against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the Contractor's providing or failing to provide any product, goods or services required under the Request for Proposals or related contract, including but not limited to any such claim, damage, loss or expense, that is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, or to economic loss; provided, however, that the Contractor's indemnification obligation under the scope of service under any contract shall be limited to claims, damages, losses, and expenses caused in whole or in part by any act or omission of the Contractor,

- or any subcontractor (a "Subcontractor") performing work required by the Contractor's contract with PlanRVA, or anyone directly or indirectly employed by any of them or anyone for whose acts the Contractor or any Subcontractor may be liable, regardless of whether or not such claims, damages, losses, and expenses are caused in part by a party indemnified hereunder.
- B. The Contractor's indemnification obligation in Part VII (A) of this Agreement, with respect to any and all claims by any employee or statutory employee of the Contractor, or any Subcontractor, or by anyone directly or indirectly employed by any of them, or anyone for whose acts the Contractor or Subcontractor may be liable, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation Acts, Disability Benefits Acts or other Employee Benefit Acts.

VIII. RESPONSIBILITIES OF THE PARTIES

- A. PlanRVA responsibilities:
1. Compile documents and prepare work papers, schedules and analyses of funds required for the completion of the audit.
 2. Provide or make available to the Contractor all pertinent information in its possession that the Contractor deems necessary for the successful implementation of this contract, which may lawfully be released.
 3. Designate a person to function as the representative and to provide the person so designated with authority necessary to administer the provisions of a resulting contract.
 4. Provide an appropriate and reasonable work area within or in close proximity to the PlanRVA office for the conduct of fieldwork.
- B. Contractor's responsibilities:
1. Develop a schedule of audit tasks with appropriate due dates
 2. Prepare the draft and final audit report and management representation letter and recommendations. A draft copy of the final audit report must be provided in adequate time to include in meeting material distribution prior to the Board meeting on the second Thursday of September following the fiscal year audited.
 3. Attend meetings, as requested, with the Audit, Facilities and Finance Committee Chairman before beginning the major portion of the audit work as well as after completion of the draft report and management letter. In addition, a presentation of the final audit report will be made to the Executive Committee and Board on the second Thursday of September following the fiscal year audited.

IX. TERMINATION

- A. Termination for Default

The Contractor's right to perform this contract may be terminated by PlanRVA in the event services are not performed as called for in the contract. Thereafter, PlanRVA may have the service performed by others and the Contractor shall be liable for all costs to PlanRVA in excess of the contract price for the remaining portion of the contract. The Contractor will be notified of this termination in writing by PlanRVA.

B. Termination for Convenience

PlanRVA may terminate this contract for convenience. If PlanRVA elects to terminate the contract, written notice will be mailed, by U.S. Certified Mail-Return Receipt Requested, at least thirty (30) days in advance of the effective date. The Contractor will be paid for all labor and materials provided to the satisfaction as of the termination date. Upon such termination, PlanRVA shall not be responsible for any payment for work performed by the Contractor after the termination date, or for the lost profit or revenue anticipated by the Contractor for the canceled portion of the contract. The Contractor will be notified of this termination in writing by PlanRVA.

C. Termination for Non-Appropriation

The contract will automatically terminate upon failure of the Board to appropriate funds for its continuation. The Contractor will be notified of this termination in writing.

X. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of this Contract, the Contractor must agree as follows:

- A. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- C. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- D. The Contractor will include the provisions of the foregoing paragraphs A, B, and C in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

XI. PAYMENT METHOD

The Contractor shall email its invoice for services rendered within ten (10) days following the presentation of the annual audit report to the Board. The Contractor's invoice shall indicate total hours of service, by personnel and activity, in performance

of the annual audit. Subsequent billings for any additional authorized work shall be submitted monthly.

All payments for amounts approved shall be remitted to the Contractor within thirty (30) days following receipt of the billing invoice.

XII. SERVICE DATES

It is currently anticipated that PlanRVA will award a service contract with the selected proposal Offeror on or about May 24, 2022. The Contractor shall begin service as soon as practical in preparation for the end of the fiscal year. The audit report shall be completed within ninety (90) days after the close of each fiscal year.

XIV. GOVERNING LAW

This RFP and any contract resulting from this RFP shall be situated in the City of Richmond, Virginia, and shall be governed, construed, and interpreted according to the laws of the Commonwealth of Virginia.

CERTIFICATION OF NON-COLLUSION

My signature below certifies that the accompanying proposal is not the result of or affected by an act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under Title 18.2, Article 1.1 of the Code of Virginia. Furthermore, I understand that fraudulent and collusive bidding is a crime under the Virginia Governmental Frauds Act, the Virginia Governmental Bid Rigging Act, the Virginia Antitrust Act, and federal law, and can result in fines, prison sentences, and civil damage awards.

I agree to abide by all conditions of this Bid or Proposal and certify that I am authorized to sign this Bid or Proposal for the Offeror.

Name of Bid or Proposal Offeror: _____

Address: _____

Signature: _____

Name (Type or Print): _____

Official Title: _____

Date: _____

Telephone Number: _____

NOTARY PUBLIC:

Subscribed and sworn before me this _____ day of _____, 2022.

(Seal)

My commission expires: _____

GENERAL TERMS AND CONDITIONS

I.1 DEFINITIONS

- I.1.1 "Department Head" means leadership of Richmond Regional Planning District Commission.
- I.1.2 "Duly authorized representative" means any person authorized in writing by the department head to act for the department head in connection with this AGREEMENT.
- I.1.3 "Purchasing Agent" means Richmond Regional Planning District Commission.
- I.1.4 "Work" means Contracted Services for the Richmond Regional Planning District Commission
- I.1.5 "Contractor" shall mean: Vendor selected to perform the work.

I.2 AGREEMENT PERIOD

The term of this AGREEMENT shall commence effective June 1, 2022, and continue through the next four fiscal years, expiring on June 30, 2026.

I.3 COMPLIANCE WITH LAWS

CONTRACTOR shall at all times observe and comply with all laws, ordinances and regulations of the federal, state and local government, which may in any manner affect the performance of this AGREEMENT, including, without limitation, the Commonwealth of Virginia Building Codes.

Procedures for Agreement disputes, appeals, and protests shall be governed by the Virginia Public Procurement Act, where applicable.

I.4 TAXES

The Richmond Regional Planning District Commission is exempt from excise taxation by virtue of exemption certificate No. 546020697. Completion of such documents as may be necessary will occur for CONTRACTOR to comply with applicable tax laws and regulations.

The price or prices quoted herein shall include all other federal and state, direct and indirect taxes which apply.

I.5 NOTICE

All communications and notices provided for herein shall be in writing, delivered personally or by certified mail, to CONTRACTOR by name and address listed on the proposal; to the department head by name and address listed on the cover here and to:

Project Manager
9211 Forest Hill Avenue, Suite 200
Richmond, Virginia 23235

I.6 NONDISCRIMINATION

During the performance of this AGREEMENT, CONTRACTOR agrees as follows:

- I.6.1 CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, creed, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of CONTRACTOR. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- I.6.2 CONTRACTOR, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, will state that such CONTRACTOR is an equal opportunity employer.
- I.6.3 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.
- I.6.4 CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- I.6.5 CONTRACTOR will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

The Contractor will comply with the acts and regulations relative to non-discrimination which are herein incorporated by reference and made a part of this AGREEMENT. During the performance of this AGREEMENT, the CONTRACTOR, for itself, its assignees, and successors in interest (herein referred to as the CONTRACTOR) agrees as follows:

1.6.6 The contractor will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

1.6.7 The CONTRACTOR, with regard to the work performed by it during the AGREEMENT, will not discriminate on the grounds of race, color, or national origin in the selection and retention of a subcontractor, including procurements of materials and leases of equipment. The CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulation, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

1.6.8 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 will be notified by the CONTRACTOR of the CONTRACTOR's obligations under this AGREEMENT and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

1.6.9 The CONTRACTOR will provide all information and reports required by the Acts, the Regulations, and directives 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 COMMISSION or federal or state or local funder to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish the information, the CONTRACTOR will so certify to the COMMISSION and will set what efforts it has made to obtain the information.

1.6.10 In the event of CONTRACTOR's noncompliance with the Non-discrimination provisions of this AGREEMENT, the COMMISSION will impose such AGREEMENT sanctions as it may determine to be appropriate, including, but not limited to:

1.6.10.1 Withholding payment to the CONTRACTOR under the AGREEMENT until the CONTRACTOR complies; and/or

1.6.10.2 Cancelling, terminating, or suspending an AGREEMENT, in whole or in part.

1.6.11 CONTRACTOR will include the provisions of the above paragraphs (1.6.6: 1.6.11) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The CONTRACTOR will take action with respect to any subcontract or procurement as the COMMISSION may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the CONTRACTOR becomes involved in, or is threatened by litigation by a subcontractor, or supplier because of such direction, the CONTRACTOR may request the COMMISSION to enter into any litigation to protect the interests of

the COMMISSION. IN addition, the CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

During the performance of this AGREEMENT, the CONTRACTOR, for itself, its assignees, and successors in interest (hereinafter referred to as CONTRACTOR) agrees to comply with the following Non-discrimination statutes and authorities; including but not limited to the following Non-Discrimination Authorities:

1.6.12 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

1.6.13 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42. U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).

1.6.14 Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex).

1.6.15 Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27).

1.6.16 The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).

1.6.17 Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).

1.6.18 The Civil Rights Restoration Act of 1987, *PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities' to include all o the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

1.6.19 Titles I and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by the Department of Transportation Regulations at 49 C.F.R. Parts 37 and 38.

1.6.19 The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).

1.6.20 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs,

policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

1.6.21 Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (79 Fed. Reg at 74087 to 74100).

1.6.22 Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

I.7 DRUG-FREE WORKPLACE

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

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

Contractor agrees that no employee or agent of CONTRACTOR of any kind will possess or cause to be possessed alcohol and/or illegal or controlled substances upon COMMISSION'S leased or owned property or workspace or within 500 feet of COMMISSION property and facilities.

I.8 PRICE, PAYMENT, AND SERVICES

- 1.8.1 The total cost for the Services under any Task Order issued pursuant to this AGREEMENT shall be agreed upon mutually.
- 1.8.2 Payment for services provided under this AGREEMENT shall be based solely on the terms specified in the subject task order.

I.9.2.1 Payment Schedule

The CONTRACTOR shall make application for payment as defined in the terms of each specified task order. The COMMISSION shall make payment upon review and acceptance of the work submitted in each Application for Payment. The COMMISSION will make payments to CONTRACTOR in thirty (30) days after invoice receipt, verification, and acceptance of each invoice. COMMISSION shall notify CONTRACTOR of any disputed amount within fifteen (15) days from date of the invoice, give reasons for the objection, and promptly pay the undisputed amount. In the event of a legal action for invoice amounts not paid, attorneys' fees, court costs, and other related expenses shall be paid to the prevailing party.

- I.8.3 The Minimum services provided shall be set forth in the Task Order description and shall be of like kind to those services requested in Exhibit 3.
- I.9.4 When Additional Work, Time and/or Expenses are required to fulfil the objectives of a given Task Order, the CONTRACTOR will prepare a "Change Order" describing the additional work and/or expenses, the cause of the additional work and/or expenses. These services and/or expenses shall be reviewed and authorized by the COMMISSION. The CONTRACTOR shall not proceed with additional work, time and/or expenses until the COMMISSION authorizes them in writing.

I.9 STANDARD OF CARE

CONTRACTOR shall perform the services herein described expeditiously and diligently and in accordance with the standard of care and skill ordinarily exercised under similar conditions by reputable members of its profession or trade practicing in the same or similar locality within the Commonwealth of Virginia existing as of the date such services are provided and in accordance with all applicable laws, codes, and regulations in effect as of the date such services are provided.

I.10 QUALITY CONTROL AND INSPECTION

- I.10.1 COMMISSION, by its Procurement Manager, or any person whom he or she shall designate, shall have a right to inspect any services and/or products supplied by CONTRACTOR in carrying out this AGREEMENT.
- I.10.2 COMMISSION does not assume any responsibility for the availability of any controlled materials or other materials and equipment required under this AGREEMENT.
- I.10.3. CONTRACTOR shall be responsible for the agreed quality and standards of all materials, components, or completed work furnished under this AGREEMENT up to the time of final acceptance by COMMISSION.

I.10.4. Completed work not complying with the requirements of this AGREEMENT shall be rejected by the Procurement Manager and shall be corrected by CONTRACTOR at no cost to COMMISSION.

I.11 DELIVERABLES

Services shall be completed to the satisfaction of COMMISSION by the date specified in this AGREEMENT. Completed services not complying with the requirements of this AGREEMENT will be rejected by the Procurement Manager and shall be corrected by CONTRACTOR at no cost to COMMISSION. In case of failure to complete services in accordance with the terms and conditions of this AGREEMENT, COMMISSION, after due oral or written notice, may perform the services and/or have the services performed and hold CONTRACTOR responsible for any resulting additional purchase and administrative costs; provided, that if public necessity requires the use of nonconforming services, they may be accepted and payment shall be made at a reduction in price determined by reasonable price concept. This remedy shall be in addition to any other remedy which COMMISSION may have.

I.12 RESPONSIBILITY FOR PROPERTY

CONTRACTOR shall be liable for any loss or destruction of, or damage to, property of COMMISSION caused by the negligence or wrongful acts or omissions of CONTRACTOR or CONTRACTOR'S representatives, agents, or employees. Title and risk of loss or damage relating to the services provided by CONTRACTOR shall be the responsibility of CONTRACTOR until final acceptance by COMMISSION.

I.13 SECRECY OF COMMISSION'S DATA

CONTRACTOR shall not use or disclose to third parties any data, designs, or other information belonging to or supplied by or on behalf of COMMISSION, without first obtaining the prior written authorization of COMMISSION. Upon COMMISSION'S request, such data, designs, or other information, including all copies thereof, shall be returned to COMMISSION. Where COMMISSION'S data, designs, or other information is furnished to CONTRACTOR'S suppliers for procurement of supplies for use in the performance of COMMISSION'S orders, CONTRACTOR shall insert the substance of this provision in its orders.

I.14 ASSIGNMENT AND SET-OFF

No part of this AGREEMENT, nor the AGREEMENT itself may be transferred or assigned to any other party by CONTRACTOR without the express, written consent of COMMISSION.

This AGREEMENT shall be binding upon all successors, assigns, employees, or other agents of CONTRACTOR. CONTRACTOR shall not delegate any duties, nor assign any rights or claims under this AGREEMENT, without prior written consent of COMMISSION (but in no case shall the consent relieve CONTRACTOR from its obligations or change the terms of the AGREEMENT). CONTRACTOR shall not transfer or assign any AGREEMENT funds or claims due or to become due without the written approval of the Purchasing Agent having first been obtained. All claims for monies due or to become due from COMMISSION shall be subject to deduction by

COMMISSION for any set-off or counterclaim arising out of this or any other of COMMISSION'S purchase orders with CONTRACTOR, or for any other liquidated debt from CONTRACTOR to COMMISSION, whether or not any such assignment is made, and whether such set-off or counterclaim arose before or after any such assignment by CONTRACTOR.

I.15 NON-INFRINGEMENT

To the extent that the services are provided relating to detailed designs not originated and furnished by COMMISSION, or by a process or method the use of which is not specifically directed by COMMISSION, CONTRACTOR guarantees that the sale or use of such services or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, trade names, copyrights, or trade secrets, and shall indemnify and save COMMISSION and its customers harmless from any expenses, loss, cost, damage, or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, trade names, copyrights, or trade secrets with respect to such services. CONTRACTOR shall defend, at its own expense, any action or claim in which such infringement is alleged, provided CONTRACTOR is notified within a reasonable time of such action or claim against COMMISSION. Indemnification shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use of which the article supplied by CONTRACTOR was designed.

I.16 BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against CONTRACTOR or in the event of the appointment, with or without CONTRACTOR'S consent, of an assignee for the benefit of creditors or of a receiver, COMMISSION shall be entitled to cancel any unfilled part of this AGREEMENT without any liability whatsoever.

I.17 CHOICE OF LAW AND VENUE; NO ARBITRATION OR MEDIATION

This AGREEMENT between the PARTIES evidenced hereby, shall be deemed made in the Commonwealth of Virginia, and shall be construed and interpreted solely in accordance with the laws of Virginia. Venue for any action arising hereunder shall be in the Circuit Court for the City of Richmond, Virginia. Nothing under this AGREEMENT shall be subject to arbitration or mediation, and any references to arbitration or mediation are expressly deleted from this AGREEMENT. CONTRACTOR and COMMISSION hereby waive any and all rights to arbitration under the laws of Virginia, the United States, or otherwise.

I.18 INDEMNIFICATION

CONTRACTOR shall save, defend, hold harmless and indemnify COMMISSION, and all of its officers, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, or exposure, by reason of property damage or personal injury to any person, including CONTRACTOR'S employees, of whatsoever nature or kind to the proportionate extent arising out of, as a result of, or in connection with such performance caused by the negligent actions or omissions of

CONTRACTOR, its employees, agents, subcontractors, or representatives. Without in any way limiting the foregoing, CONTRACTOR and its subcontractors shall maintain public liability and property damage insurance as provided in Exhibit 3 and shall maintain Workman's Compensation insurance as required by law covering all employees performing under this AGREEMENT.

I.19 LIMITATION OF LIABILITY

COMMISSION'S liability shall be limited to the unpaid balance of amounts due under this AGREEMENT, and in no event shall COMMISSION be liable to CONTRACTOR for indirect, incidental, consequential, or special damages.

I.20 DEFAULT

COMMISSION may, subject to the provisions below, by written notice of default to CONTRACTOR, terminate the whole or any part of this AGREEMENT in any one of the following circumstances:

- I.20.1 If CONTRACTOR fails to make delivery of the supplies or to perform the work within the time specified here or any written extension; or
- I.20.2 If CONTRACTOR fails to perform any of the other provisions of this AGREEMENT, or so fails to make progress so as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two circumstances does not cure the failure within a period of ten (10) days (or other such period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Agent specifying the failure.

In the event COMMISSION terminates this AGREEMENT in whole or in part, COMMISSION may procure, upon the terms and in the manner as the Purchasing Agent may deem appropriate, supplies or services similar to those terminated, and CONTRACTOR shall be liable to COMMISSION for any excess costs for such similar supplies or service: provided, that CONTRACTOR shall continue the performance of this AGREEMENT to the extent not terminated under the provisions of this clause.

CONTRACTOR shall not be liable for any excess costs if acceptable evidence has been submitted to and is deemed sufficient by the Purchasing Agent to establish that failure to perform the AGREEMENT was due to causes beyond the control and without the fault or negligence of CONTRACTOR.

I.21 TERMINATION FOR THE CONVENIENCE OF COMMISSION

This AGREEMENT may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in COMMISSION'S best interest. Any such termination shall be affected by the delivery to CONTRACTOR of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance under the AGREEMENT is terminated and the date upon which such termination becomes effective.

After receipt of a notice of termination and except as otherwise directed CONTRACTOR shall stop all performance, cancel orders for parts and terminate Subcontractor's as of the date specified in the notice; and accept no further orders from COMMISSION. However, any authorized work not delivered as of the date of termination shall be delivered as required herein.

I.22 FORCE MAJEURE

CONTRACTOR is not responsible for damages or delay in performance caused by conditions beyond its control including, but not limited to, Acts of God, wars, and natural disasters. In any such event, CONTRACTOR'S fee and schedule shall be equitably adjusted.

I.23 OWNERSHIP & CONFIDENTIALITY OF GOODS AND SERVICES

CONTRACTOR acknowledges that COMMISSION will be sole and exclusive owner of all goods and services produced under this AGREEMENT, including but not limited to tangible items, writing, drawings, plans, images, intellectual property, and data compilations of any form whatsoever, shall be the exclusive and sole property of COMMISSION and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

Further, CONTRACTOR agrees that all information provided to and by COMMISSION pursuant to this AGREEMENT is private, confidential, and proprietary and shall be the exclusive and sole property of COMMISSION and shall not be otherwise reproduced, disclosed, or used by CONTRACTOR, elsewhere, for any reason.

I.24 EXCLUSIVITY OF SERVICES/CONFLICT OF INTEREST

During the course of the performance of this AGREEMENT, CONTRACTOR agrees that it will not provide any services, goods and or any other consultation of any kind to any other entity working on this Project, at any time, including but not limited to the Architects, Engineers, and Builders.

I.25 IMMIGRATION REFORM AND CONTROL ACT OF 1986

CONTRACTOR certifies that they do not and will not during the performance of this AGREEMENT employ illegal alien workers, including subcontractors or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

I.26 OFFICIAL NOT TO BENEFIT

CONTRACTOR certifies that to the best of his knowledge no COMMISSION official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit relating to this AGREEMENT. If such a benefit has been received or will be received, this fact shall be immediately disclosed to COMMISSION Procurement Manager. Failure to disclose the information prescribed above may result in rescission of this AGREEMENT or affect payment pursuant to the terms of the AGREEMENT.

Whenever there is reason to believe that a benefit of the sort described in the paragraph above has been or will be received in connection with this AGREEMENT that CONTRACTOR has failed to immediately disclose, or has inadequately disclosed

it, COMMISSION as a prerequisite to payment pursuant to CONTRACTOR, or at any time may require CONTRACTOR to furnish, under oath, answers to any interrogatories related to such possible benefit.

I.27 NON-APPROPRIATION

COMMISSION shall be bound, hereunder, only to the extent that such funds shall have been appropriated and budgeted and are otherwise available for the purpose of this AGREEMENT. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for payment due under this AGREEMENT, then COMMISSION shall immediately notify CONTRACTOR, in writing, of such occurrence and this AGREEMENT shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to COMMISSION of any kind whatsoever.

I.28 NO AGENCY RELATIONSHIP

CONTRACTOR is not the agent, subagent, or representative of COMMISSION; and this AGREEMENT shall not make COMMISSION liable to any person, firm, corporation or other who contracts with or provides goods or services to CONTRACTOR in connection with the services it has agreed to perform hereunder or otherwise for debts or claims accruing to such parties against CONTRACTOR and any other person, firm, corporation or other supplying any work, labor, services, goods, or materials to CONTRACTOR as a result of its services to COMMISSION hereunder or otherwise.

I.29 CERTIFICATION OF AUTHORITY TO TRANSACT BUSINESS IN THE COMMONWEALTH

A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so, required by Title 13.1 or Title 50 or as otherwise required by law.

If the authority to transact business is revoked or cancelled at any time during the term of this AGREEMENT the COMMISSION may void any and all Agreements and/or contracts at any time without notice, set-off, or recourse.

I, _____ (Name of Authorized Representative)
certify that _____ (CONTRACTOR) is authorized to
transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Virginia
Code.

_____ (Signature)

CONTRACTOR'S identification number issued by the
SCC: _____

I.30 UNIFORM ADMINISTRATIVE REQUIREMENTS

The Contractor shall comply with *2 CFR Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. 2 CFR

Part 200 supersedes OMB guidance documents A-21, A-87, A-89, A-102, A-110, A-122, A-133, and sections of A-50 related to audits performed under Subpart F.

I.31 AGREEMENT MODIFICATION

Pursuant to Virginia law, including Virginia Code Section 2.2-4309, this AGREEMENT may be modified during performance for all purposes allowed by law, as agreed by all PARTIES; however, any modification of this AGREEMENT shall be in writing and shall be signed by authorized representatives of the PARTIES.