



Loudoun County, Virginia

INVITATION FOR BID

CONSTRUCTION OF TALL CEDARS PARKWAY AND ELK LICK ROAD INTERSECTION IMPROVEMENT

ACCEPTANCE DATE: Prior to 4:00 p.m., March 14, 2022 "Atomic" Time

IFB NUMBER: RFQ-454782

ACCEPTANCE PLACE: Loudoun County Government Offices
1 Harrison Street, S.E., **1st Floor, Procurement Bids and
Proposals Drop Box**
Leesburg, Virginia 20175

Due to restrictions surrounding the COVID-19 pandemic, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, VA 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

ALL HAND DELIVERED BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 P.M. Bids will be opened and announced by the Procurement Division staff via audio/video teleconference at 4:30 p.m. (Atomic time) on the Acceptance Date. To participate in the audio portion of the opening, please dial the number provided in the Instruction to Bidders and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using GoTo Meeting with the instructions included in the Section 19.1; Instructions to Bidders

Please contact the Contracting Officer or Assistant Purchasing Agent designated on the front cover of the solicitation with any questions regarding this process. Bidders are strongly encouraged to check the County's website routinely for updates.

ONLY THOSE FIRMS PREQUALIFIED THROUGH THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) ARE ELIGIBLE TO SUBMIT BIDS FOR THIS PROJECT. BIDS FROM NON-VDOT PREQUALIFIED FIRMS WILL NOT BE CONSIDERED.

PLEASE NOTE:

- A. Bid Forms. Plans and all other Bid forms may be downloaded from the County's web site: www.loudoun.gov/procurement.
- B. Pre-Construction Conference. A Pre-Construction Conference will be held virtually using GoTo Meeting software on February 14, 2022, at 10:00 a.m. for clarification of any questions on the drawings, specifications and site conditions. Until further notice bidders will not be able to participate in the Pre-Construction Conference in person. You must pre-register to participate in the Pre-Construction Conference by sending an email to PROCUREMENT@loudoun.gov. The subject line of the email should state "Register for Pre-Construction Conference for Tall Cedars Parkway and Elk Lick Road Intersection Improvement and the email should include the name of your firm and provide contact information to include phone number and address. Providing the email requesting participation in the Pre-Construction Conference was received prior to 1:00 p.m. the day prior to the date of the Pre-Construction Conference, the County will respond with the information to participate in the Pre-Construction Conference. Emails received after 1:00 p.m. will not be responded to. To participate in the audio portion only, dial the number provided and follow the prompts as designated. To participate by computer, connect to the link provided and follow the prompts as designated.

The terms and conditions contained in this Invitation for Bid and in the County-Contractor Agreement are not negotiable.

Requests for information related to this Invitation should be directed to:

Primary: Nebila Kurtu
Title: Contract Officer
(703) 737-8316
E-mail address: Nebila.Kurtu@loudoun.gov
This document can be downloaded from our web site:
www.loudoun.gov/Procurement

Issue Date: February 3, 2022

**IF YOU NEED ANY REASONABLE ACCOMMODATION FOR ANY TYPE OF
DISABILITY IN ORDER TO PARTICIPATE IN THIS PROCUREMENT, PLEASE
CONTACT THIS DIVISION AS SOON AS POSSIBLE.**

INVITATION FOR BID

**TALL CEDARS PARKWAY AND ELK LICK ROAD INTERSECTION
IMPROVEMENT**

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Attachments:

ATTACHMENT 1:	COUNTY-CONTRATOR AGREEMENT (contained herein)
ATTACHMENT 2	ESCROW AGREEMENT (contained herein)
ATTACHMENT 3:	LOUDOUN COUNTY REVISIONS TO VDOT DIVISION I, GENERAL PROVISIONS
ATTACHEMET 4:	SPECIAL PROVISIONS COPIED NOTES, SPECIAL PROVISIONS & SUPPLEMENTAL SPECIFICATIONS
ATTACHMENT 5	PLANS AND SPECIFICATIONS
ATTACHMENT 6:	BID ITEM SUMMARY
ATTACHMENT 7:	VDOT FORM C-104
ATTACHMENT 8:	VDOT FORM C-105

Authorized By: Nebila Kurtu, CPPB, VCCO, FMP Date: February 3, 2022

TALL CEDARS PARKWAY AND ELK LICK ROAD INTERSECTION IMPROVEMENT

1.0 PURPOSE

The Intent of this Invitation for Bid (IFB) is for the County of Loudoun, Virginia (County) to obtain the services of a qualified General Contractor to construct the safety improvements at the intersection of Tall Cedars Parkway and Elk Lick Road per plans and specifications prepared by Dewberry Engineers, Inc. as reviewed and approved by Loudoun County and the Virginia Department of Transportation. The Project is to construct a concrete median with channelizing curb to prevent left turns and through movements from Elk Lick Road in the place of the existing asphalt median opening and left-turn lanes along Tall Cedars Parkway. This Project includes, but is not limited to, the following activities:

- Demolition of existing pavement;
- Excavation;
- Mill and overlay of surface mix pavement;
- Installation of curb;
- Installation of ADA compliant curb ramps and sidewalk;
- Pavement markings;
- Erosion and sediment control;
- Temporary traffic control; and
- Signage.

The project also requires complete compliance with all applicable permits and other regulations, to include a VDOT Land Use Permit. Once complete, this project shall be inspected and accepted by VDOT for maintenance as per contract requirements. Therefore, all materials and work to be used for this project shall be in accordance with these documents and VDOT 2020 Road and Bridge Specifications and Standards.

The Contractor will be responsible for the removal of all vegetation as required by the Contract Documents, to include, haul-off and disposal. Excess topsoil and spoils shall be removed from the site. Hauling and disposal of these materials shall be included in this Contract. Should the Contractor require the import of suitable materials to maintain the elevations and grades shown on the Contract Documents, then the Contractor shall be responsible for the costs of the suitable materials, inclusive of hauling, placement, and compaction

The general scope of work includes, but is not limited to, all surveying, construction layout, maintenance of traffic, earthwork (including the removal of unsuitable material), erosion & sediment control, other environmental controls, safety procedures and complete compliance with all applicable permits, to include but not be limited to, building trade permits.

1.1 Record Plan Set and Maintaining Site Elevations:

The Contractor shall be responsible for all surveying to ensure the project is installed per the Construction Documents. Any deviations from the Contract

Documents shall be specifically requested via Request for Information (RFI) submitted to the Architect/Engineer of Record. All deviations shall be noted in the Contractor's "Record Set" of Construction Documents. Upon completion of the Project, two (2) hard-copy sets, and one (1) digital copy of "Record Set" Construction Documents shall be provided to the County.

1.2 This is a **LUMP SUM CONTRACT**:

This is a LUMP SUM CONTRACT with the unit prices provided on the Schedule of Bid Items used to establish the bidder's lump sum total. The quantities and items provided by the County on the Schedule of Bid Items are estimates only and may be modified by bidders. The unit prices provided by bidders in the Schedule of Bid Items are to pre-establish the unit price of each item in the event of County directed changes. Actual quantities and items needed to complete the work in accordance with the Contract Plans will be inclusive in each pay item or incidental to other pay items and included in the Lump Sum amount. Any reference in the Contract Documents to payment by unit price shall be disregarded as THIS IS A LUMP SUM CONTRACT.

Any quantity or scope item in the Schedule of Bid Items that a bidder considers to be in error should be submitted to the Contracting Officer prior to the IFB question and answer deadline identified in IFB Paragraph 19.2, for verification. The information will be reviewed by the design engineer and County staff and addressed in an addendum. The successful bidder shall submit a land use permit and post a bond with VDOT for the estimated value of the work that is to be constructed in the VDOT right of way prior to the issuance of the County's Notice to Proceed.

1.3 Utilities:

It is the responsibility of the Contractor to schedule and coordinate all the utility work to meet Project Milestones, Phasing, and the completion date of the Project.

1.4 VDOT Bonds:

In addition to bid bond, payment, and performance bonds required by the County of Loudoun and prior to the issuance of the County's Notice to Proceed, the successful bidder will be required to obtain a VDOT LUP-A Permit, Grading Permit (if required), a Trailer Permit, and post a bond with VDOT for the estimated value of the work that is to be constructed in the VDOT right of way. The successful bidder will be required to post any post-construction bond mandated by VDOT.

1.5 Project Administration: The County will require the Contractor to use e-Builder for the administration of this Project. The County will provide the Contractor one or two licenses for its use and provide training for the Contractor. Basic training will be required and provided by the County at no cost to the Contractor. This level of training is at the recommendation of e-Builder and should provide proficiency. If the Contractor does not

demonstrate proficiency with the software following this training, additional training required for complete proficiency will be at the Contractor's cost. Additional licenses may also be purchased at the Contractor's cost. Contact e-Builder for further information at www.e-builder.net or 1-800-580-9322.

2.0 COMPETITION INTENDED

It is the County's intent that this IFB permits competition. It shall be the bidder's responsibility to advise the Purchasing Agent in writing if any language, requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by the Purchasing Agent not later than fifteen (15) days prior to the date set for bids to close.

3.0 BIDDER'S MINIMUM QUALIFICATIONS

Bidders must demonstrate that they have the resources and capability to provide the materials and services as described herein. All bidders must submit the documentation indicated below with their bid. Failure to provide any of the required documentation will be cause for bid to be deemed nonresponsive and/or non-responsible and rejected.

The following criteria shall be met in order to be eligible for this Contract:

- 3.1 VDOT Prequalification. Bidder shall be on VDOT's list of pre-qualified bidders. Provide appropriate documentation to verify, such as a certificate from VDOT. VDOT Prequalification categories of Conditional, Currently Inactive or Probationary will not be accepted.
- 3.2 Debarment: By signing the Pricing Page contained in the IFB, bidders are certifying that bidder is not currently debarred by any local or state government or the Federal Government. Bidders shall provide in their bid, documentation related to all debarments that occurred within the last ten (10) years.
- 3.3 Provide evidence of a contractor's certificate of registration, whether resident or nonresident of Commonwealth of Virginia, as required by the following:
 - A. Registered Commonwealth of Virginia Contractor: Class A. Include a copy of the Class A Contractors license in your bid.
- 3.4 Experience requirements for the General Contractor.
 - A. The General Contractor submitting a bid must demonstrate extensive successful experience in the construction of roadway intersection improvement in scope and size to the plans and specifications contained herein. The General contractor shall have successfully completed a minimum of four comparable (4) projects within (10) ten years from the date of this IFB. Comparable projects should include excavation, roadway pavement demolition, mill and paving, concrete curb and ADA ramps, marking, and signage. Demonstration of this experience shall be by means of providing a minimum of four (4)

project references with minimum construction costs of \$500,000. that have been completed within (10) ten years from the date of this IFB. All project references provided must demonstrate successful experience in the type of construction required by this project.

Each project references should include:

- Name and location of the project.
- Final construction cost.
- Final completion date and project duration.
- Penalties assessed such as liquidated damages.
- Project description of sufficient detail to allow determination of projects size and scope to include structural elements involved in the project. Project references shall also include:
 - Contract schedule milestones
 - Identification and description of similar characteristics to the Project contained herein.
 - Name of the Project Manager and Superintendent who had direct responsibility for the project.
 - Photographs of all key aspects of the work of sufficient quality to demonstrate the quality of the Bidders work.
 - Name, address, current phone number, and e-mail addresses of architects and owners.

Bidder hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference. The County intends to contact owners/architects provided as references to verify information provided. Failure of the Owner/Architect to respond to the County's inquiry may be cause for the County to require additional references meeting the requirements of this IFB Section be submitted.

- 3.5 Verification of Bonding Capability. Bidder shall include in their bid a letter from a surety or insurance company (with a Best's Financial Strength Rating of A or better and Financial Size Category VII or higher by A.M. Best Co.) stating that the Bidder is capable of obtaining a performance and payment bond based on the bidder's estimated contract value for the construction of the Lovettsville Community center, which bonds will cover the Project and any warranty periods. The letter of surety shall clearly state the rating categorization noted above and reference the estimated contract value as identified in herein, in a manner similar to the notation provided below:

"As surety for [the above named Contractor], [XYZ Company] with A.M. Best Financial Strength Rating [rating] and Financial Size Category [Size Category] is capable of obtaining 100% Performance Bond and 100% Labor

and Materials Payment Bond in the amount of the anticipated cost of construction, and said bonds will cover the Project and any warranty periods as provided for in the Contract Documents on behalf of the Contractor, in the event that such firm be the successful bidder and enter into a contract for this Project.” This letter shall also state the Bidder’s per project and total bonding program limits and that the Surety is authorized/licensed to do business in the Commonwealth of Virginia.

4.0 SPECIFICATIONS

The work to be performed as a result of this IFB shall be in accordance with the plans and specifications prepared by Dewberry Engineers on 3/22/2021 Plans and specifications are contained in Attachment 4 & 5.

4.1 The following documents shall be incorporated into the Project Plans and Specifications:

- Latest version of the VDOT Road & Bridge Specifications and the VDOT Road & Bridge Standards as supplemented
- Loudoun County Revisions to the 2020 VDOT Road and Bridge Specifications Division I General Provisions (Attachment 3). This document shall replace the VDPT Division 1 Specifications.
- 2011 Edition of the Virginia Work Area Protection Manual and 2009 Edition for Manual on Uniform Traffic Control Devices
- Latest Virginia Department of Conservation and Recreation (DCR) Erosion and Sediment Control Handbook, DCR Erosion & Sediment Control Inspector and Responsible Land Disturber Certifications
- Department of Conservation & Recreation VSMP (VAR-10) Permit, Storm Water Pollution Prevention Plan and all other applicable permits
- VDOT Land Use Permit and Entrance Permits, Loudoun County Grading Permit, Land Development Application, Building and all other applicable permits
- Storm Water Pollution Plans, C-45 and Contractor Erosion & Sediments Control Certifications
- Loudoun County Facilities Standards Manual
- Supplemental Specifications, Special Provisions and Special Provision Copied Notes contained herein.

4.2 Coordination of Plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, and Special Provision Copied Notes

The plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, Special Provision Copied Notes, and other Contract Documents are part of the Contract. A requirement occurring in one Contract Document shall be as binding as though occurring in all.

The Contract Documents are intended to be complementary, and to include, describe and provide all items necessary for the Contractor's proper and complete performance of the Work.

In case of a discrepancy, the following order of priority will apply, with the highest governing item appearing first and the least governing item appearing last:

- Loudoun County – Contractor Agreement
- Loudoun County Invitation for Bid, including all attachments and addendums
- Loudoun County Revisions to 2020 VDOT Road & Bridge Specifications Division 1 General Provisions
- Special Provisions, Copied Notes. The Contract items, units and unit prices listed in the Contract's Schedule of Items have the same status as Special Provision Copied Notes.
- Special Provisions.
- Plans.
- Supplemental Specifications.
- Specifications (including all revisions issued through the date of Advertisement).
- Standard Drawings (including all revisions issued through the date of Advertisement). Calculated dimensions, unless obviously incorrect, will govern over scaled dimensions.

The Contractor shall not take advantage of any obvious or apparent ambiguity, conflict, error, or omission in the plans or the Contract. If after beginning work the Contractor discovers an ambiguity, conflict, error, or omission in the Contract, he shall immediately notify the Engineer and before proceeding further with the affected work. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract.

5.0 DISCREPANCIES

Should a bidder find discrepancies in the plans and/or specifications or be in doubt as to the meaning or intent of any part thereof, the bidder shall request clarification from the County in writing, not later than ten (10) working days prior to the bid opening. Any changes to the IFB that result from such a clarification request, will be communicated through a written addendum and posted on the Procurement home page at www.loudoun.gov/procurement. Failure to request such a clarification is a waiver of any claim by the bidder for additional expenses because its interpretation was different than the County's.

6.0 BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSE REQUIREMENT

All firms or individuals located or doing business in Loudoun County are required to be licensed in accordance with the County's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance during the initial term of the Contract or any renewal period.

Wholesale and retail merchants without a business location in Loudoun County are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Office of Commissioner of Revenue, telephone (703) 777-0260.

7.0 PAYMENT OF TAXES

All Contractors located or owning property in Loudoun County during the initial term of the Contract or any renewal period shall assure that all real and personal property taxes are paid.

The County will verify payment of all real and personal property taxes by the Contractor prior to the award of any Contract or Contract renewal.

8.0 NOTICE OF REQUIRED DISABILITY LEGISLATION COMPLIANCE

The County is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990.

Specifically, Loudoun County, may not, through its Contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The Virginians with Disabilities Act of 1990 follows the Rehabilitation Act of 1973 Section 504.

9.0 ETHICS IN PUBLIC CONTRACTING

The provisions contained in §§ 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 be applicable to all Contracts solicited or entered into by the County. A copy of these provisions may be obtained from the Purchasing Agent upon request.

The above-stated provisions supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia State and Local Government Conflict of Interests 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 State and Local Government Conflict of Interests Act.

10.0 EMPLOYMENT DISCRIMINATION BY CONTRACTORS PROHIBITED

Every Contract of over \$10,000 shall include the following provisions:

- A. 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, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall 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 to meet this requirement.
- B. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

11.0 DRUG-FREE WORKPLACE

Every Contract of over \$10,000 shall include the following provisions:

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

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited

from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

12.0 FAITH-BASED ORGANIZATIONS

The County does not discriminate against faith-based organizations.

13.0 EXEMPTION FROM TAXES

Pursuant to Va. Code § 58.1-609.1, the County is exempt from Virginia State Sales or Use Taxes and Federal Excise Tax, therefore the Contractor shall not charge the County for Virginia State Sales or Use Taxes or Federal Excise Tax on the finished goods or products provided under the Contract. However, this exemption does not apply to the Contractor, and the Contractor shall be responsible for the payment of any sales, use, or excise tax it incurs in providing the goods required by the Contract, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project. Nothing in this section shall prohibit the Contractor from including its own sales tax expense in connection with the Contract in its Contract price.

14.0 CONSTRUCTION CONTRACT PERFORMANCE AND PAYMENT BONDS

Within fifteen (15) calendar days after the effective date of the County – Contractor Agreement, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the Contract:

- A. A performance bond satisfactory to the County, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the faithful performance of the Contract in strict conformity with the plans, specifications and conditions of the Contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract; and
- B. A payment bond satisfactory to the County, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the Contract. Labor and materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract.
- C. The amount of the performance and payment bonds shall increase without the necessity of any action by the County, to the same extent the Contract Price increases due to changes.

- D. All sureties providing bonds shall give written notice to the County at least thirty (30) days prior to the expiration or termination of the bond(s).
- E. If at any time, any surety or sureties become insolvent or are determined by the County to be unable to adequately secure the interests of the County, the Contractor shall within thirty (30) days after such notice from County to do so, substitute an acceptable bond(s) in such form and sum and signed by such other sureties as may be satisfactory to County. The premium on such bond(s) shall be paid by the Contractor at no additional cost to the County provided reasonable justification can be provided by the County for its determination.
- F. A prime Contractor shall not be precluded from requiring each subcontractor to furnish a payment bond with surety thereon in an amount equal to one hundred percent (100%) of the Contract with such subcontractor.
- G. The successful bidder's failure to furnish to the County acceptable bonds, within 15 days after the effective date of the County – Contractor Agreement shall be considered just cause for cancellation of the award and forfeiture of the construction contract bid security. In such event, the proposal guaranty shall become the property of the County, not as a penalty but in liquidation of damages sustained.

15.0 CONSTRUCTION CONTRACT BOND FORMS AND COPIES; ALTERNATIVE FORMS

In lieu of a payment or performance bond, the Contractor may furnish a certified check or cash escrow in the face amount required for the bond. If approved by the County Attorney, a Contractor may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords the same protection to the County equivalent to the corporate surety bond.

16.0 CONSTRUCTION CONTRACT RETAINAGES

The Contractor shall be paid ninety-five percent (95%) of the earned sum when payment is due, with not more than five percent (5%) being retained to assure faithful performance of the Contract. All amounts withheld may be included in the final payment. Any subcontract which provides for similar progress payments shall be subject to the same limitations.

17.0 ESCROW ACCOUNT FOR RETAINED FUNDS

Provided the Bid price exceeds \$200,000.00 and subject to the provisions of §2.2-4334 of the Virginia Public Procurement Act, the bidder shall have the option to request use of an escrow account procedure for utilization of funds retained by the County, and may request use of this option by so indicating in the space provided on the Bid Form. If the Contractor elects to use the escrow account procedure, the "Escrow Agreement" form included with this bid shall be executed by the

Contractor and submitted to the Purchasing Agent within fifteen (15) calendar days of notification by the County that its bid has been accepted. If the "Escrow Agreement" is not submitted within the fifteen (15) day period, the Contractor shall forfeit such rights to the use of the escrow account procedure.

In order to have retained funds paid to an escrow agent, the Contractor, the escrow agent and the surety shall execute an Escrow Agreement form and submit same to the County for approval. The Contractor's escrow agent shall be a trust company, bank or savings and loan institution with its principal office located in the Commonwealth of Virginia. The Escrow Agreement form shall contain the complete address of the escrow agent and surety, and an executed escrow agreement will be authority for the County Administrator, or his designee, to make payment of retained funds to the escrow agent. After approving the Escrow Agreement, the County will pay to the escrow agent the funds retained as provided herein except that funds retained for lack of progress or other deficiencies on the part of the Contractor will not be paid to the escrow agent.

The escrow agent may, in accordance with stipulations contained in the Escrow Agreement, invest the funds paid into the escrow account and pay earnings on such investments to the Contractor or release the funds to the Contractor provided such funds are fully secured by approved securities.

Retained funds invested and securities held as collateral for retainage may be released only as and when directed by the County Administrator, or his designee. When the final pay application is released for payment, the County will direct the escrow agent to settle the escrow account by paying the Contractor or the County monies due them as determined by the County Administrator, or his designee. The County reserves the right to recall retained funds and to release same to the surety upon receipt of written requests from the Contractor or in the event of default.

18.0 AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

19.0 INSTRUCTIONS TO BIDDERS

19.1 Preparation and Submission of Bids

- A. Before submitting a bid, read the ENTIRE solicitation including the Contract Terms and Conditions. Failure to read any part of this solicitation will not relieve a bidder of the Contractual obligations.
- B. Pricing must be submitted on IFB pricing form only. Include other information, as required.
- C. All bids must be submitted to the Division of Procurement in a sealed container. The face of the sealed container shall indicate the IFB number, time and date of opening and the title of the IFB as well as "Division of Procurement".
- D. All bids shall be signed in ink by the individual or authorized principals of the firm.
- E. All attachments to the IFB requiring execution by the bidder are to be returned with the bids.
- F. Bids must be received by the Division of Procurement prior to 4:00 p.m., local Atomic time on the cover of this IFB. The time can be verified by visiting <https://time.gov/> and selecting Eastern Time. Requests for extensions of this time and date will not be granted, unless deemed to be in the County's best interest. Bidders mailing their bids or using a private carrier shall allow for sufficient mail time to ensure receipt of their bids by the Division of Procurement by the time and date fixed for acceptance of the bids. Do not rely on overnight delivery capabilities of private carriers to guarantee timely delivery of bids. Bids or unsolicited amendments to bids received by the County after the acceptance date and time will not be considered. Bids will be publicly accepted and logged in at the time and date specified above.
- G. Bids must be submitted via one of the following options:

US Mail to:

County of Loudoun, Virginia
Division of Procurement
PO Box 7000
Leesburg, Virginia 20177-7000.

or

Hand delivered to:

County of Loudoun, Virginia
Division of Procurement
1 Harrison Street, S.E., **1st Floor, Procurement Bids and Proposals Drop Box**
Leesburg, Virginia 20175.

or

Private carrier (UPS/FedEx) to:
Loudoun County Procurement
1 Harrison Street, S.E.,
ATTN: PROCUREMENT BIDS & PROPOSALS
Leesburg, Virginia 20175

Faxed and e-mailed bids will not be accepted.

Please note: Bidders choosing to submit bids via US Mail or UPS/FedEx should allow at least an additional twenty-four (24) hours in the delivery process to ensure bids are received on time.

Due to restrictions surrounding the COVID-19 pandemic, public access to County facilities is extremely limited. The mailing of bids is preferred. However, if a bid is hand delivered, it will be received in the lobby of 1 Harrison Street, SE, Leesburg, VA 20175 ONLY in the Drop Box labeled: Procurement Bids and Proposals between the hours of 8:30 a.m. and 5:00 p.m.

ALL BIDS MUST BE SUBMITTED AT THIS LOCATION PRIOR TO 4:00 P.M. on the Acceptance Date of the bid in order to be considered. Bids will not be accepted at any other building locations or after 4:00 P.M. Failure by a bidder to address and label their bids in accordance with the requirements of this section may result in bid being delivered to an incorrect location which will ultimately result in bid rejection for late submission.

- H. The County is implementing increased security measures at the Government Center and other County buildings. Please allow ample time for unexpected delays when entering the building to drop of your bids.
- I. Each firm shall submit one (1) original of their bid and *one electronic copy (in PDF format) on a USB flash drive* to the County's Division of Procurement as indicated on the cover sheet of this Invitation for Bid. The Pricing Workbook should be submitted in Excel format on the flash drive as well.
- J A public bid opening will be held virtually using GoToMeeting at approximately 4:30 P.M. on the Acceptance date. See the GoToMeeting log in information provided below. To participate in the audio portion of the opening, please dial the number provided below and follow the prompts as designated. You may also witness the announcement of received bids as they are opened using GoToMeeting with the instructions provided below. Bidders may not participate in the bid opening in-person at this time.

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/271808733>

You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (571) 317-3112
- One-touch: <tel:+15713173112,,271808733#>

Access Code: 217-808-733

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/271808733>

19.2 Questions and Inquiries

Questions and inquiries will be accepted in writing (email) only from any and all bidders. However, when requested, complex oral questions shall be submitted in writing. The Division of Procurement is the sole point of contact for this solicitation unless otherwise instructed herein. Unauthorized contact with other Loudoun County staff regarding the IFB may result in the disqualification of the bidder. Inquiries pertaining to the Invitation for Bid must give the IFB number, time and date of opening, and the title of the IFB. Material questions will be answered in writing with an Addendum provided, however, that all questions are received **by 5:00 p.m. February 25, 2022**. It is the responsibility of all bidders to ensure that they have received all Addendums and to include signed copies with their bid. Addendums can be downloaded from www.loudoun.gov/procurement.

19.3 Exceptions/Additions

No exceptions or additions to the Specifications/Scope of Work or Terms and Conditions shall be permitted. Any questions or concerns regarding any part of the IFB shall be submitted to the Division of Procurement prior to the date specified in the Questions and Inquiries section above. Bids containing any exceptions to the Specifications/Scope of Work or Terms and Conditions or submitting additional terms and conditions shall be deemed non-responsive and rejected. Exceptions or additions proposed after bid submission by the successful bidder shall not be accepted.

19.4 Inspection of Site

All bidders are encouraged to make an on-site inspection of the location where the work will be performed to become completely familiar with the existing conditions. Failure to comply with this requirement will not relieve the successful bidder of its obligation to carry out the scope of the resulting Contract. The project site is open for inspection by bidders from 9:00 am to 5:00 pm Monday through Friday.

19.5 Firm Pricing for County Acceptance

Bid price must be firm for County acceptance for a minimum of one hundred and twenty (120) days from bid opening date.

19.6 Proprietary Information

Trade secrets or proprietary information submitted by a bidder in connection with this solicitation shall not be subject to disclosure under the Virginia Freedom of Information Act; however, **pursuant to § 2.2-4342 of the Code of Virginia, the bidder must invoke the protections of this section prior to or upon submission of the data or other materials, and must clearly identify the data or other materials to be protected and state the reasons why protection is necessary. Failure to abide by this procedure may result in disclosure of the bidder's information.** Bidders shall not mark sections of their bid as proprietary if they are to be part of the award of the Contract and are of a "Material" nature.

19.7 Authority to Bind Firm in Contract

Bids MUST give full firm name and address of bidder. Failure to manually sign bid may disqualify it. Person signing bid should show TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT. Firm name and authorized signature must appear on bid in the space provided on the pricing page. Those authorized to sign are as follows:

If a sole proprietorship, the owner may sign.

If a general partnership, any general partner may sign.

If a limited partnership, a general partner must sign.

If a limited liability company, a "member" may sign or "manager" must sign if so specified by the articles of organization.

If a regular corporation, the CEO, President or Vice-President must sign.

Others may be granted authority to sign but the County requires that a corporate document authorizing him/her to sign be submitted with bid.

19.8 Withdrawal of Construction Contract Bid Due to Error

A bidder for a construction Contract may withdraw its bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing of its claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

19.9 Late Bids

LATE bids will be returned to bidder UNOPENED, if IFB number, opening date and bidder's return address is shown on the container.

19.10 Rights of County

The County reserves the right to reject all or any part of any bid, waive informalities, and award the contract to the lowest responsive and responsible bidder to best serve the interest of the County. Informality shall mean a minor defect or variation of a bid from the exact requirements of the Invitation to Bid which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.

19.11 Prohibition as Subcontractors Under Competitive Sealed Bidding

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

19.12 Vendor Preference in Tie Bids

The Division of Procurement and all other departments of the County making purchases of goods, services and construction shall give preference to goods, services and construction sold by County and State vendors, in that order, in all cases of tie bids, quality and service being equal.

19.13 Anti-Trust Violations

Tie bids may cause rejection of bids by the Division of Procurement and/or prompt an investigation for Anti-Trust violations.

19.14 Basis for Award

Contract award will be made to the lowest responsive and responsible bidder based upon the lump sum.

Whenever the lowest responsive and responsible bidder is a resident of a state other than Virginia and such state under its laws allows a resident Contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest bidder is a resident Contractor of a state with an absolute preference, the bid preference shall not be considered.

19.15 Negotiation with the Lowest Responsible Bidder

Unless all bids are cancelled or rejected, the County reserves the right granted by § 2.2-4318 of the *Code of Virginia* to negotiate with the lowest responsive, responsible bidder to obtain a Contract price within the funds available whenever such low bid exceeds the available funds. Negotiations with the low bidder may include both modifications of the bid price and the specifications/scope of work to be performed.

19.16 Notice of Award

A Notice of Award will be posted on the County's web site (www.loudoun.gov/procurement)..

19.17 Protest

Bidders may refer to §§ 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process. Protests shall be submitted to the Director, Department of Finance and Budget.

19.18 Construction Contract Bid Security

Bid security is required for this project. Bid security shall be a bond provided by a surety company selected by the bidder and authorized to do business in Virginia, or the equivalent in cash, or otherwise supplied in a form satisfactory to the County. Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid. Non-compliance with this provision requires that the bid be rejected unless it is determined that the bid fails to comply in a non-substantial manner the security requirements.

The apparent low bidder's Contract Bid Security shall be subject to forfeiture if the apparent low bidder withdraws his bid prior to award, or fails to sign and return the County – Contractor Agreement. The Contract Bid Security shall be forfeited according to the forfeiture provisions in Code of Virginia (§ 2.2-4336) and the proposal guaranty.

19.19 Construction Contract Bond Forms and Copies; Alternative Forms

In lieu of a bid, payment or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords the same protection to the County equivalent to the corporate surety bond.

19.20 Debarment

By submitting a bid, the bidder is certifying that bidder is not currently debarred by a local or state government or the Federal Government. A copy of the County's debarment procedure in accordance with § 2.2-4321 of the Code of Virginia is available upon request.

19.21 Proof of Authority to Transact Business in Virginia

A bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder is not required to be so authorized. Any bidder described herein that

fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee. The SCC may be reached at (804) 371-9733 or at <http://www.scc.virginia.gov/default.aspx>.

19.22 W-9 Form Required

Each bidder shall submit a completed W-9 form with their bid. In the event of Contract award, this information is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

19.23 Insurance Coverage

Bidders shall include with their bid a copy of their current Certificate of Insurance that illustrates the current level of coverage the bidder carries. The Certificate can be a current file copy and does not need to include any "additional insured" language for the County.

19.24 Acknowledgement of Contract

By submitting a bid, the bidder acknowledges that it understands and agrees to the Terms and Conditions contained herein.

19.25 Legal Action

No bidder or potential bidder shall institute any legal action until all statutory requirements have been met.

19.26 Certification by Contractor as to Felony Convictions

No one with a felony conviction may be employed under this Contract and by the signature of its authorized official on the response to this Solicitation, the Contractor certifies that neither the contracting official nor any of the Contractor's employees, agents or subcontractors who will work under this Agreement have been convicted of a felony.



Loudoun County, Virginia

Division of Procurement
One Harrison Street, 4th Floor, MSC #41C
Leesburg, Virginia 20175

PRICING PAGE

**CONSTRUCTION OF TALL CEDARS PARKWAY AND ELK LICK ROAD
INTERSECTION IMPROVEMENT**

The firm of _____
hereby offers to achieve substantial completion of the Tall Cedars Parkway and Elk Lick Road
Intersection Improvement in accordance with this Invitation for Bid within 120 days after Notice to
Proceed.

Attention bidders: Do not take any exceptions or make any qualifications to your bid.

1. Construction of the Tall Cedars Parkway and Elk Lick Road Intersection Improvement.

Lump Sum =\$ _____

**2. Return the following with your bid. If bidder fails to provide with their bid, items shall be
provided within twenty-four (24) hours of bid opening.**

ITEM:	INCLUDED: (X)
1. W-9 Form (19.23):	_____
2. Certificate of Insurance (19.24):	_____
3. Addenda, if any (Informality) (19.11):	_____
4. One (1) electronic copy on USB Flash drive	_____

3. Failure to provide the following items with your bid shall be cause for rejection of bid as non-responsive and/or non-responsible. It is the responsibility of the bidder to ensure that it has received all addenda and to include signed copies with their bid (19.2).

ITEM:	INCLUDED: (X)
1. Addenda, if any (19.2):	_____
2. Payment Terms:	_____ net 30 or _____ Other
3. Proof of Authority to Transact Business in Virginia Form (Page 24):	_____
4. Bid Bond (19.18):	_____
5. Minimum Qualifications (3.0)	
a. Prequalified by VDOT (3.1) (Include copy of certificate with bid)	_____
b. Debarment History, if required (3.2)	_____
c. Virginia Contractor Class A license (3.3): (Include copy of certificate with bid)	_____
d. Experience Requirements (3.4)	_____
e. Verification of Bonding Capacity (3.5)	_____
6. Bid Item Summary (Attachment 6)	_____
7. VDOT Form C-104 (Attachment 7, 102.05)	_____
8. VDOT Form C-105 (Attachment 8, 102.05)	_____

4. Bidder shall indicate below its intended use, or nonuse of the escrow provisions available:

I **DO** ___ OR I **DO NOT** ___ WISH TO USE THE ESCROW ACCOUNT FOR RETAINED FUNDS AS PROVIDED FOR IN THIS BID DOCUMENT.

Person to contact regarding this bid: _____

Title: _____ Phone: _____ Fax: _____

E-mail Address: _____

Name of person authorized to bind the Firm (19.7): _____

Signature: _____ Date: _____

Address: _____

By signing and submitting a bid, your firm acknowledges and agrees that it has read and understands the IFB documents, to include the general Conditions of the Construction Contract and agrees to the Terms and Conditions as contained herein and that your Firm is not currently Debarred by a local or state government or the Federal Government.



Loudoun County, Virginia

www.loudoun.gov/procurement

Department of Finance and Procurement

Division of Procurement

1 Harrison Street, S.E., 4th Floor, Leesburg, VA 20175

PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

THIS FORM MUST BE SUBMITTED WITH YOUR BID/PROPOSAL. FAILURE TO INCLUDE THIS FORM SHALL RESULT IN REJECTION OF YOUR BID/PROPOSAL

Pursuant to Virginia Code §2.2-4311.2, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid/ proposal the identification number issued to it by the State Corporation Commission ("SCC"). Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the offeror is not required to be so authorized. Any bidder/offeror described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee.

If this bid/proposal for goods or services is accepted by the County of Loudoun, Virginia, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information. **PLEASE NOTE: The SCC number is NOT your federal ID number or business license number.**

A. _____ Bidder/offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

B. _____ Bidder/offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.

C. _____ Bidder/offeror does not have an Identification Number issued to it by the SCC and such bidder/offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

Please attach additional sheets of paper if you need to explain why such bidder/offeror is not required to be authorized to transact business in Virginia.

Legal Name of Company (as listed on W-9)

Legal Name of Bidder/Offeror

Date

Authorized Signature

Print or Type Name and Title

HOW DID YOU HEAR ABOUT THIS INVITATION FOR BID?

RFQ-454782

Please take the time to mark the appropriate line and return with your bid.

☐ Associated Builders & Contractors	☐ Loudoun Times Mirror
☐ Bid Net	☐ Our Web Site
☐ Builder's Exchange of Virginia	☐ NIGP
☐ Email notification from Loudoun County	☐ The Plan Room
☐ Dodge Reports	☐ Reed Construction Data
☐	☐ Tempos Del Mundo
☐ India This Week	☐ Valley Construction News
☐ LS Caldwell & Associates	☐ Virginia Business Opportunities
☐ Loudoun Co Small Business Development Center	☐ VA Dept. of Minority Business Enterprises
☐ Loudoun Co Chamber of Commerce	☐ RAPID

☐ Other _____**SERVICE RESPONSE CARD**

RFQ-454782

Date of Service: _____

How did we do?

Please let us know how we did in serving you. We'd like to know if we are serving you at an acceptable level.

How would you rate the way your request for this document was handled?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

Did you have contact with Procurement staff? ☐

How would you rate the manner in which you were treated by the Procurement staff?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

How would you rate the overall response to your request?

Excellent ☐ Good ☐ Average ☐ Fair ☐ Poor ☐

COMMENTS: _____

Thank you for your response!

We can better assess our service to *you* through feedback from *you*.

Your Name: _____

Address: _____

Phone: _____ (day) _____ evening

Please return completed form to: Christopher Bresley • Procurement •

(Proposed)

COUNTY-CONTRACTOR AGREEMENT
ATTACHMENT 1:

THIS COUNTY-CONTRACTOR AGREEMENT ("Agreement") for Construction of Tall Cedars Parkway and Elk Lick Road Intersection Improvement herein after referred to as the "Project", executed in three (3) originals, is effective on the date it is fully executed by and between **COUNTY OF LOUDOUN, VIRGINIA** (herein referred to as the "County"), and _____ (herein referred to as the "Contractor").

In consideration of the promises made herein and other good and valuable considerations, the following terms and conditions are hereby agreed to between the County and Contractor.

This Agreement consists of and incorporates by reference the following attachments:

- | | |
|--------------|---|
| Attachment 1 | The County's Invitation for Bid No. 454782 dated February 3, 2022, including any addenda. |
| Attachment 2 | The Contract Plans, Specifications and Loudoun County Revisions to VDOT Division I, General Provisions. |
| Attachment 3 | The Contractor's bid dated _____. |

In the event that Attachment 3 contradicts or limits this Agreement or Attachments 1 and 2, this Agreement and Attachments 1 and 2 shall prevail.

Article 1

ARCHITECT/ENGINEER

- 1.1 The Architect/Engineer (hereinafter referred to as the "A/E and as defined in the General Conditions) shall be Dewberry Engineers, Inc. whose address is 8401 Arlington Boulevard, Fairfax, VA 22031. Provided, however, that the County may, at its sole discretion, amend this Article from time to time by designating a different person or organization to act as its A/E and advise the Contractor in writing, at which time the person or organization so designated shall be the A/E for purposes of this Contract.

Article 2

TIME OF COMMENCEMENT AND COMPLETION

- 2.1 The Contractor shall commence the Work upon the date established in the Notice to Proceed.
- 2.2 The Contractor shall achieve Substantial Completion, as defined in Section 105.01, Contract Time, Notice of Contract Execution and Notice to Proceed of the Loudoun County Revisions to the 2020 VDOT Road & Bridge Specifications, Division I - General Provisions, within 120 calendar days from the date specified in the Notice to Proceed. This time period shall be designated the Contract Time. The Notice to proceed will be issued approximately than thirty (30) days after the execution of this agreement. The Contractor agrees that the time for completion of the Work as described in the Contract Documents shall govern unless specifically amended in writing by the County, and that no claims for early completion are allowed to be presented by the Contractor to the County.
- 2.3 The County specifies that time is of the essence under this Contract. Time being of the essence, it is essential to the County that Contract work will be completed within the Contract Time. The County and the Contractor agree that damages for failure to complete the work within the Contract Time are not susceptible to exact determination but that \$350 per day is in proportion to the actual loss that the County would suffer from such delay. Therefore, the Contractor will pay the County on demand \$350 per day for each and every day beyond the 120 calendar days, or modified date of completion, that the County determines that work is not complete, as damages caused by such delay and not as a penalty. The County shall be entitled to offset liquidated damages against any sum owed by the County to the Contractor under this Contract.
- 2.4 The amount of liquidated damages set forth in Articles 2.3 above shall be assessed cumulatively. This provision for liquidated damages does not bar County's right to enforce other rights and remedies against Contractor, which are otherwise legally enforceable, including but not limited to, specific performance or injunctive relief.
- 2.5 The Contractor hereby waives any defense as to the validity of any liquidated damages stated in this Agreement as they may appear on grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

Article 3

CONTRACT SUM

- 3.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the County shall pay to the Contractor, in current funds and at the times and in the installments hereinafter specified, the sum of _____ Dollars (\$_____) (herein referred to as the "Contract Sum").

Article 4

PROGRESS PAYMENTS

- 4.1 The Contractor shall provide a Payment Schedule as referred to in Section 109 of the Loudoun County Revisions to the VDOT Division I - General Provisions.
- 4.2 The Contractor hereby agrees that on or about the first day of the month for every month during the performance of the Work he will deliver to the A/E a Payment Request Application in accordance with the provisions of 109.08 – Partial Payments of the Loudoun County Revisions to the VDOT Division I - General Provisions. This date may be changed upon mutual agreement, stated in writing, between the County and Contractor. Payment under this Contract shall be made as provided in the General Conditions. An updated progress schedule shall be submitted with each Payment Request Application.
- 4.3 The Construction Progress Schedule shall be utilized by County, A/E and Contractor for submission, review and approval of monthly Payment Request. The schedule must be updated by Contractor monthly with each progress payment application and submitted to the County and A/E for review with the progress payment application. County shall not be required to process and review Contractor's Application for Payment if Contractor has failed or refused to provide the progress scheduling update information required herein.

Article 5

OTHER REQUIREMENTS

- 5.1 The Contractor shall submit the Performance Bond and Labor and Material Payment Bond as described in section 14.0 of the IFB and a Warranty Bond as described in the Loudoun County Revisions to VDOT Division I - General

Provisions Section 109.08 and a Certification of Insurance as required by the Contract Documents.

- 5.2 To the extent required by the Commonwealth of Virginia (see e.g. 54.1-1100 *et seq.* of the Code of Virginia) or the County of Loudoun, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.
- 5.3 A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300 *et seq.* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- 5.4 The Contractor shall complete and acquire a VDOT Land Use Permit. This permit will require the contractor to post a bond with VDOT for the estimated value of the work that is to be constructed in the VDOT right-of-way. The successful bidder will be required to post any post-construction latent defect bond required by VDOT.
- 5.5 Contractor warrants to County that the construction, including all materials and equipment furnished as part of this Project, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents, and free of defects in materials and workmanship.
- 5.6 It shall be the responsibility of the Contractor to comply with County Ordinances by securing the necessary permits to include a grading permit. All required permits, including State of Virginia permits and trade permits, will be the responsibility of the Contractor. The County shall waive any fees involved in securing County permits.
- 5.7 During the performance of this Contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service-disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient to meet this requirement.

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

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

- 5.9 All notices and other communications made pursuant to the Contract Documents and not required to be made through e-Builder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO CONTRACTOR:

TO COUNTY:

Department of Transportation and
Capital Infrastructure
P.O. Box 7500
101 Blue Seal Drive, Suite 102
Leesburg, VA 20177

Purchasing Agent
If sent via (a) or (b)
1 Harrison Street, S. E.
Leesburg, VA 20175

If sent via (c)
PO Box 7000
Leesburg, VA 20177

Notice is deemed to have been received: (i) on the date of delivery if delivered in person; (ii) on the first business day after the date of delivery if sent by same day or overnight courier service; or (iii) on the third business day after the date of

mailing, if sent by certified or registered United States Mail, return receipt requested, postage and charges prepaid.

Article 6

IMMIGRATION REFORM AND CONTROL ACT OF 1986

- 6.1 By entering this Contract, the Contractor certifies that it does not and will not during the performance of this Contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

Article 7

ENTIRE AGREEMENT AND SEVERABILITY

- 7.1 This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or changed only by an Amendment or Modification. Nothing contained in the Contract Documents shall create any Contractual relationship between the County, or any agent, consultant, or independent Contractor employed by the County and any subcontractor, sub-subcontractor, supplier or vendor of the Contractor, but the County shall be entitled to performance of all obligations intended for his benefit, and to enforcement thereof.
- 7.2 In the event that any provision of this Contract shall be adjudged or decreed to be invalid by a court of competent jurisdiction, such ruling shall not invalidate the entire agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.

Article 8

GOVERNING LAW/FORUM

- 8.1 This Contract shall be governed and construed in all respects by its terms and by the laws of the Commonwealth of Virginia. Any judicial action shall be filed in the Commonwealth of Virginia, County of Loudoun or the United States District Court for the Eastern District of Virginia in Alexandria. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Loudoun County, Virginia. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.
- 8.2 Each of the parties irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either party for any claim,

demand, action, or cause of action, arising out of this Agreement. Each of the parties hereby agrees and consents that any such claim, demand, action, or cause of action shall be decided by court trial without a jury.

Article 9

COUNTERPARTS

- 9.1 This Contract and any amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Contract or any amendment or renewal. A signature by any party to this Contract provided by facsimile or electronic mail is binding upon that party as if it were the original.

[SIGNATURES ON THE FOLLOWING PAGE]

Witness the following signatures:

COUNTY OF LOUDOUN, VIRGINIA

Division of Procurement

One Harrison Street, S.E.

Leesburg, VA 20175

Phone: (703) 737-8316

Fax: (703) 771-5097

By: _____

Name: Nebila Kurtu, CPPB, VCCO, FMP

Title: Contracting Officer

Date: _____

CONTRACTOR

Phone: _____

Fax: _____

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____

Robert J. Sproul
Assistant County Attorney

ESCROW AGREEMENT

ATTACHMENT 2:

THIS AGREEMENT, made this ____ day of _____, 2022, among the **COUNTY OF LOUDOUN, VIRGINIA** ("County") and _____ ("Contractor") and _____ a trust company, bank, or savings and loan institution with its principal office located in Virginia ("hereinafter referred to collectively as "Bank"); and

("Surety"), provides:

I.

The County and the Contractor have entered into a Contract with respect to Project Name _____ Project No. _____ ("Contract"). This Agreement is pursuant to, but in no way amends or modifies, the Contract. Payments made hereunder or the release of funds from escrow shall not be deemed approval or acceptance of performance of the Contractor.

II.

In order to assure full and satisfactory performance by the Contractor of its obligations under the Contract, the County Treasurer is required thereby to retain certain amounts otherwise due the Contractor. The Contractor has, with the approval of the County, elected to have these retained amounts held in escrow by the Bank. This agreement sets forth the terms of the escrow. The Bank shall not be deemed a party to, bound by, or required to inquire into the terms of the Contract or any other instrument or agreement between the County and the Contractor.

III.

The County shall from time to time pursuant to the Contract pay to the Bank amounts retained by it under the Contract. Except as to amounts actually withdrawn from escrow by the County, the Contractor shall look solely to the Bank for the payment of funds retained under the Contract and paid by the County to the Bank.

The risk of loss by the diminution of the principal of any funds invested under the terms of the Contract shall be solely upon the Contractor.

Funds and securities held by the Bank pursuant to this escrow agreement shall not be subject to levy, garnishment, attachment, lien, or other process whatsoever. Contractor agrees not to assign, pledge, discount, sell or otherwise transfer or dispose of its interest in the escrow account or any part thereof, except to the Surety.

IV.

Upon receipt of checks or warrants drawn by the County Treasurer and made payable to it as escrow agent, the Bank shall promptly notify the Contractor, negotiate the same deposit or invest and reinvest the proceeds in approved securities in accordance with the written instructions of the Contractor. In no event shall the Bank invest the escrowed funds in any security not approved.

V.

The following securities, and none other, are approved securities for all purposes of this Agreement:

- (1) United States Treasury Bonds, United States Treasury Notes, United States Treasury Certificates of Indebtedness or United States Treasury Bills.
- (2) Bonds, notes and other evidence of indebtedness unconditionally guaranteed as to the payment of principal and interest by the United States,
- (3) Bonds or notes of the County of Loudoun,
- (4) Bonds of any political subdivision of the Commonwealth of Virginia, if such bonds carried, at the time of purchase by the Bank or deposit by the Contractor, a Standard and Poor's or Moody's Investors Service rating of at least "A," and
- (5) Certificates of deposit issued by commercial Banks located within the Commonwealth of Virginia, including, but not limited to, those insured by the Bank and its affiliates,
- (6) Any bonds, notes or other evidences of indebtedness listed in Sections (1) through (3) may be purchased pursuant to a repurchase agreement with a bank, within or without the Commonwealth of Virginia having a combined capital, surplus and undivided profit of not less than \$25,000,000, provided the obligation of the Bank to repurchase is within the time limitations established for investments as set forth herein. The repurchase agreement shall be considered a purchase of such securities even if title, and/or possession of such securities is not transferred to the Escrow Agent, so long as the repurchase obligation of the Bank is collateralized by the securities themselves, and the securities have on the date of the repurchase agreement a fair market value equal to at least 100% of the amount of the repurchase obligation of the Bank, and the securities are held by a third party, and segregated from other securities owned by the Bank.

No security is approved hereunder which matures more than five (5) years after the date of its purchase by the Bank or deposit by the Contractor.

VI.

The Contractor may from time to time withdraw the whole or any portion of the escrowed funds by depositing with the Bank approved securities in an amount equal to, or in excess of, the amount so withdrawn. Any securities so deposited or withdrawn shall be valued at such time of deposit or withdrawal at the lower of par or market value, the latter as determined by the Bank. Any securities so deposited shall thereupon become a part of the escrowed fund.

Upon receipt of a direction signed by the Loudoun County Purchasing Agent, the Bank shall pay the principal of the fund, or any specified amount thereof, to the Treasurer of Loudoun County for deposit to the appropriate fund and account within the County's approved accounting structure. Such payment shall be made in cash as soon as is practicable after receipt of the direction.

Upon receipt of a direction signed by the Loudoun County Purchasing Agent, the Bank shall pay and deliver the principal of the fund, or any specified amount thereof, to the Contractor, in cash or in kind, as may be specified by the Contractor. Such payment and delivery shall be made as soon as is practicable after receipt of the direction.

VII.

For its services hereunder, the Bank shall be entitled to a reasonable fee in accordance with its published schedule of fees or as may be agreed upon by the Bank and the Contractor. Such fee and any other costs of administration of this Agreement shall be paid from the income earned upon the escrowed fund and, if such income is not sufficient to pay the same, by the Contractor.

VIII.

The net income earned and received upon the principal of the escrowed fund shall be paid over to the Contractor in quarterly or more frequent installments. Until so paid or applied to pay the Bank's fee or any other costs of administration, such income shall be deemed a part of the principal of the fund.

IX.

The Surety undertakes no obligation hereby but joins in this Agreement for the sole purpose of acknowledging that its obligations as surety for the Contractor's performance of the Contract are not affected hereby.

WITNESS the following signatures, all as of the day and year first above written.

COUNTY OF LOUDOUN, VIRGINIA

CONTRACTOR

Director, Department of Management
& Financial Services

Officer, Partner or Owner

Bank

SURETY

Title

Title

Address

Address

February 7, 2022

NOTICE TO BIDDERS

ADDENDUM NO. 1

RFQ 454782

The following changes and/or additions shall be made to the original Invitation for Bid No. RFQ 454782: Construction of Tall Cedars & Elk Lick Road Intersection Improvement. Please acknowledge receipt of this addendum by signing and returning with your bid.

1. The purpose of this Addendum is to clarify Attachment 5- Plans and Specifications.

1. Sheet 20 - General Notes:
 - a. General Note G-4: "Regular Excavation" should be clarified to the word "Grading"
2. Sheet 23 – Summary of Quantities:
 - a. Incidental Summary Table
 - i. The total quantity shown on the plans for the 4" Curb (St'd. CG-3 Req'd.) is incorrect and it shall be revised from 255 LF to 193 LF.
 - ii. The total quantity shown on the plans for the Radial 4" Curb (St'd. CG-3 Req'd.) is incorrect and shall be revised from 90 LF to 152 LF.
 - iii. The unit for the Detectable Warning Surface (St'd. CG-12 Req'd.) is incorrect and shall be revised from linear feet (LF) to square yards (SY).
 - b. The Critical Root Zone Summary Item is no longer needed for the project and shall not be included as a bid item.
 - c. The NS Salvage of Existing Flex Posts item is missing on the plans. The quantity for this bid item is 62 and the unit is each.

Prepared By: s/Nebila Kurtu, CPPB, VCCO, FMP Date: 2/7/2022
Contracting Officer

Acknowledged By: _____ Date: _____