



CITY OF MANASSAS VIRGINIA

PURCHASING DIVISION
8500 Public Works Drive
Manassas, VA 20110
Telephone: (703) 257-8368
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www.manassascity.org

REQUEST FOR PROPOSAL

Issue Date: March 24, 2010

RFP No: 10P005

**FOR:
ON CALL CIVIL ENGINEERING SERVICES**

BONDS:	
Payment Bond:	0%
Performance Bond:	0%

PROPOSAL OPENING:	
DATE DUE:	APRIL 22, 2010
TIME:	2:30 PM – LOCAL TIME

SUBMIT TO:

CITY OF MANASSAS, PURCHASING DIVISION
8500 PUBLIC WORKS DRIVE, MANASSAS, VA 20110

LOCATION OF PROPOSAL SUBMISSION

PUBLIC WORKS FACILITY BUILDING B
PURCHASING DIVISION
8500 PUBLIC WORKS DRIVE
MANASSAS, VA 20110

Purchasing Agent
James Falls, Purchasing Manager
(703) 257-8368

Contract Administrator
Juan E. Rivera, Airport Director
(703) 361-1882

REQUEST FOR PROPOSAL

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SECTION I (A) - SPECIAL PROVISIONS OF REQUEST FOR PROPOSAL

A. SCOPE OF CONTRACT:

The City of Manassas is soliciting Proposals for on call civil engineering service for the Manassas Regional Airport.

B. PROCURING DEPARTMENT:

The Procuring Department for this solicitation is the City of Manassas Regional Airport:

Contact: Juan E. Rivera, Director

Telephone Number: (703) 361-1882

E-mail: jrivera@ci.manassas.va.us

C. PERIOD OF CONTRACT:

The period of the Contract shall be for one (1) year from date of award and may be renewed for four (4) additional one (1) year periods.

D. METHOD OF ORDERING AND BILLINGS:

Generally, a Purchase Order shall be issued to the Contractor to order the purchase or lease of goods, services, and insurance covered by the Contract to be awarded pursuant to this solicitation. The Purchase Order shall indicate that funds therein have been obligated.

Contractor's invoice shall be forwarded to the Using Department (the procuring department) shown on the Purchase Order.

E. TYPE OF CONTRACT:

The City of Manassas expects to award a fixed price hourly rate type of Contract, see Section III herein.

F. NON-DISCRIMINATION

The City of Manassas in procuring goods and services, or in making disbursements pursuant to this section, shall not discriminate against a faith-based organization on the basis of the organization's religious character or impose conditions that restrict the religious character of the faith-based organization, except funds provided for expenditure pursuant to contracts with public bodies shall not be spent on religious worship, instruction, or proselytizing, or impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursement.

SECTION I (B) - INSURANCE CHECKLIST

The minimum limits of the Contractor's Liability coverage shall be as follows:

A. Worker's Compensation: X REQUIRED ___ NOT REQUIRED

1. State-----Statutory
2. Applicable Federal-----Statutory
3. Employer's Liability-----\$100,000.
4. Benefits Required by Union Contracts - as applicable

B. Comprehensive General Liability (including Contractor's Protective: Products and Completed Operations; Broad Form Property Damage): X REQUIRED ___ NOT REQUIRED

1. Bodily Injury:
 - \$ 5,000,000-----Each Occurrence
 - \$10,000,000-----Aggregate, Products & Complete Operations
2. Property Damage:
 - \$ 5,000,000-----Each Occurrence
 - \$10,000,000-----Aggregate
3. Products and Completed Operations Insurance shall be maintained for a minimum period of one (1) year after final payment, and the Contractor shall continue to provide evidence of such coverage to the Owner for an annual basis during the aforementioned period.
4. Contractual Liability (Hold Harmless Coverage):]
 - a. Bodily Injury:
 - \$ 5,000,000-----Each Occurrence
 - b. Property Damage:
 - \$ 5,000,000-----Each Occurrence
 - \$10,000,000-----Aggregate
5. Personal Injury, with Employment Exclusion deleted:
 - \$1,000,000-----Aggregate

C. Comprehensive Automobile Liability (Owned, Non-owned, hired)X REQUIRED ___ NOT REQUIRED

1. Bodily Injury:
 - \$ 500,000-----Each Person
 - \$1,000,000-----Each Accident
2. Property Damage:
 - \$ 500,000-----Each Occurrence

D. Professional Liability/Errors and Omissions X REQUIRED ___ NOT REQUIRED

1. Minimum Limits:
 - \$5,000,000-----Each Claim

SECTION I (C) - SPECIFICATIONS

A. PURPOSE:

1. The purpose of this RFP is to solicit sealed proposals to establish a contract(s) through competitive negotiations for a qualified firm(s) to provide on call civil engineering service to the Manassas Regional Airport. The work consists of creating and providing the City professional engineering services for various airport projects at the airport. The services to be provided include airport/aviation planning, airport design, airspace analysis and project administration and management. The City of Manassas may award multiple contracts as a result of this RFP.

B. SCOPE OF WORK:

1. The following is a list of projects that the Airport may undertake in the next five (5) years involving Aviation planning and Architectural Engineering (A/E) services. All parties are advised that some of the services may not be required and that the Airport reserves the right to initiate additional procurement actions for any of the services included in this initial list of projects.
 - a. Runway 16L/34R Extension (Design & Construction)
 - b. Air Traffic Control Tower (Design & Construction)
 - c. 16L Localizer Relocation (Design & Construction)
 - d. Bravo 1 Taxiway Extension (Design & Construction Admin.)
 - e. Bridge Widening & RSA Improvements (Design & Construction)
 - f. Rehabilitate and Realign Taxiway K (Design & Construction)
 - g. Develop New Master Plan (Planning)
 - h. Taxiway B Widening (Design & Construction)
 - i. Expand East Apron North of Taxiway E (Design & Construction)
 - j. Airfield Signage Plan (Planning)
 - k. 16R/34L Rehabilitation (Design & Construction)
 - l. Update Land Map (Planning)
 - m. Tree Clearing (Design & Construction)
 - n. West side Airport Concept/Redevelopment Plan (Planning)

Work for any given project may include development of a detailed project scope, schedule of work, phasing plan, cost estimates, presentations to the Airport Commission, Staff, City Council and/or Citizens Group, plan preparation, property plat preparation and recordation, and construction administration. The development of the scope of work for each project will include coordination with Airport Staff, FAA, Virginia Department of Aviation (VDOA) and other City departments (Public Works, Utilities, and Community Development) and may also involve presentations and meetings with citizen groups and review authorities external to City government.

2. The Project Manager for each airport project will be the Airport Director or his designee. For each project, upon the Airport Director's request, the Contractor shall prepare a not-to-exceed proposal for approval by the City. A sample consultant services fee/cost sample is attached. No work can be performed by the Contractor for any project until the proposal has been approved by the Airport Director and the Purchasing Agent, and the Contractor has received a valid City purchase order covering each individual project.

3. The proposal for each project shall include, at a minimum, a total price estimate showing a detailed breakdown based on the unit prices negotiated. A sample detailed fee/cost analysis is attached. Each proposal shall be divided into Tasks, with a total price for each Task (with the exception of those Tasks to be paid by direct cost-reimbursement, if any, as negotiated with the City, supported by a detailed labor hour estimate by staff category and the appropriate hourly billing rates assigned to that category in the contract.) **The Tasks to be included will vary depending on the nature of the specific project, but may include any or all of the following:**
 - a. Scope of Work - includes preparation of a preliminary plan as well as a project description and a preliminary cost estimate.
 - b. Field Survey - a topographic field survey and a property line survey.
 - c. Preparation of Base Sheets – including the location of existing utilities obtained from a field survey.
 - d. If necessary, preparation of Right-Of-Way Acquisition Plans – prepare plans showing property boundaries,
 - e. Construction Administration Airport Construction Projects.
 - f. Preparation of as-built plans
 - g. Preliminary Design
 - h. Final Design
 - i. Bid and Award
 - j. Construction Management

C. TERMS AND CONDITIONS:

1. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the Airport Director, or designee. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work under this Contract.

2. WORK ASSIGNMENTS

The Contractor shall submit to the City Project Officer a not-to-exceed cost proposal for each project assignment.

3. CONTRACT EXTENSION WITH PRICE ADJUSTMENTS NEGOTIATED UP TO CPI-U

This is a Contract with a Contract Term of up to five (5) years. The Contract unit prices shall remain until the first anniversary date. The Contract unit price(s) for each ensuing Contract year, if the City elects to extend the Contract, shall be negotiated by the City and the Contractor. Increases in the price(s) for ensuing years shall not exceed the percentage of change in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (CPI-U) for the twelve (12) month period ending in the most recent reported month of each Contract Year.

4. REIMBURSABLE EXPENSES

No expenses except those identified in the Contract as project related expenses will be reimbursed if incurred without the prior written approval of the City and the issuance of a purchase order detailing the specific expenses to be incurred by the Contractor and their estimated amount. Payment for approved reimbursable expenses will be made within 30 days after receipt by the Project Officer of a correct invoice identifying the nature of the expense. Reimbursable expenses allowed shall be charged to the City on a unit price basis at the Contractor's cost. All amounts paid for reimbursable expenses shall be considered part of the Contract Amount.

D. SUBMITTALS:

1. The Offeror must submit a complete response to the RFP.
 - a. One- (1) original and four (4) hard copies of each proposal along with one (1) electronic copy must be submitted to the Purchasing Department. The Offeror shall make no other distribution of the proposal. Copies of the proposal shall be forwarded to:

City of Manassas, Purchasing Department
8500 Public Works Drive
Manassas, VA 20110

No later than 2:30 PM local time on April 22, 2010.

- b. All questions concerning the Request for Proposal should be directed in writing to Mr. James M. Falls at 8500 Public Works Drive, Manassas, VA 20110 (703) 257-8368.

E. PROPOSAL PREPARATION:

1. To be considered for selection, prospective firms must submit a response to this solicitation by the required date and time listed herein. The content of the proposal shall be complete in description, concise in a single bound volume and austere in form. The proposal shall be in the format of a written report and must be submitted in electronic format in addition to hard copies.
2. The electronic format of the required text shall be Microsoft Office 2000 or higher or PDF file. **The hard copy proposal shall be bound and prepared on 8 ½ x 11" sheets (one sided only). The text shall contain no more than 30 pages in total of minimum 12- point type lettering for sections 1-6 described below. Text exceeding 30 pages in total for sections 1-6 will be discarded and neither considered nor read.**
3. **Supplementary visual aids, films and other extraneous materials will not be accepted.** Any reproductions of photos, drawings, and or diagrams included in the proposal copies shall be the same as the original. Once submitted, proposals, including the composition of the consulting team, cannot be altered without prior written consent of the Airport.

4. An authorized representative of the Offeror shall sign proposals. All information requested should be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
5. Ownership of all data, materials and documentation originated and prepared for the City pursuant to the RFP shall belong exclusively to the City and be subjected to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to the public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reason why protection is necessary. The proprietary of trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitutes trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

F. CONTENT OF PROPOSALS:

The proposal should, at a minimum, include the following:

1. Cover Letter

- a. Each proposer shall submit with their proposal a cover letter identifying the proposer and the proposal package being submitted. The proposer may include other important general information, which is deemed significant enough to be highlighted. An authorized representative of the proposer must sign the cover letter. The proposer's representative shall identify name, title, address, and telephone number, fax number, and e-mail account. **The cover letter shall not be more than one page (one –sided only).**

2. Table of Contents

Each proposer must include a table of contents identifying the following sections in the proposal:

Section 1 Executive Summary

Section 2 Proposed Scope of Work Description and Methodology of Work

Section 3 Team Identification and Organizational Chart

Section 4 Team Description, Experience and Accomplishments

Section 5 Commitments by Sub-consultants

Section 6 Engineering Record and Accomplishments

Section 7 Professional References

Section 8 Administrative Documents and Exhibits

Exhibit 1 – MBE/WBE/DBE Program or Policy

Section 1 - Executive Summary

Proposers shall submit with their proposal an executive summary that highlights important features, qualifications, and expected accomplishments of the proposal. The Executive Summary must also include a brief statement of how the proposer shall meet the qualification criteria as set forth in the RFP.

Section 2 - Proposed Scope of Work Description and Methodology of work

Proposer shall present a plan describing the approach and methodology for accomplishing the proposed Scope of Work, as set forth in this RFP.

Areas not described in this RFP, but which the proposer believes to be essential to the performance and completion of these services should also be addressed in the proposal.

Section 3 - Team Identification and Organization Chart

Please identify your firm and each sub-consultant by name, primary representative and title, address, telephone number, fax number, e-mail address, location of headquarters office and location of any local offices. Indicate whether your firm is a corporation, joint venture, partnership or sole proprietor. Indicate the name (s) of the owners of your firm.

Also, identify the name of the person to be designated PROJECT MANAGER and the names of the KEY STAFF PERSONNEL, with applicable or required Virginia State licenses or registrations, who shall be responsible for completing this assignment within each organization. Indicate the reporting structure and responsibilities of each key staff member of the project. Include a project organization chart, names of individuals and sub-consultants involved. Include identity of the person or process for providing Resident Project Representation services.

Section 4 - Team Description, Experience and Accomplishments

Project Manager: Describe the professional qualifications, capabilities, project experience, education, training and present office location of your designated Project Manager.

Provide a list of specific examples of the Project Manager's project management experience in any relevant past or on-going projects.

Other Key Personnel: Please include names and resumes of all key personnel who will be assigned to perform services pursuant to the contract. Please indicate their present office locations. Provide specific examples of appropriate experience that qualify them for their responsibilities on this project, including information similar to that requested in the previous paragraph. Delineate current workload of the office that will perform the work. Identify DBE's and type of work performed as part of the team, and percentage of overall contract.

Section 5 - Commitments by Sub-consultants

List and identify all sub-consultants to be used on the projects. Provide specific examples of appropriate experience of each sub-consultant and its key staff.

Section 6 - Engineer's Record and Accomplishments

Proposers must list at least one of the most recent contracts, public or private, similar to the projects described in this RFP. Please submit this information for the prime engineer and each proposed sub-consultant(s), team member of a consortium, or joint venture. For each contract provide the following information:

- a. Name of project;
- b. Engineer's Cost Estimate;
- c. Bid amount of project;
- d. Firm's contract amount;
- e. Dollar amount of cost overrun or under-run.
- f. Summary of scope of work, including when the design was completed and where it is located;
- g. Name, address, and telephone number of client's representative responsible for administering the contract;
- h. Number of Change Orders;
- i. M/W/DBE requirements for the project (if any), actual M/W/DBE participation in the project and proposer's role in meeting these goals (e.g. primary engineer, or sub-engineer).

Section 7 – Professional References

Provide a list of four (4) Airport professionals including their title, phone number and address that has direct knowledge of the firms past performance on airport projects.

Section 8 – Administrative Documents and Exhibits

Each proposal shall contain the following documents or exhibits:

Exhibit 1 – Provide a copy of the firms DBE Program/Policy that includes past DBE achievements and that demonstrates its commitment to DBE participation in federally funded projects.

G. INTERVIEWS:

1. The short listed firms will be notified of the time and location for interviews. This provides an opportunity for the Offerors to clarify or elaborate on the proposal.

H. EVALUATION CRITERIA:

1. Proposal will be evaluated by the City of Manassas using the following criteria:
 - a. Professional background and caliber of previous experience of each person of the firm and each of the consultants to be assigned directly to these projects.
 - b. Capacity and capability of the firm to perform the work.
 - c. Past record of performance on contracts with government agencies or private industry with respect to such factors as number of change orders, control costs, quality of work and ability to meet schedules and budgets.
 - d. References and reputation for personnel and professional integrity and competence.
 - e. Location of Project Manager and firm's office in relation to the Airport.

I. AWARD OF CONTRACT:

1. The City shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, past experience and the ability to provide the required service. Repetitive informal interviews shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage the public body may discuss non-binding estimates of total projects costs, including, but not limited to, life-cycle costing, and, where appropriate, non-binding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews, on the basis of evaluation criteria published in the Request for Proposals and all information developed in the selection process to this point, the purchasing agency shall select, in the order of preference, two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the purchasing agency can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on, until such a contract can be negotiated at fair and reasonable price. Should the City determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to the Offeror. It is the intent of the City to hire two firms to provide Engineer/Architectural services for the Manassas Regional Airport.

RFP NO: 10P005

OFFER MUST RETURN THIS COMPLETED FORM WITH SUBMISSION

SECTION I (D) - CITY OF MANASSAS - RFP SUBMISSION FORM

OPENING DATE:
OPENING TIME:

NAME OF RFP:
RFP NO:

A. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE

CONTACT PERSON:
TITLE:
TELEPHONE:

COMPANY:
ADDRESS:
E-MAIL:

INDICATE WHICH: Corporation___*Minority Owned/Controlled
 Partnership___Business Yes___No___
 Sole Prop. ___Small Business Yes_____No___

***MINORITIES ARE DEFINED AS BLACKS, HISPANICS, ASIANS OR PACIFIC ISLANDERS, AMERICAN INDIANS, ALASKAN NATIVES, AND WOMEN.**

Organized under the laws of the State of:
Principal place of business located at:

Following are the names and addresses of any persons having an ownership interest of 3% or more in the above named business entity who are either related to or are an officer, employee or appointee of the City of Manassas or its governing body: (Attach more sheets if necessary)

NAME

ADDRESS

B. VIRGINIA CONFLICTS OF INTEREST & PUBLIC PROCUREMENT

This solicitation is subject to the provisions of Section 2.1-639.1 et seq., of the Code of Virginia (1950), as amended, (The Code), the Virginia State and Local Government Conflict of Interests Act, and Sections 2.2-4300 – 2.2-4343 et seq. of the Code, the Virginia Public Procurement Act.

The Offeror () is () is not aware of any information bearing on the existence of any potential conflicts of interest or violation of ethics in public contracting.

C. QUALIFICATIONS AND REFERENCES

1. General character of work performed by your firm:
2. Has your firm ever failed to complete any work awarded to you?
3. Has your firm ever defaulted on a Contract?
4. List other Contracts under which services similar in scope, size or discipline to the required services were performed:
5. List at least three (3) state, municipal, Federal government and/or commercial references that your firm has had Contracts with in the past year:

D. CERTIFICATION

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same services, materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the state and Federal law and can result in fines, prison sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Request for Proposal and certify that I am authorized to sign for the Offeror.

SIGNATURE: _____ **DATE:** _____

NAME: _____ **TITLE:** _____

SECTION II - INSTRUCTIONS TO OFFERORS - GENERAL PROVISIONS

A. GENERAL

Proposals and Contracts with the City of Manassas and its officials, departments and employees are governed by the City of Manassas Purchasing Policy, as amended, and the Virginia Public Procurement Act, Sections 2.2-4300 – 2.2-4343, et seq. of the Code of Virginia, as amended. All Offerors are referred to the specific provisions of said policy and law for guidance in dealing with City solicitations. In the event of an inconsistency between the Special Provisions of this solicitation, the General Provisions, Contract, or other included document, or the City Purchasing Policy and State Procurement Law, the inconsistency shall be resolved by giving precedence to the following documents in the following order:

1. Virginia Public Procurement Act, as amended
2. City of Manassas Purchasing Policy, as amended
3. the Specifications of the Request (Section I (C))
4. the Contract (Section III)
5. the Special Provisions of Request (Section I (A))
6. the Instructions to Offerors and General Provisions of the Request (Section II)

The following general information is provided to all Offerors to facilitate the preparation of suitable Proposals for the goods, insurance or services identified in this Request, and the requirements set forth shall be binding on all Offerors.

The City is not at liberty to change the terms of the bargain after the opening of Proposals. Where questions and discussions prior to Proposal opening disclose a need for additional information or amendments, appropriate addenda to the Request will be prepared and distributed so that all Offerors will be offering proposals on the same information and specifications.

The City may extend the date and time for opening of Proposals if it believes it is necessary and in the best interest of the City. In the situation when the City of Manassas is closed unexpectedly on a bid due date, the bids will be opened at the same time and place the next City business day.

B. PROPOSAL FORMAT

One (1) original copy of the following documents must be returned in the Proposal response:

1. Request for Proposal (RFP) Submission Form (Section I (D))
2. Statement of Offeror Qualifications and References(Section I (D))

Proposals shall be submitted in a sealed envelope which clearly identifies the project, or procurement invitation, or solicitation, the name of the Offeror, the due date and time of the Proposal opening and plainly state that the Proposal is not to be opened until Proposal opening. **THE OFFEROR ASSUMES THE RISK THAT AN ENVELOPE NOT PROPERLY MARKED WILL BE MISTAKENLY OPENED, AND THUS RENDERED INELIGIBLE FOR CONSIDERATION. NO RESPONSIBILITY SHALL ATTACH TO THE CITY OF MANASSAS FOR THE PREMATURE OPENING OF A PROPOSAL NOT PROPERLY ADDRESSED AND IDENTIFIED AS SPECIFIED HEREIN.**

C. COMPLETENESS AND RESPONSIVENESS

All information required by the Request must be supplied in order for the Proposal to be considered complete and responsive. Inadequate information may require disqualification of the Proposal. Proposals cannot be modified after they are opened. Any modifications or qualified Proposal not expressly provided for in the Request for Proposal may require rejection of the Proposal in whole or in part.

D. NET PRICES AND DELIVERY

Proposal prices, unless otherwise specified, must be net, F.O.B. and include all charges that may be imposed in fulfilling the terms of the Contract including transportation and handling charges fully prepaid by the Contractor to destination in the City of Manassas, Virginia, unless otherwise specified, and subject only to any discount for prompt payment that may be provided in this Request.

Delivery of the Goods, or Services identified in this proposal shall be made between the hours of 7:00 a.m. and 3:00 p.m., Monday through Friday except on recognized holidays or otherwise agreed before delivery.

The prices offered, should they be accepted and a Contract awarded, shall remain firm for the period of the Contract.

E. TAX EXEMPTION

The City is exempt from the payment of any Federal excise or any Virginia sales tax. However, when under established trade practice any Federal excise tax is included in the list price, the Offer may quote the list price and shall show separately the amount of Federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the City.

F. ONLY AUTHORIZED PARTIES TO SIGN

Each Proposal, and any Contract, must be signed by a person authorized to bind the Offeror to a valid Contract with the City. The City may require that any Offeror submit powers of attorney or other appropriate documentation showing the authority of the signatory to act on the Contractor's behalf. If, whether such proof of agency has been demanded or not, it later appears that the signatory was not authorized to act, the City may declare the Contract void if it is in its best interest to do so.

G. CONTRACTOR'S CONTRACT REPRESENTATIVE

In the event a Contract is executed as a result of this solicitation, the Contractor shall designate in writing his Contract Representative who shall be responsible for insuring that the services required by the City are complied with and delivered in accordance with the terms and conditions of the Contract.

H. CONTRACTOR'S QUALIFICATIONS

The Contractor must complete and file responses to questions posed in Section I (D) hereof and demonstrate to the satisfaction of the City Procurement Officer, or his designee, that he has the capability to deliver the goods or perform the services required under this solicitation.

The Contract shall only be awarded to the Contractor who, through evidence submitted or information available to the City has shown that he has the capability with adequate financial resources and skilled personnel to perform the services under the Contract.

I. LEGAL COMPLIANCE

1. The Contractor shall be solely responsible for complying with all applicable federal, state and municipal laws, codes and regulations during the performance of the Contract.
2. The Contractor agrees that it does not, and shall not during the performance of the Contract for goods and services, knowingly employ unauthorized alien or aliens as defined in the Federal Immigration Reform and Control Act of 1986.

J. CONTRACTOR'S LIABILITY INSURANCE

No Contract shall be entered into with any Contractor until all insurance requirements required in accordance with the Insurance Requirements (Section II (V)) and Insurance Checklist (Section I (B)) are obtained and a Certificate of such coverage is furnished to the City. The Contractor shall not allow any Subcontractor to perform any work pursuant to this solicitation until all similar insurance required of the Subcontractor has been obtained. The Certificate of Insurance shall be submitted to the Contract Administrator for the City before any goods, services or work required by this solicitation are delivered.

K. BONDS

Bid, payment and performance bonds may be required. See cover sheet to Request for Proposal for requirement and amount.

L. SUBCONTRACTING

No portion of the Contract shall be Subcontracted or otherwise performed by a party not the Contractor, except with the prior written consent of the City.

M. BRAND NAMES

Where this Request for Proposal identifies an item by a brand name or by a manufacturer's name, trade name, catalog number, or reference, it is understood that the Offeror proposes to furnish the item so identified and does not propose to furnish as "equal" unless the proposed "equal" is definitely indicated therein by the Offeror.

The reference to a brand name is intended to be descriptive but not restrictive, unless so noted in this Request for Proposal, and serves only to indicate to prospective Offeror articles or goods that will be satisfactory. Proposals on other makes will be considered, provided each Offeror clearly states on the face of his Proposal submission exactly what is proposed to be furnished, and forward with the Proposal submission, a cut illustration, or other descriptive matter which will clearly indicate the character of the article submitted pursuant to this Offeror.

The City reserves the right to decide or approve, in its sole discretion, as an equal, or to reject as not being an equal, any item proposed to be furnished pursuant to this Invitation for Request for Proposal.

N. TIME FOR SUBMISSION OF PROPOSALS

Written, sealed Proposals for the goods, insurance or services identified must be submitted not later than the date and time set forth elsewhere in this Request.

Proposals received by the City after the date and time prescribed shall not be considered for Contract award and shall be returned unopened to the Offeror.

O. RETURN OF PROPOSAL PACKAGE

Should you be unable to submit a Proposal in response to this Request, please return the Request for Proposal with a statement as to why you are unable or unwilling to propose. Because of the large number of firms listed on the City's qualified list of Offerors, it is necessary to delete from these lists the names of those persons, firms or corporations who fail to respond after having been invited to propose on three (3) successive solicitations. The City is at all times interested in learning whether problems with the Proposal process have discouraged responses.

P. OFFERORS PRESENT

The name of persons submitting proposals will be made public at the time fixed for the opening of proposals. Offerors are strongly encouraged to attend all openings, and to offer constructive suggestions for improvements to procurement procedures, format or other matters. The contents of proposals shall be confidential until negotiations are complete.

Q. EVALUATION OF PROPOSALS AND AWARD

Proposals shall be evaluated on the basis of those requirements which are set forth in the Request for Proposal, the City's Purchasing Policy and Virginia's Public Procurement law. This solicitation is being procured by competitive negotiation. PRICE SHALL NOT CONTROL IN THE AWARDING OF THIS PROCUREMENT.

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the Purchasing Division will post Notice of the Intent to Award on the bulletin board in the lobby of Building A, located at the Public Works Facility, 8500 Public Works Drive, Manassas, VA.

R. ACCEPTANCE OF PROPOSAL PRICES

Offeror warrants by virtue of proposing that prices, terms and conditions quoted will be firm for acceptance for a period of ninety (90) days from the date of Proposal opening, unless otherwise stated by the Offeror. Offeror further agrees that:

THERE IS NO BINDING AGREEMENT, NO CONTRACTUAL RELATIONSHIP, NO UNDERSTANDING NOR MUTUAL ASSENT UNTIL A CONTRACT IS SIGNED, EXECUTED AND EXCHANGED BY AND BETWEEN THE CONTRACTOR AND THE CITY OF MANASSAS.

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.

S. COMPETENCY OF OFFEROR

The Offeror, if requested, must present within forty-eight (48) hours, evidence satisfactory to the City Procurement Officer or his designee, of performance ability, and possession of necessary facilities, pecuniary resources, and adequate insurance to comply with the terms of this Request for Proposal and Contract documents.

No Proposal will be accepted from or Contract awarded to any person, firm or corporation that is in arrears, or is in default to the City upon any debt or Contract, or that is a defaulter as surety or otherwise upon any obligation to the City.

T. PROPOSALS AWARDED FOR ALL OR PART, WAIVER OF IRREGULARITIES, INFORMALITIES OR RIGHT TO REJECT PROPOSALS AND ONE RESPONSIVE AND RESPONSIBLE PROPOSAL

Unless otherwise specified, the City may award all or part of the Proposal to any Offeror whose Proposal is the most responsible and responsive Proposal whose Proposal meets the requirements and criteria set forth in the Request for Proposal with respect to the items in question, and it is in the best interest of the City to accept.

The City reserves the right to waive any irregularity or informality in any Proposal; provided however, that Proposal or amendments which are received after the time specified for the opening of Proposals will be neither opened nor considered.

THE CITY OF MANASSAS EXPRESSLY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS OR ANY PART OF A PROPOSAL IF SUCH ACTION IS DEEMED TO BE IN THE BEST INTEREST OF THE CITY OF MANASSAS.

In addition, any Offeror which submits a Proposal agrees that such Proposal shall become the property of the City and all costs incurred for Proposal preparation are the responsibility of the Offeror .

When only one responsive and responsible Proposal is received, the Request for Proposal may be canceled and items rebid, unless City Council determines the price proposed is reasonable and in the best interests of the City.

U. WITHDRAWAL OF PROPOSALS

Withdrawal of Construction Contract Bids is strictly governed by Section 2.2 – 4330 of the Code of Virginia (1950), as amended, and is hereby adopted for all City Procurement Contracts and incorporated mutatis mutandis herein. If a Proposals may be lawfully withdrawn under said Section, notice of withdrawal must be provided in writing within two (2) business days after the Proposal opening.

V. INSURANCE REQUIREMENTS

The successful Offeror may be required to provide evidence of the minimum coverage described in Section I (B) of this Request for Proposal and detailed below. **NO CONTRACT SHALL BE FINALIZED AND NO WORK SHALL COMMENCE UNTIL THE CITY'S INSURANCE REQUIREMENTS ARE MET.**

Each successful Offeror awarded a Contract shall comply with the Insurance Requirements set forth herein, plus any coverages and limits indicated on the "Insurance Checklist". Your Proposal submission must note any desired exceptions to the insurance coverage which may include the submission of proposed alternatives.

1. The Contractor (successful Offeror) shall be responsible for its work and every part thereof, and for all materials, equipment, and property of any and all description used in connection therewith. The Contractor assumes all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under the Contract, or in connection in any way whatsoever with the contracted work.
2. The Contractor shall, during the continuance of all work under the Contract provide and agree to maintain the following unless omitted from the attached "Insurance Checklist":
 - i. Workers' Compensation and Employers' Liability Insurance under the Commonwealth of Virginia statutory requirements, to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, volunteers, or Subcontractors, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia, or which may be hereafter enacted.
 - ii. General Liability Insurance in the amount prescribed by the City, to protect the Contractor, its Subcontractors, and the interest of the City, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability Insurance shall also include the Broad Form General Liability endorsement, in addition to coverages for explosion, collapse, and underground hazards, where required. Completed Operations Liability coverage shall continue in force for one (1) year after completion of work.

- iii. Automobile Liability Insurance, including property damage, covering all owned, non-owner, borrowed, leased, or rented vehicles operated by the Contractor. In addition, all mobile equipment used by the Contractor in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.
3. Liability insurance may be arranged by general liability and automobile liability policies for the full limits required, or by a combination of underlying liability policies for lesser limits with the remaining limits provided by an excess or umbrella liability policy.
4. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VIII.
5. It is understood and agreed that the Offeror is at all times herein acting as an Independent Contractor.
6. The Contractor will provide an original, signed Certificate of Insurance, evidencing such insurance and such endorsements as prescribed herein, and shall have it filed with the City Procurement Officer, or his designee, before a Contract is executed and any work is started.
7. The Contractor will secure and maintain copies of all insurance policies of its Subcontractors which shall be made available to the City on demand.
8. The Contractor will provide on demand, certified copies of all insurance coverage on behalf of the Contract within ten (10) days of demand by the City. These certified copies will be sent to the City from the Contractor's insurance agent or representative.
9. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five (45) day written notice to the City Procurement Officer. The Contractor shall furnish a new certificate prior to any change or cancellation date. **THE FAILURE OF THE CONTRACTOR TO DELIVER A NEW AND VALID CERTIFICATE WILL RESULT IN SUSPENSION OF ALL PAYMENTS REQUIRED OF THE CITY UNTIL THE NEW CERTIFICATE IS FURNISHED TO THE CITY MANAGER.**
10. **INSURANCE COVERAGE REQUIRED BY THIS REQUEST FOR PROPOSAL SHALL BE IN FORCE THROUGHOUT THE CONTRACT TERM. SHOULD THE CONTRACTOR FAIL TO PROVIDE ACCEPTABLE EVIDENCE OF CURRENT INSURANCE WITHIN FIVE (5) DAYS OF WRITTEN NOTICE AT ANY TIME DURING THE CONTRACT TERM, THE CITY SHALL HAVE THE ABSOLUTE RIGHT TO TERMINATE THE CONTRACT WITHOUT ANY FURTHER OBLIGATION TO THE CONTRACTOR, AND THE CONTRACTOR SHALL BE LIABLE TO THE CITY FOR THE ENTIRE ADDITIONAL COST OF PROCURING THE UNCOMPLETED PORTION OF THE CONTRACT AT THE TIME OF TERMINATION.**
11. Compliance by the Contractor and any Subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor or any Subcontractors of their liabilities and obligations under this Request or any provisions of the awarded Contract.

12. Contractual and other liability insurance provided under the Contract shall not contain a supervision, inspection or services exclusion that would preclude the City from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the Subcontractors and any person employed by the Subcontractor.
13. Nothing contained herein shall be construed as creating any contractual relationship between any Subcontractor and the City. The Contractor shall be as fully responsible to the City for the acts and omissions of the Subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by the Contractor.
14. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
15. In the event the Contractor can not meet the specifications required by these insurance requirements, alternate insurance coverage, satisfactory to the City Procurement Officer, or his designee, may be considered if proposed by Offeror at the time of Proposal submission.
16. The City shall be named as an additional insured on any required Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the City may possess.
17. If an "ACORD" Insurance Certificate form is used by the Contractor's insurance agent, the words, "endeavor to" and "....but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.

W. INDEMNIFICATION CLAUSE

1. To the fullest extent of the law, the Contractor shall indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied against the Owner and expenses of every nature and description, including attorney's fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if any recipient of a contract subcontracts for work, they will enter into a contract with such subcontractor(s) which indemnifies, defends, and holds harmless the Owner and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.
2. To the fullest extent of the law, the Contractor shall also indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner against all costs, including reasonable attorney's fees, arising from liens encumbering the Owner's Property filed by subcontractors, sub-subcontractors, material men, suppliers and all other persons and entities acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

3. Virginia is a Dillon Rule state. Unless specifically permitted by statute, indemnification or attempt to have the City “hold harmless” others are invalid and unenforceable or an impermissible waiver of the City’s sovereign immunity which may create potential future debt in violation of Virginia Constitutional and statutory requirements. **The City does not waive its sovereign immunity.**

X. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT

The Contractor and all Subcontractors and Sub-subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to the Contract.

Y. QUESTIONS RELATING TO THE REQUEST FOR PROPOSAL

Any questions concerning the content of this Request for Proposal or inquiry relative to interpretation of any portion of this Request for Proposal including specifications, language or drawings shall be made and requested of the City, in writing, at least five (5) days before the Proposal opening date. No inquiries, if received within five (5) days of the date set for opening the Proposals, will be given any consideration. The City shall provide any interpretation made to prospective Offerors in the form of an addendum to the Request for Proposal, which will be sent to all known prospective Offerors no later than three (3) days before the date set for opening of the Proposals. Oral answers from any source shall not be authoritative or controlling

Z. COOPERATIVE PROCUREMENT

As authorized in Section 2.2-4304 of the Code of Virginia this procurement is being conducted on behalf of and may be used by public bodies, agencies, institutions and localities of the several states, territories of the United States, and the District of Columbia with the consent of the Contractor. The bidder shall indicate on the attached Rider clause whether it is willing to contract with any of the agencies listed.

**Metropolitan Washington Council of Governments
Rider Clause**

USE OF CONTRACT(S) BY MEMBERS COMPRISING THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS PURCHASING OFFICERS' COMMITTEE.

- A. If authorized by the bidder(s), resultant contract(s) will be extended to any or all of the listed members as designated by the bidder to purchase at contract prices in accordance with contract terms.
- B. Any member utilizing such contract(s) will place its own order(s) directly with the successful contractor. There shall be no obligation on the part of any participating member to utilize the contract(s).
- C. A negative reply will not adversely affect consideration of your bid/proposal.
- D. It is the awarded vendor's responsibility to notify the members shown below of the availability of the Contract(s).
- E. Each participating jurisdiction has the option of executing a separate contract with the awardee. Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the awardee, the awardee may withdraw its extension of the award to that jurisdiction.
- F. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to that jurisdiction by the awardee.

In pricing section of contract:

BIDDER'S AUTHORIZATION TO EXTEND CONTRACT:

YES NO JURISDICTION

☐ Alexandria, Virginia
☐ Alexandria Public Schools
☐ Alexandria Sanitation Authority
☐ Arlington County, Virginia
☐ Arlington County Public Schools
☐ Bowie, Maryland
☐ Charles County Public Schools
☐ College Park, Maryland
☐ Culpeper County, Virginia
☐ District of Columbia
☐ District of Columbia Courts
☐ District of Columbia Public Schools
☐ District of Columbia Water & Sewer Auth.
☐ Fairfax, Virginia
☐ Fairfax County, Virginia
☐ Fairfax County Water Authority
☐ Falls Church, Virginia
☐ Fauquier County Schools & Government, Virginia
☐ Frederick County
☐ Gaithersburg, Maryland
☐ Greenbelt, Maryland
☐ Herndon, Virginia
☐ Loudoun County, Virginia
☐ Manassas, Virginia

YES NO JURISDICTION

☐ Manassas Public Schools
☐ Maryland-National Capital Park & Planning Comm.
☐ Metropolitan Washington Airports Authority
☐ Metropolitan Washington Council of Governments
☐ Montgomery College
☐ Montgomery County, Maryland
☐ Montgomery County Public Schools
☐ Prince George's County, Maryland
☐ Prince George's Public Schools
☐ Prince William County, Virginia
☐ Prince William County Public Schools
☐ Prince William County Service Authority
☐ Rockville, Maryland
☐ Spotsylvania County Schools
☐ Stafford County, Virginia
☐ Takoma Park, Maryland
☐ Vienna, Virginia
☐ Washington Metropolitan Area Transit Authority
☐ Washington Suburban Sanitary Commission
☐ Winchester Public Schools

Vendor Name

CONTRACT NO. _____

CITY OF MANASSAS

SECTION III - STANDARD CONTRACT FOR GOODS, SERVICES AND INSURANCE

The Contract is entered into on and as of _____, 20____, by and between the CITY OF MANASSAS, a Municipal Corporation of the Commonwealth of Virginia, and _____, for goods, services and/or insurance identified herein, on the following terms and conditions:

A. DEFINITIONS

As used in this Contract the terms are defined as follows:

1. "City" shall mean the City of Manassas, Virginia, The Council of the City of Manassas, Virginia, or the using department identified below and authorized by the Council of the City of Manassas to enter into this Contract.
2. "Using Department" for purposes of this Contract shall mean _____.
3. "Contract Administrator" assigned to administer the Contract for the City is _____.
4. "Contractor" shall mean _____ whose _____ authorized representative is _____, Contractor's Contract Representative, who is responsible for the performance obligation of the Contractor under this Contract.

B. CONTRACT PERIOD

The term for this Contract shall be for

C. INCORPORATION OF DOCUMENTS

The following documents are hereby incorporated by reference into this contract:

1. City of Manassas Purchasing Policy, as amended.
2. Virginia Public Procurement Act, as amended.
3. Request for Proposals or Invitation for Bids, all Sections.
4. Contractor's Submission of

D. PROVISIONS OF SERVICES

The Contractor hereby agrees to provide the following goods, services and/or insurance to the City of Manassas:

E. CONTRACT AMOUNT

In return for the goods, services and/or insurance identified above, and subject to paragraph Q of this Contract relating to "Non-appropriation of Funds", the City certifies that sufficient funds are budgeted and appropriated and shall compensate the Contractor within thirty (30) days after receipt of proper invoice for the amount of payment due or thirty (30) days after receipt of the goods or services, whichever is later and in accordance with such formula for payments as set forth herein:

F. TIME OF ESSENCE AND COMPLETION

Time shall be of the essence to this Contract, except where it is herein specifically provided to the contrary.

The Contractors shall provide the goods, services and/or insurance described herein according to the following schedule:

G. INSPECTION AND ACCEPTANCE

Work supply or performance shall be conducted and completed in accordance with recognized and customarily accepted industry practices, and shall be considered complete when the services are approved as acceptable by the Contract Administrator. In the event of rejection of any deliverable, the Contractor shall be notified and shall have fourteen (14) calendar days from date of issuance of notification to correct the deficiencies and resubmit the deliverable.

H. INSURANCE

The Contractor may be required to maintain insurance to insure against the risks which are identified herein. Any insurance required hereby shall be in accordance with Invitation for Bid.

I. NON-ASSIGNABILITY OF CONTRACT

Neither this Contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written permission of the City.

J. MODIFICATIONS OR CHANGES TO THIS CONTRACT

All modifications and changes to the Contract shall be in writing.

The City Procurement Officer, with the concurrence of City Council, shall have the authority to order changes in this Contract, which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a "Change Order". Such orders shall be limited to reasonable changes in the supplies, services to be performed or the time of performance; provided that the Contractor shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the Conditions and limitations herein.

Contractor need not perform any work described in any Change Order unless it has received a written certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

The Contractor shall make a demand for payment for completed changed work within 30 days of completion of Change Order, unless such time period is extended in writing, or unless the City Procurement Officer requires submission of a cost proposal prior to the initiation of any changed work or services. Later notification shall not bar the honoring of such claim or demand unless the City is prejudiced by such delay.

No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

K. EMPLOYMENT DISCRIMINATION - Contracts over \$10,000

In the event this Contract price is in excess of Ten Thousand Dollars (\$10,000.), then during the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, 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 Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
3. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this paragraph.

The Contractor will include the provisions of this Contract paragraph in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

In all contracts, regardless of contract amount, the Contractor will abide by the provisions of the Americans with Disabilities Act, and will require each sub-contractor to do so.

L. NON-DISCRIMINATION

The City of Manassas in procuring goods and services, or in making disbursements pursuant to this section, shall not discriminate against a faith-based organization on the basis of the organization's religious character or impose conditions that restrict the religious character of the faith-based organization, except funds provided for expenditure pursuant to contracts with public bodies shall not be spent on religious worship, instruction, or proselytizing, or impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursement.

M. DRUG FREE WORKPLACE

During the performance of this contract the contractor shall agree to:

1. Provide a drug-free workplace for the Contractor's employees.
2. Post in conspicuous places, available to employees and applicants for employment a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

3. State in all solicitations or advertisement for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace.
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000.00, or so that the provisions will be binding upon each subcontractor or vendor.

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

N. PAYMENT CLAUSE PURSUANT TO §2.2-4354 OF VPPA

Within seven days after receipt of amounts paid to the Contractor by the Owner for satisfactorily completed performance, the prime contractor agrees to:

1. Pay the subcontractor for the proportionate share of the total payment received from the Owner attributable to the work performed by the subcontractor under that contract; or
2. Notify the Owner and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor’s payment with the reason for nonpayment.

If the Contractor after having received payment from the Owner fails to pay each subcontractor its proportionate share of the total payment, the Contractor shall be obligated to pay interest to each subcontractor on all amounts that remain unpaid after the seven days following receipt by the Contractor of payment from the Owner.

Unless otherwise provided under the terms of this Contract, interest shall accrue at a rate of one percent per month against the Contractor on any unpaid amounts owed to each subcontractor.

The Contractor shall include in each of its subcontractors a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

Contractors that are (1) individuals must provide their social security numbers and (2) proprietorships, partnerships, and corporations must provide their federal employer identification numbers.

O. TERMINATION FOR CONVENIENCE OF THE CITY

The parties agree that the City may terminate this Contract or any work or delivery required hereunder from time-to-time either in whole or in part, whenever the City Procurement Officer of the City of Manassas, with the concurrence of the City Council, shall determine that such termination is in the best interest of the City. Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Procurement Officer or designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

Upon receipt of such Notice, the Contractor shall:

1. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
2. Place no further orders with any subcontractors except as may be necessary to perform any portion of the Contract not subject to the Notice;
3. Terminate all subcontractors except those made with respect to Contract performance not subject to the Notice;
4. Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the City Procurement Officer of the City of Manassas; and
5. Use its best efforts to mitigate any damages which may be sustained by him as a consequence of termination under this clause.

After complying with the foregoing provisions, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless an extension is granted by the City Procurement Officer.

The City Procurement Officer, with the approval of the Council of the City of Manassas, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on services delivered or completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the goods or services not delivered, or those goods or services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed upon amount.

In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the City Procurement Officer shall pay the Contractor the amounts determined as follows, without duplicating any amount which may have already been paid under the preceding paragraph of this clause:

1. With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - i. Cost of the goods delivered or work performed; and
 - ii. The cost of settling and paying any reasonable claims as provided in subparagraph 4 above; and
 - iii. A sum as profit on work performed determined by the City Procurement Officer to be fair and reasonable.
2. The total sum to be paid shall not exceed the Contract price, as reduced by the amount of payments otherwise made, and as further reduced by the Contract price of goods or services not terminated.

In the event that the Contractor is not satisfied with any payments which the City Procurement Officer shall determine to be due under this clause, the Contractor may appeal any claim to the Council of the City of Manassas in accordance with paragraph T, "Disputes," of this Contract.

When termination for the convenience of the City is a provision of this Contract, the Contractor shall include similar provisions in any subcontractors and make reasonable efforts to mitigate damages which may be suffered. Failure to include such damages which provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

P. TERMINATION FOR DEFAULT

Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

Q. TERMINATION FOR NON-APPROPRIATION OF FUNDS

If funds are not appropriated for purposes of this Contract for any succeeding fiscal year subsequent to the one in which this Contract is entered into, then the City may terminate this Contract upon thirty (30) days with prior written notice to the Contractor. Should termination be accomplished in accordance with this paragraph, the City shall be liable only for payments due through the date of termination.

R. INDEMNIFICATION CLAUSE

1. To the fullest extent of the law, the Contractor shall indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied against the Owner and expenses of every nature and description, including attorney's fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if any recipient of a contract subcontracts for work, they will enter into a contract with such subcontractor(s) which indemnifies, defends, and holds harmless the Owner and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.
2. To the fullest extent of the law, the Contractor shall also indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner against all costs, including reasonable attorney's fees, arising from liens encumbering the Owner's Property filed by subcontractors, sub-subcontractors, material men, suppliers and all other persons and entities acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.
3. Virginia is a Dillon Rule state. Unless specifically permitted by statute, indemnification or attempt to have the City "hold harmless" others are invalid and unenforceable or an impermissible waiver of the City's sovereign immunity which may create potential future debt in violation of Virginia Constitutional and statutory requirements. **The City does not waive its sovereign immunity.**

S. EXAMINATION OF RECORDS

The Contractor agrees that the City or any duly authorized representative shall, until the expiration of three (3) years after final payment hereunder, have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract.

The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and copy any directly pertinent books, documents, paper, and records of such subcontractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

T. DISPUTES

Disputes by the Contractor with respect to this Contract shall be decided within fifteen (15) days from submission by the City Manager who shall be responsible for an administrative appeals procedure for hearing protests filed pursuant to Section 2.2-4365 of the Code of Virginia (1950), as amended, and who shall reduce his decision to writing, and mail or otherwise furnish a copy thereof to the Contractor. This decision shall be final and binding unless within five (5) days from the date of such decision the Contractor mails or otherwise furnishes the City Manager a written appeal addressed to the City Council. City Council shall consider the appeal and render its written decision within forty (40) days. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not be supported by any evidence. Pending a final determination of a properly appealed decision of the City Manager, the Contractor shall proceed diligently with the performance of the Contract in accordance with that decision.

U. ETHICS IN PUBLIC CONTRACTING

The provisions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act, as set forth in the 1950 Code of Virginia, as amended, shall apply to this contract. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

V. LEGAL COMPLIANCE

1. The Contractor shall be solely responsible for complying with all applicable federal, state and municipal laws, codes and regulations during the performance of this Contract.
2. The Contractor agrees that it does not, and shall not during the performance of this Contract for goods and services, knowingly employ unauthorized alien or aliens as defined in the Federal Immigration Reform and Control Act of 1986.

W. INTEGRATION CLAUSE

This Contract shall constitute the whole agreement between the parties. There are no promises, terms conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto related to the provision of goods, insurance or services described herein.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

CITY OF MANASSAS:

BY: _____

BY: _____

TITLE: _____

TITLE: Purchasing Manager

APPENDIX F. CONSULTANT SERVICES FEE/COSTS SAMPLE

This example can be modified as necessary for any type of project.

Airport: _____

Project: _____

Date: _____

THIS IS A SAMPLE
ANY SIMILAR FORM MAY BE
USED

TASKS	EMPLOYEE CLASSIFICATIONS					
	DIRECTOR AVIATION	PROJECT MANAGER	AIRPORT PLANNER	ENVIRO. ANALYST	CADD TECH	CLERICAL
1 Project Scoping Meeting						
2 Refine Scope and Fee						
3 Prepare Grant Application						
4 Attend City Council Meeting						
5 Update Existing Activity						
6 Field Inventory						
7 Identify On-Airport Developable Land						
8 Evaluate Existing Lease Agreements						
9 Update 1999 Forecasts						
10 Review and Respond to Comments						
11 Landside Facility Capacity & Requirements						
12 Meeting						
13 Review and Respond to Comments						
14 Identify Limits of Aviation Development						
15 Identify Development Alternatives						
16 Review and Respond to Comments						
17 Identify Existing Environmental Conditions						
18 Describe Regulatory Requirements						
19 Prepare and Forward Draft Findings						
20 Implementation Plan & Capital Improvement Plan						
21 Existing Airport Facilities Plan						
22 Ultimate Airport Layout Plan						
23 Final Meeting						
24 Prepare and Forward Final Report						
25 Prepare and Forward Final Airport Layout Plan						
TOTAL HOURS	0	0	0	0	0	0
HOURLY RATE	\$0	\$0	\$0	\$0	\$0	\$0
DIRECT SALARY COST	\$0	\$0	\$0	\$0	\$0	\$0

Direct Nonsalary Expenses			
Travel (x miles at \$x.xx/mile)	\$0.00		
Per Diem	\$0.00		
Reproduction	\$0.00		
Testing	\$0.00		
Consultants/Outside Services	\$0.00		
Other	\$0.00		
Total Direct Nonsalary Expenses	\$0.00		

Total Direct Salary Costs	\$0.00
Overhead (xxx % of Direct Labor Costs)	\$0.00
Total Labor Cost	\$0.00
Fixed Fee (xx % of Total Labor Cost)	\$0.00
Subtotal	\$0.00
Total Direct Nonsalary Expenses	\$0.00
TOTAL COST (Total Labor, Fixed Fee & Expenses)	\$0.00

APPENDIX G. DETAILED FEE/COST ANALYSIS SAMPLE

DATE: _____

PROJECT: _____

ESTIMATED CONSTRUCTION COSTS (ECC): \$ _____

ESTIMATED CONSTRUCTION DURATION: _____

i.e. calendar days

THIS IS A SAMPLE
ANY SIMILAR FORM MAY BE
USED

ITEM	SPONSOR'S INDEPENDENT ESTIMATE	CONSULTANT FEE PROPOSAL	NEGOTIATION	
			DIFFERENCE	OBJECTIVE
Wages and Overhead	\$	\$	\$	
Overhead Percent				
Principal \$/Hour				
Project Manager \$/Hour				
Civil Engineer \$/Hour				
Electrical Engineer \$/Hour				
CADD Technician \$/Hour				
Resident Engineer \$/Hour				
Inspector \$/Hour				
Project Engineer (Construction) \$/Hour				
Surveyor \$/Hour				
2-Man Crew				
WORKHOURS				
Principal				
Project Manager				
Civil Engineer				
Electrical Engineer				
CADD Technician				
Resident Engineer				
Inspector				
Project Engineer (Construction)				
Surveyors				
Workhour Totals				
Geotech	\$	\$	\$	
Travel	\$	\$	\$	
Printing	\$	\$	\$	
Total Fee	\$	\$	\$	
As percent of ECC				

EMPLOYEE
CLASSIFICATIONS AND THEIR
TITLES VARY WITH EACH
CONSULTANT AND THE
PROJECT SCOPE

ATTACHMENT "A"

ADDITIONAL TERMS AND CONDITIONS

This Exhibit "A" attached to, made a part of and incorporated by reference with the Agreement made between the City of Manassas (OWNER) and _____ (Contractor) providing for professional engineering services.

PROVISIONS FOR ALL A/E CONTRACTS

I. CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS

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

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

ADDITIONAL TERMS AND CONDITIONS

II. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982:

The contractor assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

III. DISADVANTAGED BUSINESS ENTERPRISES:

1. **Contract Assurance (§26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
2. **Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contractor receives from City of Manassas. The prime contractor agrees further to return retainage payments to each subcontractor within [specify the same number as above] days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Manassas. This clause applies to both DBE and non-DBE subcontractors.

IV. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES:

1. No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions

V. ACCESS TO RECORDS AND REPORTS:

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

ADDITIONAL TERMS AND CONDITIONS

VI. BREACH OF CONTRACT TERMS:

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

VII. RIGHT TO INVENTIONS:

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

VIII. TRADE RESTRICTION CLAUSE:

1. The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:
 - a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
 - b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
 - c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.
2. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.
3. Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.
4. The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.
5. This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

ADDITIONAL TERMS AND CONDITIONS

ADDITIONAL PROVISIONS FOR A/E CONTRACTS EXCEEDING \$10,000.

I. TERMINATION OF CONTRACT:

1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

ADDITIONAL PROVISIONS FOR A/E CONTRACTS EXCEEDING \$25,000.

I. CERTIFICATION REGARDING DEBARMENT SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

1. The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, 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. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.