



TOWN COUNCIL WORK SESSION

Monday, July 15, 2013 @ 7:00pm

Front Royal Administration Building Conference Room

Town/Staff Related Issues:

1. Net Metering Draft and Discussion – *Director of Energy Services*
2. Update on Manhole Lining Bid – *Director of Environmental Services*
3. Leach Run Parkway Design Award to Pennoni Associates, Inc. – *Town Manager*

Council/Mayor Related Issues:

4. Planning Commission Term Expires
5. Council Discussion/Goals *(time permitting)*
6. Closed Meeting – 1) Consultation with Legal Counsel specific to Annexation

Motion to Go Into Closed Meeting

I move that Council convene and go into Closed Meeting for the consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, Annexation, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

Town of Front Royal, Virginia
Work Session Agenda Form

Date: July 15, 2013

Agenda Item: New section added to Chapter 70, which is 70-67 Net Metering Service to address recent inquiries and interest in offering this service to our citizens.

Summary: Net metering will allow our customers who own or want to invest in renewable energy facilities to offset their energy usage during a billing period. The Town of Front Royal is not required to offer net metering services but there are several advantages to allowing our customers to have the option to offset their electric needs. Net metering encourages renewable generation and customer action to reduce their carbon footprint.

Council Discussion:

Staff Evaluation: Staff has evaluated all regulations regarding net metering standards that are set with the State Corporation Commission (SCC) and what other municipalities in Virginia are doing. During our evaluation, we found only one municipality (City of Danville) that allows net metering. The new code section 70-67 is based primarily on the SCC rules and what other utilities are doing nationwide.

Budget/Funding: N/A

Legal Evaluation:

Staff Recommendations: Staff recommends adding code section 70-67 Net Metering Service to the Town code. We currently have one resident that is waiting on this new ordinance and we have had several calls over the past year asking about our policy on net metering.

Town Manager Recommendation:

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ____ (Aye) ____ (Nay)



70-67 Net Metering Service

A. APPLICABILITY:

Net Metering Service is available to all Customers connected to the Town of Front Royal's Electric Utility System.

B. DEFINITIONS:

The following words and terms when used in this ordinance shall have the following meanings unless the context clearly indicates otherwise:

1. "Billing period" means, as to a particular customer, the time period between the two meter readings upon which the Utility calculates the customer's bills.
2. "Utility" means the Town of Front Royal, Energy Services Department
3. "Net metering customer" means a customer owning and operating a renewable fuel generator under a net metering service arrangement.
4. "Net metering period" means each successive 12-month period beginning with the first meter reading date following the date of final interconnection of the renewable fuel generator with the Utility's facilities.
5. "Net metering service" means providing retail electric service to a customer operating a renewable fuel generator and measuring the difference, over the net metering period, between electricity supplied to the customer from the electric grid and the electricity generated and fed back to the electric grid by the customer.
6. "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.
7. "Renewable fuel generator" means an electrical generating facility that:
 - a. Has an alternating current capacity of not more than 10 kilowatts for residential customers and not more than 500 kilowatts for nonresidential customers;
 - b. Uses renewable energy, as defined herein, as its total fuel source;
 - c. Is owned and operated by the net metering customer and is located on the customer's premises;

- d. Is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the utility;
- e. Is interconnected pursuant to a net metering arrangement and operated in parallel with the Utility's facilities; and
- f. Is intended primarily to offset all or part of the net metering customer's own electricity requirements.

C. UTILITY NOTIFICATION:

1. The prospective net metering customer shall submit a completed Town-approved notification form to the Department of Energy Services of Front Royal according to the time limits below.
 - a. For a renewable fuel generator with an alternating current capacity of 25 kilowatts or less, the notification form shall be submitted at least 30 days prior to the date the customer intends to interconnect his renewable fuel generator to the Utility's facilities. Such net metering customer shall have all equipment necessary to complete the grid interconnection installed prior to such notification. The Utility shall have 30 days from the date of notification to determine whether the requirements contained in the **CONDITIONS FOR INTERCONNECTION** below have been met. The date of notification shall be considered to be the third day following the mailing of such notification form by the prospective net metering customer.
 - b. For a renewable fuel generator with an alternating current capacity greater than 25 kilowatts, the notification form shall be submitted at least 60 days prior to the date the customer intends to interconnect his renewable fuel generator to the Utility's facilities. Such net metering customer shall have all equipment necessary to complete the grid interconnection installed prior to such notification. Such net metering customer shall contact the Utility prior to making financial commitments. The Utility shall have 60 days from the date of notification to determine whether the requirements contained in the **CONDITIONS FOR INTERCONNECTION** below have been met. The date of notification shall be considered to be the third day following the mailing of such notification form by the prospective net metering customer.
2. Thirty-one days after the date of notification for renewable fuel generators with a rated capacity of 25 kilowatts or less, and 61 days after the date of notification for renewable fuel generators with an alternating current

capacity greater than 25 kilowatts, a net metering customer may interconnect his renewable fuel generator and begin operation of said renewable fuel generator unless the Utility grants the net metering customer a waiver to begin operation prior to said 31st or 61st day, respectively.

3. The completed "Net Metering Interconnection Notification Form" is to be sent to the following address:

Town of Front Royal
Energy Services Department
520A E 6th Street
Front Royal, VA 22630

D. CONDITIONS OF INTERCONNECTION:

1. A prospective net metering customer may begin operation of his renewable fuel generator on an interconnected basis when:
 - a. The net metering customer has notified in writing the Town of intent to interconnect.
 - b. The net metering customer has installed a lockable, Utility accessible, load-breaking manual disconnect switch.
 - c. A licensed electrician has certified, by signing the notification form, that any required manual disconnect switch has been installed properly and that the renewable fuel generator has been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code, and a copy of such certification has been delivered to the Utility.
 - d. The manufacture has certified, by signing the notification form, that the renewable fuel generator being installed is in compliance with the requirements established by Underwriters Laboratories or other national testing laboratories in accordance with IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003.
 - e. In the case of static inverter-connected renewable fuel generators with an alternating current capacity in excess of 10 kilowatts, the net metering customer has had the inverter settings inspected by the Utility. The Utility may impose a fee on the net metering customer of no more than \$50 for such inspection.
 - f. In the case of nonstatic inverter-connected renewable fuel generators, the net metering customer has interconnected according to the Utility's

interconnection guidelines and the Utility has inspected all protective equipment settings. The Utility may impose a fee on the net metering customer of no more than \$50 for such inspection.

- g. In the case of renewable fuel generators with an alternating current capacity greater than 25 kilowatts, the following requirements shall be met before interconnection may occur:
 - i. Electric distribution facilities and customer impact limitations. A renewable fuel generator shall not be permitted to interconnect to distribution facilities if the interconnection would reasonably lead to damage to any of the Utility's facilities or would reasonably lead to voltage regulation or power quality problems at other customer revenue meters due to the incremental effect of the generator on the performance of the electric distribution system, unless the customer reimburses the Utility for its cost to modify any facilities needed to accommodate the interconnection.
 - ii. Secondary, service, and service entrance limitations. The capacity of the renewable fuel generator shall be less than the capacity of the Utility-owned secondary, service, and service entrance cable connected to the point of interconnection, unless the customer reimburses the Utility for its cost to modify any facilities needed to accommodate the interconnection.
 - iii. Transformer loading limitations. The renewable fuel generator shall not have the ability to overload the Utility transformer, or any transformer winding, beyond manufacturer or nameplate ratings, unless the customer reimburses the Utility for its cost to modify any facilities needed to accommodate the interconnection.
 - iv. Integration with Utility facilities grounding. The grounding scheme of the renewable fuel generator shall comply with IEEE 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, and shall be consistent with the grounding scheme used by the Utility. If requested by a prospective net metering customer, the Utility shall assist the prospective net metering customer in selecting a grounding scheme that coordinates with its distribution system.
 - v. Balance limitation. The renewable fuel generator shall not create a voltage imbalance of more than 3.0% at any other customer's revenue meter if the Utility transformer, with the secondary connected to the point of interconnection, is a three-

phase transformer, unless the customer reimburses the Utility for its cost to modify any facilities needed to accommodate the interconnection.

- h. A prospective net metering customer shall not be allowed to interconnect a renewable fuel generator if doing so will cause the total rated generating alternating current capacity of all interconnected renewable fuel generators within the Utility's service territory to exceed 1.0% of the Utility's most recent peak load. In any case where a prospective net metering customer has submitted a notification form and that customer's interconnection would cause the total rated generating alternating current capacity of all interconnected renewable fuel generators within the Utility's service territory to exceed such limit, the Utility shall, at the time it becomes aware of the fact, send written notification to such prospective net metering customer that the interconnection is not allowed. In addition, upon request from any customer, the Utility shall provide to the customer the amount of capacity still available for interconnection.
- i. The net energy metering customer shall immediately notify the Utility of any changes in the ownership of, operational responsibility for, or contact information for the generator.

E. METERING:

Net metered energy shall be measured in accordance with standard metering practices by metering equipment capable of measuring (but not necessarily displaying) power flow in both directions.

In instances where a net metering customer has requested, and where the Utility would not have otherwise installed, metering equipment that is intended to be read off site, the Utility will charge the net metering customer its actual cost of installing any additional equipment necessary to implement net metering service.

F. BILLING AND PAYMENT CONSIDERATIONS:

A customer that would otherwise be a net metering customer shall receive no compensation for excess generation unless such customer has entered into a power purchase agreement with the Utility. A customer that enters a power purchase agreement with the Utility will not be considered a net metering customer for purposes of this ordinance and would be subject to the terms of the power purchase agreement and any applicable rate schedule.

For a net metering customer, in any billing period in which there is a billing period credit, the customer shall be required to pay only the facilities charge per billing cycle. Any billing period credits shall be accumulated, carried forward, and applied at the first opportunity to any billing periods having positive net consumptions. However, any

accumulated billing period credits remaining unused at the end of a net metering period shall be carried forward into the next net metering period only to the extent that such accumulated billing period credits carried forward do not exceed the net metering customer's billed consumption for the current net metering period, adjusted to exclude accumulated billing period credits carried forward and applied from the previous net metering period.

G. LIABILITY INSURANCE:

A net metering customer with a renewable fuel generator with a rated capacity not exceeding 10 kilowatts shall maintain homeowners, commercial, or other insurance providing coverage in the amount of at least \$100,000 for the liability of the insured against loss arising out of the use of a renewable fuel generator, and for a renewable fuel generator with a rated capacity exceeding 10 kilowatts such coverage shall be in the amount of at least \$300,000. Prior to Customer beginning operation of Customer's renewable fuel generator on an interconnected basis, Customer shall furnish the Utility with a certificate from the insurer that Customer's said insurance policy shall not be cancelled without giving Utility thirty (30) days' written notice prior to cancellation.

Net metering customers shall not be required to obtain liability insurance with limits higher than that which is stated in this section; nor shall such customers be required to purchase additional liability insurance where the customer's existing insurance policy provides coverage against loss arising out of the use of a renewable fuel generator by virtue of not explicitly excluding coverage for such loss.

H. ADDITIONAL CONTROLS AND TESTS:

Any costs associated with additional meters, tests or equipment shall be borne by the party desiring the additional meters, tests or equipment.

TOWN OF FRONT ROYAL
NET METERING INTERCONNECTION NOTIFICATION

APPLICANT HEREBY GIVES NOTICE OF INTENT TO OPERATE A GENERATING FACILITY UNDER THE TOWN'S NET-METERING ORDINANCE 70-67.

Section 1. Applicant Information

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number(s): _____

Fax Number: _____ Email Address: _____

Proposed Interconnection Date _____

Section 2. Generating Facility Information

Fuel Type: _____

Generator Manufacturer and Model: _____

Rated Capacity in kilowatts: AC _____ DC _____

Inverter Manufacturer and Model: _____

Battery Backup (circle one): Yes No

Section 3. Information for Generators with an AC Capacity in Excess of 25 kilowatts

Generator Type (circle one) Inverter Induction Synchronous

Frequency: _____ Hz; Number of phases (circle one) One Three

Rated Capacity: DC _____ KW; AC apparent _____ KVA; AC real _____ KW;

Power factor _____ %; AC voltage _____; AC amperage _____

Facility schematic and equipment layout must be attached to this form.

A prospective Net Metering Customer considering installing a Renewable Fuel Generator with a capacity in excess of 25 KW is strongly encouraged to contact the Town of Front Royal Energy Services prior to making financial commitments to the project.

Section 4. Vendor Certification

The system hardware is listed by Underwriters Laboratories to be in compliance with UL 1741.

Signed (Vendor): _____ Date: _____

Name (printed): _____

Company: _____

Phone Number: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Section 5. Electrician Certification

The system has been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code.

Signed (Licensed Electrician): _____ Date: _____

Name (printed): _____

License Number: _____ Phone Number: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Utility signature signifies only receipt of this form, in compliance with the Town's net energy metering regulations.

Signed (Utility Representative): _____ Date: _____

I hereby certify that, to the best of my knowledge, all of the information provided in this Notice is true and correct.

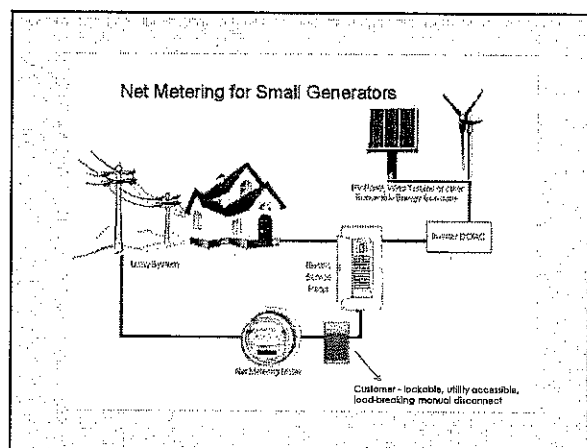
Signature of Applicant: _____ Date: _____



NET METERING SERVICES
CODE 70-67

WHAT IS NET METERING?

- **Definition:**
 - A customer-owned generator that offsets or reduces electric energy provided by the Town of Front Royal
- **Simply Put:**
 - Net metering allows customers to connect to our system with small renewable generators
 - Net metering encourages renewable generation
 - Possibly reduce the future and current generation requirements for the Town



RENEWABLE FUEL GENERATOR

1. Has a AC capacity of not more than 10kW for residential customers and not more than 500kW for commercial customers
2. Uses renewable energy as its total fuel source
3. Is owned and operated by the customer
4. Located on the customers premises
5. Intended to offset all or part of the customer energy requirements

CONDITIONS OF INTERCONNECTION

- Customer notifies the Town of its intent to interconnect.
- Customer install a lockable, utility accessible, load-breaking manual disconnect
- A licensed electrician has certified that the disconnect and generator are installed applicable to the National Electrical Code and all other codes
- The manufacture certifies that the renewable fuel generator is in compliance with all requirements

Town of Front Royal, Virginia
Work Session Agenda Form

Date: July 9, 2013

Agenda Item: Manhole Rehabilitation

Summary: Prism completed a list of areas that need work to comply with the consent order the Town of Front Royal is currently under with the Department of Environmental Quality. This is to reduce the inflow and infiltration into the sanitary sewer system. Dave Reaves from Prism will be attending an August 2013 meeting to present the findings and recommendations.

Council Discussion: Council is requested to consider the bid award to Shepherd Group/D & S Contractors to keep with the consent order.

Staff Evaluation: Due to the consent order and the I & I issues the Town has faced in the past and the future, rehabilitation of the sanitary sewer system must be taken to ensure environmental standards are met.

Budget/Funding: Funding has been allocated to the Water & Sewer Line Maintenance budget and the lowest bid received is \$211,750.00

Legal Evaluation: The Town Attorney will be able to address any legal issues or concerns

Staff Recommendations: Staff recommends Council to review and discuss the recommendations of Prism and bidding award

Town Manager Recommendation:

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)



Town of Front Royal, Virginia
Work Session Agenda Form

Date: July 15, 2013

Agenda Item: Leach Run Parkway - Award of Design Contract

Summary: Staff from the Town, County, and EDA have reviewed the proposals submitted to design the Leach Run Parkway, conducted interviews of the shortlisted firms, and recommend award of the design contract to Pennoni Associates, Inc. in an amount not to exceed \$712,000. Contract documents have been developed to comply with VDOT requirements for consideration by all involved parties. Per the MOU with the County and EDA for the project, award requires at least of the bodies to approve the contract.

Council Discussion: Council is requested to consider approval of award to design the Leach Run Parkway to Pennoni Associates, Inc.

Staff Evaluation: Staff from the Town, County, and EDA have determined that Pennoni Associates, Inc. have demonstrated the appropriate skills, qualifications, and understanding of the project to perform the design work for this Revenue Sharing Project.

Budget/Funding: Funding for this project are shared by the Town and County. The Town has recently approved a resolution to participate in the funding program for the design work. Funding for the Town's share of this project is provided by the tax increase approved in FY12-13. The Finance Director will be available to address fiscal issues.

Legal Evaluation: The Town Attorney will be available to address legal issues.

Staff Recommendations: Staff recommends award of the design contract for the Leach Run Parkway to Pennoni Associates, Inc. in an amount not to exceed \$712,000.

Town Manager Recommendation: The Town Manager recommends award of the design contract for the Leach Run Parkway to Pennoni Associates, Inc. in an amount not to exceed \$712,000.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

Revised: May 23, 2008



MEMORANDUM OF AGREEMENT

FOR

ENGINEERING SERVICES
FOR
LEACH RUN PARKWAY
FRONT ROYAL/WARREN COUNTY, VIRGINIA

STATE PROJECT NUMBER: U000-112-R53

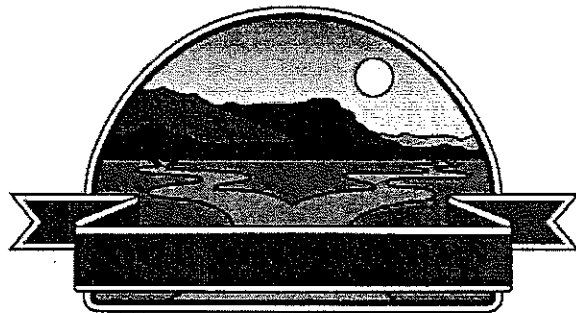
WARREN COUNTY



In partnership with and on behalf of



And



LETTER OF AGREEMENT

1. CONTRACTING PARTIES: This Agreement is between the Industrial Development Authority of the Town of Front Royal and the County of Warren, Virginia, d/b/a the Economic Development Authority ("EDA"), 400-D Kendrick Lane, Front Royal VA 22630 (540) 635-2182, hereinafter referred to as "the Locality" and/or "the EDA"; the Town of Front Royal ("Front Royal" or "the Town"), a Virginia municipal corporation, 102 East Main Street, Front Royal VA 22630 (540) 635-8007; and the County of Warren ("the County"), 220 N. Commerce Avenue, Suite 100, Front Royal VA 22630 (540) 636-4600; hereinafter referred to as "the Partnership" and

PENNONI ASSOCIATES, INC.

117 East Piccadilly Street

Winchester, Virginia 22601

(540) 667-2139

Fed. ID #: 23-1683429

hereinafter referred to as "the Consultant."

2. DESCRIPTION AND LIMITS OF PROJECT: This Agreement is for:

Professional engineering services for the final design, permitting, prequalification, bidding, and construction phases for the roadway, storm water drainage, and utilities improvements associated with the Leach Run Parkway project. The Parkway is to be a four lane, divided, limited access highway, with a design speed of 50 mph, and is approximately two (2) miles in length, between Happy Creek Road and John Marshall Highway in the Town of Front Royal. The Parkway was developed to a preliminary design stage twenty-one years ago. The selected design firm shall review this work and update/modify the design to conform to current VDOT design criteria, incorporate bicycle lanes and sidewalks or trails, provide for landscaping/buffering to minimize impact on adjoining residences, and analyze the layout to minimize the required Right-of-Way.

The Consultant shall provide any necessary survey, geotechnical, road design, utilities design, ROW analysis, bidding, and construction services to develop final design plans for construction to the standards of the Town of Front Royal. In the event of the standards of the Town are more stringent or extensive than VDOT's, the Town's shall prevail.

The following items of work shall be subcontracted to:

- (1) GeoConcepts Engineering, Inc.
19955 Highland Vista Drive, Suite 170
Ashburn, Virginia 20147

Geotechnical inspections and analysis in pre-design phase of work

(2) Williamsburg Environmental Group, Inc.
150 Riverswade Parkway, Suite 301
Fredericksburg, Virginia 22406

Wetlands and environmental permitting

3. INCLUDED DOCUMENTS: This Agreement shall consist of the following documents:

- a. This signed Letter of Agreement;
- b. Certifications of the Consultant and the EDA;
- c. The following Attachments:

Attachment A – General Terms and Conditions

Attachment B – Special Terms and Conditions

Attachment C – Payment

Attachment D – Fee Proposal

Attachment E – Certifications Regarding Debarment

In the event of any conflict between a provision in Attachment A and a provision in Attachment B, the conflicting provision in Attachment B shall govern this Agreement.

4. CONSIDERATION: This is a Fixed Billable Rate contract.

The maximum total compensation payable to the Consultant for services authorized by this Agreement will not exceed **\$712,000.00, including up to \$10,000.00 for reimbursables, as shown in Attachment D.**

5. TIME TO COMPLETE WORK: Plans/Reports/etc. shall be completed and delivered to the EDA within the periods specified in the progress schedule included in Attachment D.

6. INTENT: It is the intent of this Agreement that the Consultant, employing qualified, competent and experienced personnel, shall perform the stated services equal to the practice prevalent among consultants within the subject area of work and commensurate with the magnitude and intricacy of the work under consideration. These services shall be so complete that it will not be necessary for the EDA to supplement any of the operation by its own

7. SIGNATURES: The parties hereto agree to abide by all the provisions of this Agreement.

IN WITNESS WHEREOF, the parties sign and cause this Agreement to be executed on this the

_____ day of _____, 20_____.

[Signatures begin on next page]

PENNONI ASSOCIATES, INC.

By: _____
[NAME] Date

[TITLE]

INDUSTRIAL DEVELOPMENT AUTHORITY OF THE
TOWN OF FRONT ROYAL AND COUNTY OF WARREN, VIRGINIA

By: _____
Patricia S. Wines Date
Chairman

ATTEST:

Jennifer R. McDonald Date
Executive Director

TOWN OF FRONT ROYAL

By: _____
Timothy W. Darr Date
Mayor

ATTEST:

Steve Burke Date
Town Manager

COUNTY OF WARREN

By: _____
Archie A. Fox Date
Chairman, Board of Supervisors

ATTEST:

Douglas P. Stanley
County Administrator

Date

CERTIFICATION OF CONSULTANT

I hereby certify that I am a duly authorized representative of PENNONI ASSOCIATES, INC. located at 117 East Piccadilly Street, Winchester, Virginia 22601, and that neither I, nor the above firm I here represent, has:

- a. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement,
- b. Agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
- c. Paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if applicable): GeoConcepts Engineering, Inc. and Williamsburg Environmental Group, Inc., subconsultants, to perform the portion of the work described in Paragraph 2, Description and Limits of Project, on pages 3 and 4 above.

Signature

Title

Date

CERTIFICATION OF THE EDA
PENNONI ASSOCIATES, INC.

I hereby certify that I am a duly authorized representative of the EDA, and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind, except as here expressly stated (if applicable):

GeoConcepts Engineering, Inc. and Williamsburg Environmental Group, Inc., subconsultants, to perform the portion of the work described in Paragraph 2, Description and Limits of Project, on pages 3 and 4 above.

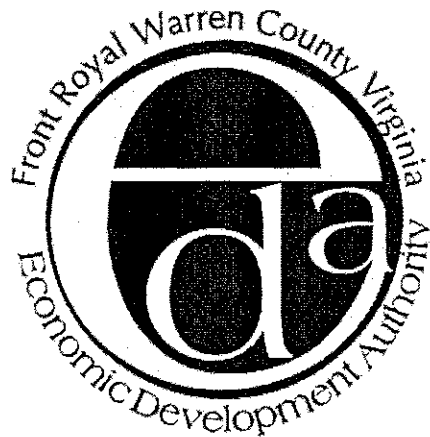
Signature

Title

Date

ATTACHMENT A

GENERAL TERMS AND CONDITIONS



ATTACHMENT A – GENERAL TERMS AND CONDITIONS

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

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

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

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

3. **NON-DISCRIMINATION PROVISION:** The Consultant agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any

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

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

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

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

- a. Compliance with Regulations: The Consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- b. Nondiscrimination: The Consultant, 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 subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement.
- d. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of

information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and subconsultants with 15 or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the consultant or subconsultant is performing in accordance with this Agreement.

- e. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - 1) withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or
 - 2) cancellation, termination or suspension of this Agreement, in whole or in part.
- f. Incorporation of Provisions: The Consultant will include the provisions of paragraphs "a" through "f" in every subcontract of \$10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontractor or procurement as the EDA or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the EDA to enter into such litigation to protect the interests of the EDA and, in addition, the Consultant may request VDOT and the United States to enter into such litigation to protect the interests of the Commonwealth and United States.

5. CERTIFICATION REGARDING NON-SEGREGATED FACILITIES: By the execution of this Agreement, the Consultant certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The Consultant further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the

basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.

6. SMALL, WOMAN AND MINORITY BUSINESS: In accordance with the Governor's Executive Order No. 33, the VDOT requires the utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of consultant contracts. The Consultant shall take all necessary and reasonable steps in accordance with Executive Order No. 33, to ensure that SWaM firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Further, the Consultant agrees to provide the EDA with the dollar amount contracted and name of each subcontractor which identifies itself as a SWaM

VDOT is also required to capture 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 Consultant's noncompliance with the 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 EDA shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

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

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

8. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By signing this Agreement, the Consultant 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.

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

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

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

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

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

13. FINAL ACCEPTANCE AND FINAL PAYMENT: All services performed under this Agreement shall be performed in accordance with the current standards, policies, and procedures of the EDA and the Virginia Department of Transportation, and in the case of projects using federal funds, the Federal Highway Administration (FHWA). All

services shall be subject to the approval of the EDA through its designated representatives.

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

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

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

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

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

prosecution of the services so changed.

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

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

At the time of occurrence or prior to providing the services, the Consultant shall furnish the EDA an itemized fee proposal for which additional compensation will be claimed. The Consultant shall keep a separate record of actual cost for the services. Failure on the part of the Consultant to afford the EDA proper records of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the EDA's records. The filing of such notice by the Consultant and the keeping of cost records by the Consultant shall in no way establish the validity of a claim. The data furnished by the Consultant shall be subject to a complete audit by the EDA or its authorized representative if they are to be used as a basis for claim settlement.

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

If the consultant is dissatisfied with the decision, he shall notify the EDA's Chief Administrative Officer in writing within thirty (30) days from receipt of the EDA's decision that he desires to appear before him, whether in person or through counsel, and present

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

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

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

18. **CONFLICTS OF INTEREST:** No member of or delegate to the Congress of the United States shall be entitled to any share or part of this Agreement or to any benefit arising there from. The Consultant shall not engage the services of any person employed by the EDA, the Town of Front Royal or the County of Warren on any services covered by this Agreement without written permission of the EDA. Written permission will not be granted for any employee having official responsibility, as that term is defined in Section 2.2-4368 of the Code of Virginia, who dealt in an official capacity with the Consultant concerning procurement during his employment or for a period of one year from cessation of employment by the EDA, the Town of Front Royal or the County of Warren unless the employee or former employee provides written notification to the EDA and receives written permission prior to commencement of employment by the Consultant. Any violation of these provisions by the Consultant shall be a basis for immediate termination of this agreement for cause.

19. **COVENANT AGAINST CONTINGENCY FEES:** The Consultant warrants that it has not employed or retained any company or person to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement.

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

fee, gift, or contingent fee.

20. **INSURANCE:** The Consultant shall furnish the EDA a certificate evidencing comprehensive commercial general liability insurance in an amount acceptable to the EDA and as described in Attachment B, Section 6 prior to beginning any work on the project, and agrees to maintain this amount throughout the life of this Agreement.

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

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

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

All policies of insurance shall name the EDA, the Town and the County as additional insureds.

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

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

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

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

the EDA for any costs incurred. Acceptance of the plans or reports by the EDA shall not relieve the Consultant of the responsibility of subsequent correction of errors.

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

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

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

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

25. **TERMINATION:** This Agreement may be terminated as follows:

- a. By mutual agreement of the parties, in writing and signed by the parties.
- b. By the EDA without cause, in whole or in part, at any time, with fifteen (15) days advance notice in writing, by the end of which period the Consultant shall have discontinued all services and shall have delivered to the EDA all reports, records, drawings, field notes, plans and other data completed or partially completed, which shall become and remain the sole property of the EDA. The EDA reserves the right to terminate this Agreement without the fifteen (15) days advance notice in the event the Consultant avails itself of the Federal or State Bankruptcy Laws or merges with or spins off from an entity. The EDA's decision is not subject to review.
- c. By the EDA without advance written notice, due to the failure of the Consultant to

perform the services or fulfill its obligation(s) under this Agreement, in which case the EDA may take over the services and prosecute the same to completion by further agreement or otherwise, and the Consultant shall be liable to the EDA for any excess cost occasioned to the Department thereby.

- d. By failure of the EDA to allocate, sufficient funds to continue the services, in which event the Agreement will terminate upon depletion of the then currently appropriated or allocated funds.

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

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

27. **PAYMENT TO SUBCONTRACTORS:** In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4342 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subcontractors within seven (7) days after receipt of payment from the EDA, or shall notify the EDA and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment.

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

The EDA does not require retainage to be withheld by the Consultant on any subcontracts. If the Consultant elects to withhold retainage on subcontracts, prompt payment of the retainage shall be made to the subcontractors within the later of 60 days

after the final billing is received by the Consultant from the subcontractor or the satisfactory acceptance of the services by the Department. The EDA will notify the Consultant and the subcontractor in writing when the services have been satisfactorily accepted. If the retainage is not promptly paid, the Consultant shall notify the Department and the subcontractor in writing as to the reasons for not making payment.

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

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

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

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

30. RECORDS: The Consultant and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the Consultant's offices at all reasonable times and will be subject to audit and inspection by the EDA, 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 Consultant and the subcontractor and for three years after written acceptance by the Consultant, for audit and inspection by the EDA, VDOT or any authorized representatives of the Federal Government. It shall be the Consultant's responsibility to notify the EDA, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the Consultant's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.

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

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

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

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

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

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

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

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

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

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

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

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

34. STAFFING BY CONSULTANT: The control and supervision of all phases of the services provided by the Consultant shall be under the direction of a project manager who has had not less than five (5) years experience in managing the type of services herein described and who shall be assigned to manage the services provided under this Agreement until all services have been completed or until the EDA agrees in writing that the project manager may be replaced or removed.

Furthermore, other individuals identified as Key Personnel in the Expression of Interest (EOI) shall remain on the Consultant's Team for the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the EDA's Project Manager, 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 contract may result in termination of services.

If the services covered by this Agreement include the practice of architecture, professional engineering, land surveying or certified landscape architecture, the Consultant or subcontractor shall have in responsible charge at each place of business a full-time resident Virginia licensed architect, professional engineer, land surveyor or certified landscape architect exercising supervision and control of the services of each profession being practiced.

A competent staff, adequate in number and experience to perform the described services in the prescribed time, shall be assigned at all times. The name, title and experience record of each key staff member subsequently assigned shall be reported as such assignments are made.

If the services covered by this Agreement includes the application of guardrails and

guardrail terminal treatments, a staff member that has satisfactorily completed training approved by the EDA in the application of these devices, shall be assigned to perform the described services. Approved training course shall be completed prior to the initiation of the described services with the training being renewed every three (3) years. Approved training courses include, but are not limited to: Guardrail Installer Training (GRIT) for Designers offered by VDOT; AASHTO Roadside Design Guide conducted by the Federal Highway Administration; or Design, Construction and Maintenance of Highway Safety Appurtenances and Features conducted by the Federal Highway Administration.

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

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

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

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

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

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

this sum for each two hours or fraction thereof.

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

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

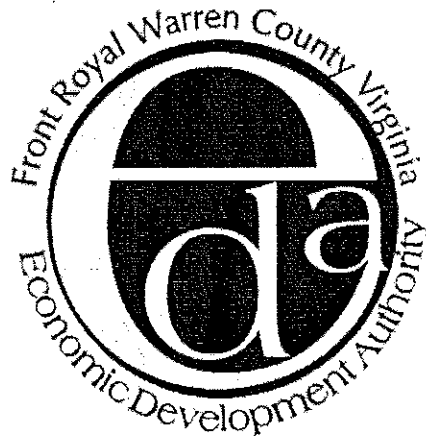
41. DRUG-FREE WORKPLACE: During the performance of this contract, the Consultant agrees to:

- a. Provide a drug-free workplace for the consultant's employees
- b. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition
- c. State in all solicitations or advertisements for employees placed by or on behalf of the consultant that the consultant maintains a drug-free workplace
- d. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

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

ATTACHMENT B

SPECIAL TERMS AND CONDITIONS



ATTACHMENT B – SPECIAL TERMS AND CONDITIONS

SECTION 1

DESCRIPTION OF PROJECT AND PROFESSIONAL RESPONSIBILITIES

1.1 The term PROJECT shall include all areas of proposed improvements, all areas that may reasonably be judged to have an impact on the PROJECT, and all PROJECT development phases and the services and activities attendant thereto. It is not the intent of this Agreement to identify the exact limits or details involved in providing satisfactorily completed PROJECT construction documents (PLAN).

A. PROJECT NAME:

Leach Run Parkway – Phase I

B. PROJECT DESIGN LIMITS:

North from John Marshall Highway (State Route 55) to Happy Creek Road (State Route 624) along general alignment previously developed.

C. PROPOSED IMPROVEMENTS:

Construction of a four lane, divided, limited access highway, with a design speed of 50 mph, approximately two (2) miles in length, between Happy Creek Road and John Marshall Highway in the Town of Front Royal, with associated stormwater management improvements along and in accord with the PLAN. Project also to include design of waterline along the roadway alignment to be constructed as part of Project, and designations of easements for future electrical and other utility services, to be constructed by Town of Front Royal and/or other utilities. The Parkway shall also include bicycle lanes and sidewalks or trails, and landscaping/buffering to minimize impact on adjoining residences.

D. STORMWATER MANAGEMENT:

The evaluation of the stormwater management methods to meet VDOT and Town stormwater development requirements shall be included under the Basic Services for the Preliminary Design and Topographic Phase.

1.2 CONSULTING RESPONSIBILITIES

The CONSULTANT shall be accountable in accordance with generally acceptable professional and industry standards for all its work including:

A. Development, checking, and review of the PLAN, and completion of all submittals.

B. The CONSULTANT shall be responsible for the accuracy of the work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the EDA will not relieve the CONSULTANT of the responsibility for subsequent correction of

any errors and the clarification of any ambiguities.

- C. The CONSULTANT represents that it has secured or will secure all personnel necessary to complete this Agreement; none of whom shall be employees of or have any contractual relationship with the PARTNERSHIP. Primary liaison with the EDA will be through the CONSULTANT'S Project Manager. All of the services required herein will be performed by the CONSULTANT or under the CONSULTANT'S supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.
- D. The CONSULTANT shall certify all reports, calculations, contract plans, and survey data. Services shall be prepared under the direction of an engineer licensed and in good standing in the State of Virginia and qualified in the required discipline. Products of services performed or checked shall be signed and sealed by the CONSULTANT'S Virginia licensed engineer.
- E. The CONSULTANT shall be responsible for the preparation of a PROJECT design schedule, acceptable to the EDA, whose acceptance shall not unreasonably be withheld, which shows a breakdown of all tasks to be performed, and their relationship in achieving the completion of each phase of work. A bar chart schedule showing overall PROJECT time frames shall also be prepared. These schedules must be submitted for EDA approval within ten (10) days of the initial PROJECT Notice to Proceed. These schedules will be used to verify CONSULTANT performance in relationship to Fees claimed and to allow the EDA'S Project Manager to monitor the CONSULTANT'S efforts. The CONSULTANT shall be responsible for any updates to these schedules and for documenting in writing to the EDA any major deviations in the actual versus estimated PROJECT time frames.
- F. The CONSULTANT shall respond promptly and timely, in writing, to all review comments made by the EDA, and shall incorporate appropriate design adjustments into the PROJECT, in a timely manner, resulting from the review exchange.

1.3 GOVERNING SPECIFICATIONS REGULATIONS AND PERTINENT DOCUMENTS

The PROJECT shall be designed by the CONSULTANT in accordance with applicable industry standards. The CONSULTANT shall be responsible for utilizing and maintaining current knowledge of any laws, ordinances, codes, rules, regulations, standards, guidelines, special conditions, specifications, or other mandates relevant to the PROJECT or the services to be performed.

1.4 QUALITY CONTROL

The CONSULTANT shall conduct quality assurance reviews to evaluate the adequacy of engineering decisions, materials, documentation, processes, procedures, guidance, and staffing included in the execution of this contract.

- A. Schedule – The CONSULTANT shall allow sufficient time to complete the Quality Control procedure for each milestone submittal when preparing the PROJECT design schedule.
- B. Quality Assurance Certification – CONSULTANT shall certify that each submittal, plans, reports, and all other documents relevant to the project prepared by or on behalf of

CONSULTANT have been prepared and checked in accordance with good engineering practices and represent quality products.

- C. CONSULTANT shall maintain adequate records of the quality assurance actions performed by its organization including its subcontractors and vendors, in providing services and products under this contract.
- D. Options for quality assurance and quality control shall include suggestions for value engineering.

SECTION 2

SERVICES TO BE FURNISHED BY THE CONSULTANT

2.1 SERVICES

- A. The CONSULTANT shall furnish all services, equipment, and manpower necessary for the PROJECT in accordance with this Agreement.
- B. Design activities shall be supported by design calculations properly identified as to subject and topic. Design references and any assumptions shall be noted. Storm sewer calculations, if required, shall be in conformance with the Town of Front Royal's standards. Design notes and computations shall be bound in suitable booklet form, and the booklet shall be properly indexed as to content as identified in Section 3. All documents shall receive Quality Control Checks and Reviews as outlined in Section 1.
- C. The CONSULTANT shall provide a 3-dimensional model file of the proposed design in AutoCAD, Version 2010, complete with all objects depicted according to software requirements.

2.2 PRELIMINARY DESIGN AND TOPOGRAPHIC SURVEY PHASE

A. DESIGN REQUIREMENTS

- B. The CONSULTANT shall review the existing design of the PROJECT to evaluate the original design versus current design criteria. The review shall also evaluate the original Right-of-Way requirements versus the current project needs for the road, stormwater, drainage, pedestrian, and utility facilities. The review shall also develop alternative design option and recommendations to include probable construction cost estimates, maintenance, and Right-of-Way needs.
- C. Upon completion of review of the current design, CONSULTANT shall prepare an updated Preliminary Design, based on current Town of Front Royal standards, and deliver the updated Preliminary Design to the EDA.

The following design features shall be incorporated into the updated Preliminary Design:

- 1. Typical Section
 - a. Bicycle/Pedestrian accommodations
 - b. Curb types

- c. Design speed(s)
- d. Roadway elevations
- e. Lane width
- f. Maintenance of Traffic (MOT) compatibility
- g. Median width
- h. Pavement structure
- i. Right-of-Way width(s)
- j. Utility locations (existing and proposed)
- k. Surface drainage and storm water management features
- l. Pond design (if any)
- m. Groundwater Control/Underdrain requirements
- n. Storm Sewer locations
- o. Other special considerations specific to the PROJECT (for compatibility with railroad, overpasses, etc.)

2. Drainage

Design Criteria:

Criteria D1 – Virginia Department of Transportation Roads Manual (Current Edition)

Criteria D2 – Virginia Department of Transportation Roads and Bridges Manual (Current Edition)

Criteria D3 – Virginia Department of Transportation Drainage Manual (Current Edition).

Criteria D4 – Virginia Department of Conservation and Recreation manual (Current Edition)

Criteria D5 – Town of Front Royal design standards, as posted on Town's website

NOTE – WHERE THERE IS ANY DISCREPANCY IN STANDARDS, THE TOWN'S DESIGNS STANDARDS SHALL BE CONTROLLING

Drainage concepts shall be developed and the following shall be evaluated:

- a. Drainage areas
- b. Drainage maps shall be developed on current aerial photographs
- c. Maintenance of Traffic
- d. Open ditch versus piped outfall(s) and/or roadway drainage system(s)
- e. Outfall condition, need and limits for improvements, maintenance
- f. Pond locations and/or Mitigation sites
- g. Erosion Control Plan
- h. Maintenance simplicity

3. Alignment

Alignments both vertical and horizontal shall be developed and the following issues shall be evaluated:

- a. Environmental impacts
- b. Maintenance of Traffic
- c. Right-of-Way impacts
- d. Utility impacts

- e. Preliminary earthwork calculations
4. Traffic Operations
 - a. Maintenance of Traffic (MOT) impacts
 - b. Signing and pavement marking
 - c. Speed limit
 - d. Street lighting
 - e. Preliminary signal design
 5. Maintenance Issues
 - a. Access to storm sewer
 - b. Access to ponds, ditches, and mitigation sites
 - c. Erosion protection
 - d. Mowing, roadside and pond sites
 - e. Landscaping and clear-zone maintenance
 - f. Noise abatement or attenuation study
 6. Permitting and Environmental Assessment
 - a. Identify jurisdictional limits
 - b. Identify jurisdictions/agency
 - c. Storm water quality treatment and attenuation requirements
 - d. Tree evaluation
 - e. Wetland mitigation requirements
 - f. Other permit requirements
 7. Soils/Geotechnical Investigation and Analysis
 - a. Commonwealth of Virginia - Geology of the Front Royal Quadrangle, Virginia
 - b. Soil samples and/or borings as required to make design recommendations with horizontal and vertical locations
 8. Landscaping
 - a. Identify potential areas for landscaping
 - b. Preliminary landscape design
 9. Cost Estimates for Alternatives
 - a. Right-of-Way
 - b. Construction
 - c. Operation and Maintenance
 - d. Other

D. The following design features shall be prepared:

1. Drainage map with identifying streets and waterways, existing and/or proposed (including any modifications to existing) drainage structures, existing flow patterns, proposed drainage patterns (drainage areas), and floodplain data.

2. Horizontal and vertical alignment and pavement geometry.
3. Cross-sections, (spacing every one hundred feet (100'), plus cross-sections at driveways and intersections, lateral ditches, and locations of potential concern (such as possible conflicts with existing utilities).
4. The Preliminary Design plans shall contain the following:
 - a. Cover sheet with location map
 - b. Drainage map (aerial based), preliminary drainage collection system
 - c. Horizontal alignment control sheet
 - d. Typical section(s) and details, proposed improvement
 - e. Plan and profile sheets w/benchmarks
 - f. Cross-sections (representative)
 - g. Erosion protection/turbidity control plan
 - h. Haul routes, if needed
 - i. Conceptual striping plan
 - j. Soil borings (location and data)
 - k. Spoil site(s), if required
 - l. Stockpile site location(s), if required
 - m. Utility information showing existing utility locations (subsurface utility located)
 - n. Conceptual maintenance of traffic plans – draft with narrative
 - o. Topographic survey
 - p. Aerial photography
 - q. Pond and mitigation area(s), existing and proposed contour lines
5. Land requirements highlighted on map of existing right-of-way survey.

E. PRESENTATION/MEETINGS

The CONSULTANT shall be required to:

1. Participate in regularly scheduled Status Meetings.
2. Subsequent to the Preliminary Design submittal, conduct a field inspection with EDA staff for the purpose of comparing proposed PROJECT impacts to existing features.
3. Participate in meetings with the Permit/Approval agencies as required, along with a representative from the EDA.
4. Make one (1) presentation on Preliminary Design to the EDA Board, with representatives of Town Council, and County Board of Supervisors, at an EDA meeting
5. Conduct one (1) Public Information Meeting.
6. Conduct Utilities Coordination meetings.
7. Participate in follow-up meeting with the EDA to address public comments and concerns.

F. DELIVERABLES

1. Ten (10) sets of 11"x17" prints for review purposes.
2. Five (5) sets of 22"x36" prints for review purposes.
3. Five (5) copies of Geotechnical Reports
4. Right-of-way base maps marked to indicate preliminary land requirements.
5. Five (5) copies of the PROJECT Design and Computations Booklet.
6. Updated project schedule.
7. Quality Control Checking and Review documents.

8. Digital (pdf) copies of plans, computations booklet, and quality control documentation

G. ACCEPTANCE BY THE EDA

The CONSULTANT shall receive written acceptance of the Preliminary Design and Topographic Survey Phase from the EDA prior to proceeding to Final Design and Permitting Phase.

2.3 FINAL DESIGN AND PERMITTING PHASE

A. DESIGN REQUIREMENTS

The Final Design and Permitting Phase shall further develop and refine the PROJECT following the EDA'S response to the Preliminary Design Phase.

The Final Design plan set shall be prepared to include:

1. Cover Sheet.
2. Drainage map.
3. Detailed location of horizontal and vertical geometric control sheet.
4. Soil borings (location and data).
5. Topographic survey.
6. Summary of quantities sheets.
7. Typical sections(s).
8. Miscellaneous construction details.
9. General notes.
10. Plan and profile sheets.
11. Drainage structures cross-sections and details.
12. Intersection details (including proposed tag grades).
13. Cross-sections (including earthwork takeoff and summary).
14. Mitigation area(s), grading, if required.
15. Mitigation area(s), cross-sections, if required.
16. Signing and pavement marking plans.
17. Signalization plans.
18. Utility relocation/adjustment/information plans.
19. Maintenance of Traffic (MOT) plan.
20. Erosion & sedimentation control plans and Stormwater pollution prevention plan.
21. Roadway lighting plans .
22. Utility work construction plans and specifications.
23. Environmental planting and landscaping plans.

B. PERMITTING/APPROVALS

1. It is intended that the CONSULTANT will provide a design, which will be permitted by various agencies and will be in the best interest of The EDA. The CONSULTANT shall make adjustments and revisions, as necessary to obtain all required permits and approvals.
2. Specific Requirements
The CONSULTANT shall:

- a. Prepare permit applications, data and drawings required for construction of the PROJECT, for submittal by the EDA, to local, state and federal agencies and utility companies.
- b. Modifications to the permit drawings, as needed, shall be incorporated by the CONSULTANT.
- c. The CONSULTANT shall prepare a written response, for EDA review, for all requests for additional information by the permit agency within ten (10) days of receipt of notice. The EDA will review the response and provide comments within five (5) business days. The CONSULTANT shall provide the revised final response package to the EDA within five (5) business days for review.
- d. The CONSULTANT shall prepare reproducible drawings specifically for permit applications. The drawings shall clearly depict the information required for permit approval as described in the permit agency's guidelines for preparation of the application.
- e. The CONSULTANT shall, at no additional cost to the EDA, make all construction plan revisions required to obtain the necessary permits for construction of the PROJECT.
- f. For the purpose of ensuring the timely approval of all permits necessary for the construction of the PROJECT, the CONSULTANT shall schedule the necessary contacts and liaison with the EDA and all agencies having permit jurisdiction over the PROJECT, and shall furnish, on a timely basis, such plans, data, surveys and information as may be necessary to secure approval of the required permits.

C. PRESENTATION/MEETINGS

The CONSULTANT shall be required to:

1. Participate in regularly scheduled Status meetings.
2. Coordinate and conduct Utility Coordination meetings, as needed.
3. Participate in a Right-of-Way Coordination meeting subsequent to receipt of the Final Design and Permitting submittal and prior to approval of this phase. The meeting shall be held to coordinate and resolve the land acquisition concerns of the EDA. The meeting will determine necessity and scope of the acquisitions. The proposed right-of-way/easement requirements shall be submitted to the EDA at the meeting.
4. Participate in meetings required with the Permit/Approval agencies as required, along with a representative from the EDA.
5. Conduct one (1) presentation to the EDA Board, with representatives of the Town Council, and County Board of Supervisors, at an EDA meeting.
6. Conduct one (1) presentation to the Department of Transportation (if required).
7. Conduct one (1) Public Information Meeting.
8. Participate in a follow-up meeting with the EDA to address the public comments and concerns (if required).

D. DELIVERABLES

1. Ten (10) sets of 11"x17" prints for review purposes, reflecting comments from Preliminary Design.
2. Five (5) copies of 22"x36" prints for review purposes, reflecting comments from the Preliminary Design
3. Five (5) copies of the PROJECT Design and Computations Booklet.
4. Right-of-way maps marked to indicate final land requirements.
5. Documentation that utility owners have been contacted and information essential to the design of their relocations, adjustments or additions have been received, evaluated and

integrated into the PROJECT design. Written documentation that all potential utility conflicts have been investigated satisfactorily and resolved.

6. Draft copies of technical specifications based on the VDOT Specifications. Any special provisions or technical specifications prepared by the CONSULTANT shall be submitted to the EDA in Word digital format.
7. Necessary permits shall be received by the EDA prior to acceptance of the Final Design Submittal.
8. Quality Control Checking and Review documents.
9. Topographic survey.
10. Resolution of final design review comments.
11. Confirm that plans are in agreement with all approved permits.
12. Digital (pdf) copies of all plans.
13. Digital drawing file copy, AutoCAD Release 2010, on CD-ROM.
14. Electronic copy of design files generated by Civil Engineering design programs.
15. A 3-dimensional model file of the proposed design in AutoCAD, Version 2010, complete with all objects depicted according to software requirements.
16. Hydraulic/hydrogeologic modeling programs.
17. Bid Item Quantities Take-Off Booklet.
18. Final estimate of construction costs.
19. Five (5) copies of PROJECT Design and Computations Booklet, signed and sealed.
20. Tabulation of all deliverables.
21. The CONSULTANT shall sign and seal five (5) sets of prints and two (2) sets of specifications in accordance with the Virginia Engineering Responsibility Rules.

F. PERFORMANCE SCHEDULE

1. This phase of work shall begin upon receipt of a Notice to Proceed from the EDA.
2. The PROJECT Construction Documents Phase shall be submitted to the EDA within _____ (____) calendar days from Notice to Proceed.

G. ACCEPTANCE BY THE EDA

The CONSULTANT shall receive written acceptance of the Construction Documents Phase from the EDA prior to proceeding to the Bidding Phase.

2.4 PREQUALIFICATION PHASE

A. REQUIRED SERVICES

1. The CONSULTANT shall prepare a request for prequalification of potential construction bidders, consistent with the terms of Section 2.2-4317 of the Code of Virginia and the EDA's adopted prequalification process.
2. The CONSULTANT shall assist the EDA, in consultation with the Town Council and the County Board of Supervisors, in the evaluation and selection of qualified potential contractors who shall be allowed to bid under the EDA's prequalification process.

2.5 BIDDING PHASE

A. REQUIRED SERVICES

1. The CONSULTANT shall prepare all construction plan or specification addenda. Any required addenda shall be signed, sealed and dated. The CONSULTANT shall administer the distribution of addenda material approved by the EDA.
2. The CONSULTANT shall coordinate with the EDA and distribute an Invitation For Bids to the prequalified potential bidders, and shall assist the EDA in evaluating bids received from the prequalified bidders.
3. The CONSULTANT shall prepare bid tabulations comparing contractor's bids, review bids, review and ensure that bids are responsive and are from responsible bidders, and provide written recommendation for award of the construction contract within ten (10) days of bid opening. Bid tabulations shall be prepared according to EDA format.

B. PRESENTATION/MEETINGS

1. The CONSULTANT shall participate in any Pre-Bid Meeting.

C. DELIVERABLES

1. Contract documents addenda, if any, with cover letter as required.
2. Bid tabulations in spread sheet format.
3. Written evaluation of bids.

D. PERFORMANCE SCHEDULE

1. This phase of work shall begin upon receipt of a Notice to Proceed from the EDA.
2. The PROJECT Bidding Documents submittal shall be submitted to the EDA within **Two Hundred Fifty-eight (258) calendar days** from Notice to Proceed.

E. ACCEPTANCE BY THE EDA

Bidding documents shall be deemed complete upon the EDA'S award of the construction contract.

2.6 CONSTRUCTION PHASE

The Construction Phase begins with the award of the construction contract for the PROJECT. During the Construction Phase the CONSULTANT shall perform the following services and/or activities:

A. REQUIRED SERVICES

1. The CONSULTANT shall prepare, sign and seal all certifications required by PROJECT permits.
2. The CONSULTANT shall provide five (5) full size and five (5) half size sets of plans and five (5) sets of construction specifications to the Contractor.

3. Prior to the pre-construction conference, if any, the CONSULTANT shall provide to the EDA written documentation of the critical points requiring CONSULTANT'S observation during construction and as-built survey by the Contractor to comply with the permit certification requirements.
4. The CONSULTANT shall furnish prompt consultation to the EDA regarding the interpretation of any and all parts of the PROJECT plans and specifications. Such consultation may require the CONSULTANT to visit the PROJECT construction site. For the purposes of this section, prompt shall mean within three (3) working days for issues that do not cause delay or constitute emergencies, and three (3) working days for issues that would otherwise cause delay or constitute emergencies as determined by the EDA's Project Representative.
5. The CONSULTANT shall ensure a response to the EDA within one (1) working day to any inquiries required so as not to cause delay to the construction contract.
6. The CONSULTANT shall review for compliance with design, and accept or reject all shop and/or fabrication drawings, which the Contractor is required by the CONSULTANT to submit. Reviews are to be provided promptly, within a maximum of ten (10) working days.
7. The CONSULTANT shall review and comment on Change Orders within three (3) working days for issues that do not cause delay or constitute emergencies, and one (1) working days for issues that would otherwise cause delay or constitute emergencies as determined by the EDA's Project Representative, when requested by the EDA.

B. PRESENTATION/MEETINGS

1. The CONSULTANT shall participate in any pre-construction conference.
2. The CONSULTANT shall participate in weekly Construction meetings to provide prompt resolution of construction issues.
3. The CONSULTANT shall participate in the Final Walk through with the EDA.
4. The CONSULTANT shall participate in the Post Construction Conference with the EDA.

SECTION 3

SERVICES RELATED TO ALL PHASES

3.1 PRESENTATIONS, MEETINGS AND TECHNICAL LIAISON

The following services shall be provided by the CONSULTANT at no additional cost to the PARTNERSHIP:

A. GENERAL MEETING REQUIREMENTS

1. All meetings shall be scheduled through the EDA.
2. The CONSULTANT shall prepare the necessary agenda for each meeting. Agenda shall be coordinated with, and submitted to the EDA at least five (5) working days prior to any

scheduled meeting.

3. The CONSULTANT shall keep accurate minutes of all meetings and distribute copies to all participants, including the EDA, within three (3) working days after the meeting.
4. The minutes shall reflect agenda items, action items, who is to provide follow-up, the original schedule, current schedule and how the delay, if any, will be addressed.

B. PRE-DESIGN MEETING

Prior to the commencement of design activities, the EDA will conduct with the CONSULTANT a Pre-Design Meeting for the purpose of discussing issues relative to the PROJECT, plans preparation and submittal schedules and to convey to the CONSULTANT such items provided for under Section 5 as may be required and available at that time.

C. PUBLIC INFORMATION MEETING

Public Information Meetings are held to inform the public of the results of the design to date and obtain comments on the PROJECT.

The meeting will have a format allowing casual public review and comment over a period of three (3) hours (typically from 5 PM to 8 PM) at a public location to be provided by the EDA.

1. ADVERTISEMENTS/CORRESPONDENCE/HANDOUT MATERIAL

- a. All presentations (script and graphics), media release, legal and display advertisements, together with general (mass) property owner letters will be prepared, published and distributed by the CONSULTANT as reviewed and authorized by the EDA.
- b. Property Owner Letters: A letter announcing the meeting shall be written and sent, with prior approval from the EDA, by the CONSULTANT ten (10) days prior to the meeting to all property owners whose property lies in whole or in part within 300 feet of the centerline of the PROJECT, or as directed by the EDA.
- c. Advertisement: An advertisement of the Public Information Meeting with location map shall be prepared and published by the CONSULTANT in a newspaper of general circulation within Warren County to be published once per week for two successive weeks prior to the Public Information Meeting, giving the time, date, and place of the Public Information Meeting.
- d. News releases shall be prepared by the CONSULTANT and submitted to the EDA for approval prior to publication by the CONSULTANT.
- e. A memorandum with location map shall be prepared and sent to the EDA for the Local Access television channel.

- f. The CONSULTANT shall prepare displays or graphics for use during the meeting. These include typical sections, aerial photographs, renderings, charts, and graphs, as needed.
- g. The CONSULTANT shall prepare camera-ready graphics to be used with a formal presentation if this technique is used.
- h. The CONSULTANT shall order a Stenographer to be present ½ hour prior to the start of the meeting until the end of the meeting to obtain property owner's comments.

2. DEBRIEFING

- a. Input gathered at the meeting shall be documented in a summary memo prepared by the CONSULTANT and discussed at a Debriefing Meeting with the EDA Board of Directors.
- b. The identification of issues brought up at the Public Meeting is an integral part of the meeting debriefing process. The Debriefing Meeting shall be attended by all key staff members taking part in the Public Meeting process and talking with the public.
- c. Once issues have been identified from the meeting, their significance shall be determined; i.e., are the issues valid enough for further consideration or do they have elements which may require further considerations.
- d. Addressing the issues and responding to them is also an integral part of the meeting process. This task involves letter writing, the preparation of a follow-up newsletter, the placement of an advertisement, distribution of news releases, or any other appropriate technique. If responses are determined to be appropriate, the CONSULTANT shall prepare them for approval by the EDA prior to distribution and publication by the EDA.

3.2 UTILITY COORDINATION

The requirements of the various utility services shall be recognized and properly coordinated with the PROJECT design. The CONSULTANT shall confer with all utility owners to determine the utility owner's plan of action as a result of the PROJECT.

A. UTILITY ENGINEERING PLANS

- 1. During the Preliminary Design and Topographic Survey Phase, it shall be the responsibility of the CONSULTANT to identify all utilities involved with the PROJECT. The utility companies will verify and accept their facilities based on the subsurface utility survey and return them to the CONSULTANT. The CONSULTANT shall resolve any discrepancies with the information provided by the utility companies.
- 2. The CONSULTANT shall identify on the plan sheets any existing facilities that may be impacted by the PROJECT. Any current proposed utility improvements, as well as any facilities to be removed or placed out-of-service, should also be identified on the plan sheets.
- 3. For scheduling purposes, the CONSULTANT shall allow the utilities twenty-eight (28)

calendar days turn-around time to review and verify the plans and return them to the CONSULTANT.

4. The CONSULTANT shall conduct Utility Coordination meetings during the design phases. The CONSULTANT is responsible for contacting utility owners, and the notification and distribution of the notices. Notices will be printed on EDA letterhead, reviewed and signed by The EDA prior to mailing. The meeting time and place shall be coordinated with the EDA.
5. The CONSULTANT should allow a minimum of forty-five (45) calendar days turn-around and development time for the relocation and/or adjustment plan activities when preparing the submittal schedule for this PROJECT.
6. The CONSULTANT shall review the utility relocation plans prepared by others for conflicts between any proposed relocations. The CONSULTANT shall then coordinate with the utility owners to facilitate resolution of any conflicts with existing and/or proposed facilities.
7. The CONSULTANT shall show the location of any new or relocated/adjusted utility on a separate reproducible set of PROJECT plan and profile sheets. These drawings shall be referred to as "Utility Information Plans" and shall be included in the PROJECT documents for the contractor's information. The actual design for relocation of non-EDA owned utilities shall be by the utility owners. The EDA owned utilities adjustments relocations will be designed by the EDA or designed by the CONSULTANT as an amendment to this Agreement, if required.

3.3 PROJECT DESIGN NOTES AND COMPUTATIONS BOOKLET

- A. The CONSULTANT shall submit to the EDA design notes and computations to document the design methodology conclusions during the development of the PROJECT design and construction plans.
- B. The design notes and computations shall be recorded on one-sided 8½ inch by 11 inch computation sheets, fully titled, numbered, dated, indexed and signed by the designer and checker. Computer output forms and other oversized sheets shall be reduced to 8½ inch by 11 inch size. The data shall be bound, indexed and titled in a hardback, loose-leaf folder for submittal to the EDA.
- C. Five (5) copies of the design notes and computations shall be submitted to the EDA with each of the Phase review plans. When the plans are submitted for final review, the design notes and computations corrected for any comments shall be resubmitted. At the PROJECT completion, the final PROJECT design notes and computations booklet shall be properly endorsed by the CONSULTANT, and shall be organized, indexed and submitted with the record set of plans and tracings.
- D. The design notes and calculations shall include, but not be limited to, the following data as applicable:
 1. Design criteria used for the PROJECT.
 2. Geometric design calculations for horizontal alignment that are not included in the quantity computation booklet.

3. Vertical geometry calculations.
4. Traffic analyses.
5. Drainage computations
6. Roadway lighting calculations.
7. Earthwork calculations not included in the quantity computation booklet or on the plans.
8. Calculations showing cost comparisons of various alternatives considered.
9. Documentation of decisions reached resulting from meetings, telephone conversations or site visits.
10. Calculations of quantities.
11. Structural analysis and design calculations.
12. Right-of-way calculations.
13. Cost Estimates.

3.4 PREPARATION OF CONSTRUCTION PLANS

A. DRAWING SCALES

The following is a guide to drawing scales for the PROJECT construction plans:

1. Drainage Map Location Plan: (Scale 1" = 200').
2. Geometric Alignment: (Scale As Appropriate).
3. Typical Sections: (No Scale).
4. Stockpile or Spoil Site Location(s): (Scale 1" = 200').
5. Plan and Profiles: (Horizontal Scale 1" = 20') (Vertical Scale: As appropriate to clearly show information).
6. Mitigation Plans: (Scale 1" = 20').
7. Cross-Sections for 66' right-of-way or less: (Horizontal 1" = 5') (Vertical 1" = 5').
Cross-Sections for over 66' right-of-way: (Horizontal 1" = 10') (Vertical 1" = 5').
8. Drainage Structure(s): (Horizontal 1" = 5') (Vertical 1" = 5').

B. DRAINAGE MAPS

Drainage maps shall be developed on wide-area maps (aerials) encompassing an area sufficient to include all areas that drain to the roadway no matter how distant or remote, plus all areas draining to the outfall if the drainage outfall is included in the PROJECT. The drainage map shall show existing drainage patterns, visible structures and details, as well as the proposed drainage system to be constructed as part of the PROJECT. The drainage map shall include a centerline profile of the PROJECT showing existing elevations, proposed elevations, and proposed drainage systems. Normal water and design high water elevations shall be indicated on existing and proposed surface water holding facilities.

C. PLAN-PROFILE SHEETS

Construction plan-profile sheets shall include the following:

1. Plan-profile sheets prepared with aerial images.
2. Existing and proposed right-of-way lines and easement lines.
3. Property lines referenced from construction geometric alignment with station and offset to

existing and proposed right-of-way.

4. Topographical features and existing facilities shall be shown for a distance of thirty (30) feet beyond proposed right-of-way and/or easement lines sufficient to permit the evaluation of PROJECT impact on abutting land, features and facilities, including existing enhancement features such as fences, walls and ornaments, along with any encroachments into right-of-way.
5. All trees of species and size such as to warrant environmental assessment shall be accurately plotted and identified as to species and size.
6. Existing and proposed underground utilities, drainage structures, pipes and any other facilities.
7. Limits of any located unsuitable material within the existing or proposed right-of-way shall be labeled "Approximate Location of Unsuitable Material".
8. Limits of construction with stations/offsets from construction geometric alignment.
9. Proposed improvements.
10. Date of survey.

D. CROSS-SECTION SHEETS

Construction cross-section sheets shall show the following:

1. Existing and proposed underground utilities (Horizontal and Vertical locations).
2. Existing and proposed drainage pipes and other underground facilities.
3. Pertinent soils data.
4. The elevation of groundwater table at the time of survey.
5. Date of survey.
6. Limits of any unsuitable material within existing or proposed right-of-way and easement lines shall be labeled "Approximate Location of Unsuitable Material."
7. Existing terrain and structures for a distance of thirty (30) feet beyond proposed right-of-way and/or easement lines sufficient to permit the evaluation of embankment and back slopes, driveway grades and PROJECT impact on abutting land, features and facilities.
8. Elevations shall be shown for critical points (existing and proposed).
9. Earthwork quantities.
10. Cross-sections shall be depicted at 100-foot station intervals, driveways, side streets locations, lateral ditches, bridges and other locations having critical topographic features.
11. Existing and proposed right-of-way and easement lines.
12. Existing and proposed pavement structure.
13. Limits of construction.

E. DRAINAGE STRUCTURE CROSS-SECTIONS

Drainage structure cross-section sheets shall show the following:

1. Information as described under cross-section sheets.
2. Drainage structure notes for all structures and pipes shall reference station, offset and elevation with centerline of pipe and centerline of riser, pipe inverts, pipe sizes and slope in percent.

F. MAST ARM SIGNAL DESIGN SHEETS

Signal design plans sets will include all signals requested as part of a project. Signal designs will include mast arm structure support, illuminated street name signs and video detection

system. Signal design sheets shall be on individual sheets, all others should be combined whenever possible. The plans will include the following:

1. Key Sheet
2. Tabulation of Quantities
3. General Notes
4. Signal Design Plan Sheet(s):
 - a. Scale shall be 1" = 20'
 - b. Signal Operation Plan
 - c. Controller Base Timing
 - d. Signal and Pedestrian Head Details
 - e. Controller Notes
 - f. Detector/Loop Connection Chart
 - g. Intersection location detail should include all existing and proposed overhead and underground utilities and right-of-ways
 - h. Interconnect tie in to Controller Cabinet
 - i. Intersection Signs and Markings
 - j. Bid item numbers
5. Illuminated Overhead Street Name Sign Detail Sheet
6. Pole and Mast Arm Sheets
 - a. Geo-tech information on pole locations
 - b. Mast Arm Structure – Miscellaneous Details
 - c. Pole and Mast Arm Schedule
 - d. Mast Arm Structure Elevation and Notes
 - e. Foundation and Base Plate Details
 - f. Arm Connection Details
 - g. Structural Design Variable Sheets
7. Interconnect Plan:
 - a. Scale shall be 1" = 100'
 - b. Design of Interconnect System, conduit and pull boxes should accommodate either copper wire or fiber optic interconnect cable
 - c. Interconnect tie in to Controller Cabinet
 - d. Intersection location detail including all existing and proposed overhead and underground utilities and right-of-ways
 - e. Pull box details and locations
8. Additional sheets as needed to provide complete and biddable plans package.

G. SIGN AND MARKINGS DESIGN SHEETS

Sign and Marking plan sets will include all information relative to the design project. The plans will include the following:

1. Key Sheet
2. Tabulation of Quantities
3. General Notes
4. Plan Sheet(s): Scale 1" = 20'

H. DRAFTSMANSHIP

1. Plan should be clearly legible and easy to read for construction purposes and for microfilming.
2. All lines and notes relative to the proposed construction shall be of heavier line weight and larger size than lines and notes relating to existing facilities and topography.
3. Notes and lines denoting proposed construction shall be inked with a one (1) pen size or larger and lettering for proposed construction shall be at least one-eighth (1/8") in height.

I. PLAN REQUIREMENTS

1. Final plans shall be on durable paper.
2. All sheets in the plans set shall be 24-inches by 36-inches in size.
3. All drawings shall meet the statutory requirements for plans filed for public record.

3.5 PREPARATION OF CONSTRUCTION SPECIFICATIONS

The technical specifications shall be prepared for construction of the PROJECT, in a similar manner to recent Town specification documents conforming to VDOT standards.

SECTION 4

INFORMATION AND SERVICES TO BE FURNISHED BY THE EDA

- 4.1 The EDA shall provide the following for the CONSULTANT'S use and guidance:
 - A. Copies of existing maps, existing aerial photographs, existing as-built construction plans and existing data pertinent to the PROJECT design, which the EDA, the Town of Front Royal and the County of Warren may have in their possession.
 - B. Sample copies of the COUNTY standard contract documents and specifications.
 - D. The COUNTY's Construction Standards and Specifications.
- 4.2 The EDA shall perform the following services:
 - A. Conduct the required title searches for obtainment of right-of-way.
 - B. Perform acquisition of right-of-way and easements, as required.
 - C. Prepare the legal (front-end) section of the specifications.
 - D. Reproduce all plans and specifications for advertise/bidding and construction purposes.
 - E. Provide construction contract administration and construction inspection with the assistance of the CONSULTANT as stated in this Agreement.

SECTION 5

PAYMENT GUIDELINES AND CATEGORY OF SERVICES

5.1 BASIC SERVICES

The services described and provided for under Sections 2, 3 and 4 shall constitute the Basic Services to be performed by the CONSULTANT under this Agreement.

5.2 CONTINGENCY SERVICES

When authorized in writing by the EDA, the CONSULTANT shall furnish services resulting from unforeseen circumstances not anticipated under Basic Services due to minor changes in the PROJECT scope.

Compensation for any Contingency Services assignments shall be negotiated between the EDA and the CONSULTANT at the time the need for services becomes known.

5.3 ADDITIONAL SERVICES

When executed by the EDA, as an amendment to this Agreement, the CONSULTANT shall provide such additional services as may become necessary because of changes in the Scope of PROJECT. Additional Services shall be classified as any change beyond the Contingency Services upset limit for compensation.

5.4 INVOICING

The CONSULTANT shall submit invoices for fees earned. Such invoicing shall be supported by a Progress Report showing the actual tasks performed and their relationship to the percentage of fee claimed for each phase. Billings within each phase of work shall be for the percentage of work effort completed to date for that phase. The EDA shall make payments to the CONSULTANT within thirty (30) days of approval of invoices for work performed in accordance with this Agreement.

The following services shall be considered reimbursable services and may be filled in full upon their completion and acceptance. Copies of supporting receipts/invoices/billing documentation shall be provided by the CONSULTANT.

- A. Soil Analysis/Geotechnical Investigations.
- B. Contamination Assessments/Hazardous Material Analysis (if required).
- C. Payment of Permit Fees (if required).
- D. Payment of the Public Information Meeting Advertisements, if required.
- E. Payment of the Court Reporter for public meetings, if required.
- F. Printing and Binding Services.

Should an invoiced amount for fees earned appear to exceed the work effort believed to be completed, the EDA may, prior to processing of the invoice for payment, require the CONSULTANT to

submit satisfactory evidence to support the invoice.

All progress reports and invoices shall be mailed to the attention of the EDA, P.O. Box 445, Front Royal VA, 22630. Invoices not properly prepared (mathematical errors, billing not reflecting actual work done, any signature, etc.) shall be returned to the CONSULTANT for correction.

Fees for contingent or additional services authorized shall be invoiced separately, and shall be due and payable in full upon the presentation of satisfactory evidence that the corresponding services have been performed.

SECTION 6

INSURANCE COVERAGE AND INDEMNIFICATION

6.1 The CONSULTANT shall procure, pay for and maintain at least the following insurance coverages and limits. Said insurance shall be evidenced by delivery to the EDA of one (1) certificate of insurance executed by the insurers listing coverages and limits, expiration dates and terms of policies and all endorsements whether or not required by the EDA, and listing all carriers issuing said policies; and (2) upon request, a certified copy of each policy including all endorsements. The insurance requirements shall remain in effect throughout the term of the Agreement. All insurance policies shall name the EDA, the Town and the County as additional insureds.

- A. Worker's Compensation in at least the Limits as required by law; Employers' Liability Insurance of not less than \$100,000 for each accident.
- B. Comprehensive General Liability Insurance including, but not limited to, Independent Contractor, Contractual, Premises-Operations, and Personal Injury covering the liability assumed under indemnification provisions of this Agreement, with limits of liability for personal injury and/or bodily injury, including death of not less than \$500,000, each occurrence; and property damage of not less than \$100,000, each occurrence. (Combined Single Limits of not less than \$500,000, each occurrence, will be acceptable unless otherwise stated). Coverage shall be on an "occurrence" basis, and the policy shall include Broad Form Property Damage coverage of not less than \$50,000 per occurrence, unless otherwise stated by exception herein.
- C. Professional Liability Insurance (including Errors and Omissions) with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, if occurrence form is available; or claims made form with "tail coverage" extending three (3) years beyond completion and acceptance of the PROJECT with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage," CONSULTANT may submit annually to the EDA a current Certificate of Insurance proving claims made insurance remains in force throughout the same three (3) year period.

- D. Comprehensive Automobile and Truck liability covering owned, hired and non-owned vehicles with minimum limits of \$500,000 each occurrence for bodily injury including death, and property damage of not less than \$100,000, each occurrence. (Combined Single Limits of not less than \$500,000 each occurrence, will be acceptable unless otherwise stated). Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards.

6.2 Each insurance policy shall include the following conditions by endorsement to the policy:

- A. Each policy shall require that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverages or limits, a notice thereof shall be given to EDA by certified mail to: EDA Executive Director, PO Box 445, Front Royal, VA, 22630. CONSULTANT shall also notify EDA, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage received by said CONSULTANT from its insurer; and nothing contained herein shall absolve CONSULTANT of this requirement to provide notice.
- B. Companies issuing the insurance policy, or policies, shall have no recourse against PARTNERSHIP for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of CONSULTANT.
- C. The term EDA or PARTNERSHIP in this Section 6 shall include the EDA, TOWN, and COUNTY, all its members, its officers, and employees while acting on behalf of the PARTNERSHIP.
- D. The EDA, TOWN, and COUNTY shall be endorsed to the required policy or policies as an additional insured, exclusive of Professional Liability Insurance.
- E. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by EDA or to any such future coverage.

ATTACHMENT C

PAYMENT



ATTACHMENT C - PAYMENT

LUMP SUM PAYMENT

A. FEE: For services provided in accordance with the provisions of this Agreement, the EDA shall pay to the Consultant the Lump Sum Fee stated in the Letter of Agreement.

The fee shall include compensation for all services and costs specified in this Agreement, or as may be required for the completion of the services contained herein.

B. MONTHLY PARTIAL PAYMENTS: Monthly partial billings for services provided will be submitted, except when the net receivable amount is less than \$500.00. In such case, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined herein based on a percentage of the Lump Sum Fee equal to the percentage completion reported. Billings shall be submitted no more frequently than once every 30 calendar days.

C. TERMINATION WITHOUT CAUSE: In the event this Agreement is terminated without cause, payment of the Fee shall be made on the basis of the percentage of completion at the time of the effective date of termination, as determined by the Department.

ATTACHMENT D

FEE PROPOSAL



ATTACHMENT D

FEE PROPOSAL

7.1. For the performance of BASIC SERVICES as provided for in this Agreement, the EDA agrees to pay the CONSULTANT in accordance with the following:

- A. A lump sum fee not to exceed Two Hundred Forty-six Thousand and no/100 dollars (\$246,000.00) for the Preliminary Design and Topographic Survey Phase, based upon the Fee Estimate Schedule contained in Section 7.6, below.
- B. A lump sum fee not to exceed Three Hundred Thirty-eight Thousand and no/100 dollars (\$338,000.00) for the Final Design and Permitting Phase, based upon the Fee Estimate Schedule contained in Section 7.6, below.
- C. A lump sum fee not to exceed Four Thousand and no/100 dollars (\$4,000.00) for the Prequalification Phase, based upon the Fee Estimate Schedule contained in Section 7.6, below.
- D. A lump sum fee not to exceed Ten Thousand and no/100 dollars (\$10,000.00) for the Bidding Phase, based upon the Fee Estimate Schedule contained in Section 7.6, below.
- E. A lump sum fee not to exceed Twenty-nine Thousand and no/100 dollars (\$29,000.00) for Waterline Design, based upon the Fee Estimate Schedule contained in Section 7.6, below.
- F. A fee equal to the CONSULTANT'S direct labor costs times a factor of 2.95 for all actual hours of work performed up to an amount not to exceed Seventy-five Thousand and no/100 dollars (\$75,000.00), for the Construction Phase.

Direct labor costs shall mean wages paid directly to the CONSULTANT personnel and does not include indirect payroll related costs or fringe benefits.

Geotechnical Testing/Inspection	-	\$110,000.00
Town of Front Royal As-Builts	-	\$ 25,000.00

7.2 For Basic reimbursable services as listed in Section 6, the EDA agrees to reimburse the CONSULTANT for actual costs up to an amount not to exceed Ten Thousand and no/100 dollars (\$10,000.00).

7.3 For any CONTINGENCY SERVICES performed, the EDA agrees to pay the CONSULTANT, a negotiated fee based on the assignment, up to a maximum amount not to exceed Seventy Thousand Two Hundred and no/100 dollars (\$70,200.00) for all assignments performed.

7.4 For any ADDITIONAL SERVICES, the EDA agrees to pay the CONSULTANT a negotiated total fee based on the work to be performed as detailed by a written amendment to this Agreement.

7.5 In the event that this Agreement is terminated under the provisions of this contract the total and complete compensation due the CONSULTANT shall be as established by the EDA based on the EDA'S determination of the percentage of work effort completed to date of termination.

7.6 FEE ESTIMATE SCHEDULE

	Design Fee Estimate		
	Preliminary <u>Pre-Design</u>	Final <u>Design</u>	Bidding and <u>Construction</u>
1. Base Mapping	\$ 31,000		
2. Geotechnical	\$ 44,000		
3. Traffic Impact Analysis	\$ 26,000		
4. Wetlands Delineation/Permitting	\$ 30,000		
5. Environmental Assessment (scope to be determined)	\$ 5,000		
6. Road Design Plans	\$110,000		
7. Traffic Signalization (per signal required)		\$225,000	
8. Signage Striping		\$ 15,000	
9. Landscaping		\$ 10,000	
10. Lighting		\$ 12,000	
11. Maintenance of Traffic		\$ 18,000	
12. Coordination Utility Relocation		\$ 8,000	
13. Platting Services		\$ 38,000	
14. Pre-Qualification			\$ 4,000
15. Contract Documents and Bidding			\$ 10,000
16. Construction Administration			\$ 75,000
17. Water Design Plans			\$ 29,000
SUBTOTAL	\$246,000	\$338,000	\$118,000
PROJECT DESIGN TOTAL			\$702,000
18. Project Contingency Estimate			\$ 70,200
19. Reimbursables			\$ 10,000
20. Construction Phase Geotechnical Testing/Inspection			\$110,000
21. As-Built Plans			\$ 25,000
<u>Wetland Contingency IF Individual Permit</u>			
22. Initial Cost Through DEQ Pre-Application Meeting	\$ 12,500	\$ 12,500 (portion of Item 4 above)	
23. Individual Permit Application	\$ 18,000	- \$ 23,000	
24. Individual Permit Regulation Support	\$ 10,000	- \$ 12,000	
25. Mitigation Assistance	\$ 2,000	- \$ 2,000	
26. Design Coordination	\$ 8,000	- \$ 8,000	
SUBTOTAL	\$ 50,500	- \$ 57,500	
Revision Total	\$967,700	- \$974,700	
27. IF Natural Channel Design vs. Bank Contribution	\$ 75,000 - \$ 130,000		
28. IF Survey for Indiana Bat or Madison Cave Isopod	\$ 5,000 - \$ 20,000		
SUBTOTAL	\$ 80,000 - \$ 150,000		
Revision Total	\$1,047,700 - \$1,124,700		

ATTACHMENT E

Certifications as to Debarment



CERTIFICATION REGARDING DEBARMENT
PRIMARY COVERED TRANSACTIONS
(To be completed by a Prime Consultant)

Project: Engineering for Leach Run Parkway

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, or from any agency, department or political subdivision (local government or school division) of the Commonwealth of Virginia.
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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

Signature

Date

Title

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS
(To be completed by a Sub-consultant)

Project: Engineering for Leach Run Parkway

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, or from any agency, department or political subdivision (local government or school division) of the Commonwealth of Virginia.

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

Town of Front Royal, Virginia
Work Session Agenda Form

Date: July 15, 2013

Agenda Item: Planning Commission Term Expires

Summary: Planning Commission Member Arnold M. Williams, Jr. term expires August 31, 2013. Mr. Williams was appointed to the Planning Commission to a 4-year term on August 10, 2009. Mr. Williams has asked that Council consider him for re-appointment.

Council Discussion: Council takes desired action

Staff Evaluation: N/A

Budget/Funding: N/A

Legal Evaluation: N/A

Staff Recommendations: N/A

Planning Commission Recommendation: N/A

Town Manager Recommendation: N/A

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

8/10/09

COUNCIL APPOINTMENTS – Planning Commission and Board of Architectural Review (BAR)

Councilman Holloway moved that Council appoint Arnold M. Williams, Jr. to fill a four (4) year term on the Front Royal Planning Commission, said term to begin September 1, 2009 and expire August 31, 2013. He further moved to appoint Nancy R. Lehw to fill an unexpired term on the Board of Architectural Review (BAR), said term to expire November 13, 1012.

Councilman Sayre noted that those interviewed made the decision difficult to decide said appointments. He voiced support of a better notice or protocol for those not selected.

Councilman Conkey stated they had a fine selection of interviewees and he was quite comfortable with the decision of the Council.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – Mayor Tewalt
