



TOWN OF SMITHFIELD

"The Ham Capital of the World"

INVITATION FOR BID

IFB # 20-003

April 3, 2020

Town of Smithfield

310 Institute Street

Smithfield, VA 23430

<https://www.smithfieldva.gov/>

Relining of Well # 8A

Sealed bids subject to the conditions and instructions contained herein, will be received at the office of the Purchasing Agent listed below, until the time and date shown below (local prevailing time), for furnishing the services described herein.

SCOPE OF WORK Relining Well # 8A: Contractor shall provide all labor, superintendence, materials, tools, equipment, testing, project safety, and other ancillary items necessary as identified to complete the relining of well #8A as further described, herein.

Bid Due prior to: **3:00 PM., April 30, 2020**

Contract Officer:

Michael Coburn, Sr., Purchasing Agent, Michael.coburn@isleofwightus.net

**** ONE COMPLETE ELECTRONIC SUBMITTAL IS REQUESTED ****

In compliance with this invitation for bids, and subject to all the conditions thereof, the undersigned offers, if this bid is accepted within ninety (90) calendar days from the date of the opening, to furnish all of the services on which prices are quoted, at the price set opposite each item, to be performed as specified herein. The undersigned certifies he has read, understands, and agrees to all terms, conditions, and requirements of this bid, and is authorized to contract on behalf of firm named below.

Company

Name: _____

Address: _____

City / State /

Zip: _____

Telephone: _____

FAX No.: _____

E-mail: _____

Print Name: _____

Title: _____

Signature: _____

Date: _____

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INVITATION FOR BIDS

Bids received prior to the opening time specified below shall be opened and posted following the specified opening time at the Isle of Wight Department of Budget and Finance. Electronic bids, subject to the conditions and instructions contained herein, are to be sent as an email attachment to: mcoburn@isleofwightus.net.

BID DOCUMENTS:

Bid Documents may be obtained from the Town of Smithfield's website: <https://www.smithfieldva.gov> and on the State's eVA website: <http://eva.virginia.gov/>.

QUESTIONS:

Questions concerning this project must be in writing and addressed to mcoburn@isleofwightus.net AND to lking@smithfieldva.gov ; and, must be received no later than the close of the workday, **April 24, 2020**.

BID OPENING:

Due to the COVID-19 outbreak, as a public health precautionary measure Isle of Wight County has temporarily closed its offices to Public Access. Service to the public can be accessed via telephone, mail, or on-line. This includes public meetings such as bid openings, prebid meetings, and other such practices. As always, bid tabulations, addenda, and awards will be available for public view on the County's website and on the Commonwealth's eVA website.

Bids sent prior to the closing date/time shall be opened and tabulations of bids shall be posted publicly after the closing date and time. (local prevailing time), or nearly thereafter as possible.

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.

BID SUBMITTALS:

The entire bid should be submitted on the designated Bid Form, signed by an authorized representative, delivered as instructed as an electronic document (.pdf) attached to email to: mcoburn@isleofwightus.net. Other forms are acceptable if delivered prior to the closing data and time, such as CDs or memory sticks. Submittals shall not exceed 150 MG. Failure to comply with this instruction may result in the bid being deemed non-responsive.

In addition to references the bidder shall submit a summary of their experience in installing wells for local municipalities will be considered. References and other examples of such experience shall be attached to your submittal. Bidders submitting without providing matching evidence of experience on similar work may be considered non-responsive.

Bidders should carefully examine the specifications and fully inform themselves to all conditions and matters that could any way affect the cost thereof. Should a bidder find discrepancies in or omissions from the specifications or Invitation to Bid, or should be in doubt as to their meanings, he should notify

the Purchasing Agent, Michael Coburn, by email at: mcoburn@isleofwightus.net. All questions shall be directed in writing (email) to Mr. Coburn.

The right is reserved to revise or amend these specifications prior to the date set for receipt of bids as may be required by the Town. That date may be delayed if deemed necessary by the Town. Any revisions and/or amendments will be in the form of an addendum to this document.

The right is reserved to accept or reject any or all bids in whole or in part and to waive any informalities in the IFB, and to enter into any contract deemed to be in the best interest of the Town of Smithfield.

Bidder has examined copies of all the Bid Documents including the following Addenda:

<u>Date</u>	<u>Number</u>
_____	_____
_____	_____

Bidder has made such independent investigations as Bidder deems necessary to fully inform himself as to the conditions affecting cost and progress of performance of the Work.

AWARD

Award shall be given to the lowest responsive and responsible bidder based upon the Total Lump Sum Bid.

Special Note: Only bidders with demonstratable experience in installing wells for local municipalities will be considered. References and other examples of such experience shall be attached to your submittal. Bidders submitting without providing matching evidence of experience on similar work may be considered non-responsive.

WORK DAY

Daily work may begin at 7:00 AM with work areas secured by 7:00 PM unless otherwise requested and approved by the Town in writing.

LIQUIDATED DAMAGES

If said work is not completed within the time stated in the Notice to Proceed, for each project location, the Contractor shall be liable and hereby agrees to pay to the Owner as liquidated damages, and not as a penalty, the amount of five hundred dollars (\$500.00) per calendar day for each and every part of a day thereafter that said work remains substantially incomplete for a location. The Town reserves the right, at its sole discretion, to deduct liquidated damages from any outstanding amount due the Contractor.

PRE-BID MEETING

No prebid meeting is planned. The Bidder is required to be familiar with the site conditions prior to submitting bid.

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.

SCOPE OF WORK

Relining Well # 8A: Contractor shall provide all labor, superintendence, materials, tools, equipment, testing, project safety, and other ancillary items necessary as identified to complete the relining of well #8A. Remove pump assembly. Perform alignment testing on 20" steel outer casing. Perform alignment testing on 10" stainless steel screens and carbon steel inner casing. Clean the bottom of the well. Clean gravel from between the existing 20" and 10" casings from approximate depth of 770' to 780'. Install approximately 780LF. of 16" 304 stainless steel liner casing. Install approximately 150LF of 8" stainless steel screens and extend 304 stainless steel casing into the existing 10" stainless steel screens and carbon steel casing approximately 700' below grade. Install gravel between the 8" and 10" screens. Develop the well screens at a rate of approximately 20' per hour to tighten up the gravel. Add more gravel if necessary. Cement grout between the 20" and the 16" casings. Reinstall and test the permanent pump assembly. As an option provide a price to replace the 16" stainless with 16" carbon steel. Contractor shall provide a warranty on all work for a period of one (1) year after final completion. Work shall be completed in accordance with VDH and DEQ regulations for all work. Pay items noted below.

NOTICE OF ESCROW OPTION

IF THIS IS A BID FOR CONSTRUCTION, AS DEFINED IN VIRGINIA CODE SECTION 2.2-4334, IN THE AMOUNT OF \$200,000.00 OR MORE, I/WE ELECT TO UTILIZE THE ESCROW ACCOUNT PROCEDURE DESCRIBED IN THE PROVISIONS OF THIS BID IF DETERMINED TO BE THE SUCCESSFUL LOW BIDDER(S).

CHECK A BOX: **YES** **NO**

INTEREST ON RETAINAGE:

At the time the Contractor submits a bid, the Contractor shall have the option to use the escrow account procedure for utilization of Town retained funds by so indicating in the space provided in the bid documents. In the event the Contractor elects to use the escrow account procedure, the "Escrow Agreement" form included in the Bid and Contract shall be executed and submitted to the Town within 15 calendar days after notification of award of the bid. If the "Escrow Agreement" form is not submitted as noted herein, the Contractor shall forfeit such rights to the use of the escrow account procedure. 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 Town 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 the executed "Escrow Agreement" will be authority for the Town to make payment of retained funds to the escrow agent. After approving the agreement, the Town 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 the 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 Town. When the final payment is released by voucher, the Town will direct the escrow agent to settle the escrow account by paying the Contractor or the Town monies due them as determined by the Town. The Town reserves the right to recall retained funds and to release same to the surety upon receipt of written request from the Contractor or in the event of default.

This section shall be applicable only to contracts for \$200,000.00, or more, for the construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines, and pumping stations.

This section shall not apply to contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph, or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.

If this contract includes payment of interest on retained funds, the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay the specified penalty for each day exceeding the completion date stated in the contract.

Any subcontract for such public project, which provides for similar progress payments, shall be subject to the provisions of this section.

PRICING – PAY ITEMS

Project: **Relining of Well # 8A**

Bid Submitted By: _____

Pay Items prices shall include the furnishing of labor, material, where specified, installation, laying jointing, connecting, backfilling, testing and all incidental work called for in the Contract Documents. **These prices are to be used if conditions result in a higher or lower requirement than the estimate. Partial payments of any items added because of conditions described above will be made based upon the pricing quoted below. If progressive payments for overages is required there will be a 5% retainage withheld until the final payment for the project is made.**

Bid Item No.	Item	Unit	Est. Quantity	Unit Price	Extended Total
1	Mobilization/ Demobilization	LS	1		
2	Pump Crew with 26 Ton crane	HR	260		
3	Welder	HR	100 Hrs.		
4	165 Ton Crane	HR	60 Hrs.		
5	16" Stainless Steel Casing	LF	780 LF		
6	8" Stainless Steel Screens	LF	150LF		
7	8" Stainless Steel Casing	LF	120LF		
8	Well Gravel	Bag	100 Bags		
9	Cement	YD	24 YD		
10	OPTION 16" Carbon Steel Casing	LF	780 LF		

Town of Smithfield
IFB # 20-003
Relining of Well # 8

BID FORM

Due Date: April 30, 2020

Time: 3:00 p.m. local time

Total Lump Sum Bid: \$ _____

Bidder has examined the site and locality where the Work is to be performed, the legal requirements (federal, State and local laws, ordinance, rules and regulations) and has made such independent investigations as Bidder deems necessary to fully inform himself as to the conditions affecting cost and progress of performance of the Work.

Bid shall remain valid for a minimum period of sixty (60) days after the day of Bid Opening; Bidder agrees to disposition of Bid Security as specified in the Instruction to Bidders.

Terms of payment on work performed with a good and correct invoice shall be Net 30 days with a 5% retainage.

Not more than fifty percent (50%) of the work shall be subcontracted and the amount of any subcontractors proposed by the bidder in excess of ten percent (10%) of the bid price shall be identified on the Bid Form.

Subcontractor: _____

Subcontractor: _____

Bidder accepts all terms and conditions of the Contract Documents and has included the following with his BID FORM (please check

_____ “Anti-collusion/Nondiscrimination/Drug Free Workplace” clause

_____ Proof of Authority to Transact Business in Virginia form

I certify by my signature below that I have received the documents associated with this Bid and understand that the review for completeness of these documents and the understanding and comprehension of the specifications is solely my responsibility; based on this, by my signature below, I waive all rights to future claims against the Town of Smithfield that the documents were incomplete or not understandable.

My signature below certifies that this Bid is not the result of or affected by, any act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under Section 18.2-498.1 et. seq. of the Code of Virginia (1950, as amended). Furthermore, I understand that fraudulent bidding is a crime under the Virginia Governmental Frauds Act, the Virginia Government Bid Rigging Act, the Virginia Anti-Trust Act, and federal law and can result in fines, prison sentences, and civil damage awards.

I certify that the bidder represented herein is eligible to bid with respect to all applicable sections of State and Local Government Conflict of Interest Act, Section 2.2-3100 et. seq. of the Code of Virginia (1950, as amended).

I agree to abide by all conditions of this Bid and certify that I am authorized to sign this Bid.

Virginia Contractor No. _____

Signature _____ Date _____

Print _____

State Corporation Commission Identification No:

Or

Describe why the bidder or offeror is not required to be authorized by the State Corporation Commission:

Bidder agrees to begin and complete the Work according to the intended schedule below:

REFERENCES:

(Name a minimum of three references)

Company Name: _____

Address: _____

Contact Person: _____

Telephone Number: _____

(An Individual, Partnership, or Non-Incorporated Organization)

Type/Print

Name _____

Title _____

Name of Organization _____

Business Address _____

Phone Number _____ Fax No. _____

(A Corporation)

Corporation Name _____

State of Incorporation _____

Person Authorized to Sign _____

Title _____

(Corporate Seal)

Attest (Secretary) _____

Business Address _____

Phone Number _____ Fax No. _____

(A Joint Venture)

By (Signature) _____

Type/Print Name _____

Title _____

Virginia Contractor No. _____

Business Address _____

Phone Number _____ Fax No. _____

By (Signature) _____

Type/PrintName_____

Title_____

Virginia Contractor No._____

Business Address_____

Phone Number_____ Fax No._____

(Each joint venturer must sign. The name of signing for each individual, partnership and corporation that is a party to the joint venture shall be in the manner indicated above.)

CONDITIONS AND INSTRUCTIONS

Rev: 3/26/2020

1. **Use of Form:** All bids shall be submitted in electronic (.pdf) format in accordance with this form. The offeror may attach/scan other information as required to the electronic document that will be made a part of the bid. Electronic submittals on CD, DVD, memory sticks, or other electronic media will be accepted if delivered prior to the closing time. The preferred method is by an attachment to an email addressed to: mcoburn@isleofwightus.net.
2. The County's published Conditions and Instructions shall supersede any additional writings submitted with the proposal. Such writings shall be clearly marked and noted as an exception. The County requests that the entire document be submitted.
3. **Submittals:** Except as noted above, all bids shall be sent as an attachment to email to: Michael.coburn@isleofwightus.net. The subject line must show the bid number and name. This form shall be included as part of your submittal; else, your response may be considered 'non-responsive.'
4. **Late Bids:** Bids and amendments thereto, if submitted after the date and time specified, will not be considered. It will be the responsibility of the offeror to see that their proposal is sent before the time specified. There will be no exceptions. Electronic proposals sent as an email attachment will show the date and time sent and this will constitute evidence that proposals are timely.
5. **Town/County Closures:** Should the Town or County's offices be closed, or its electronic networks connectivity prevent the receipt of bids at the time of the scheduled proposal closing, the Bids will be opened on the next business day of the Town/County, at the original scheduled hour, or as soon as connectivity is restored during normal business hours. While the opening may be delayed by any such occurrence, it is NOT to be considered an extension of the due date/time.

As explained earlier in this IFB, due to the existing Corona19 emergency, the opening is not a public opening. **Tabulations of bids will be posted on the Town's website as soon as possible after the opening.**

6. **Acceptance of Bid:** Receipt of the bid by the County is not to be construed as an award.
7. **Offer/Acceptance:** Each bid is received with the understanding that the acceptance in writing by the Town of the bidder to furnish all of the services described therein, shall constitute a contract between the bidder and the Town, which shall bind the bidder to furnish and deliver the services quoted at the prices stated and in accordance with the conditions of the accepted bid; and the Town on its part to order from such bidder, except for causes beyond reasonable control; and pay for, at the agreed prices, all services specified and performed.
8. **Withdrawal of Bids:** Bidder has the right to request withdrawal of their bids from consideration due to error by giving notice not later than two business days after the bids are publicly opened. Work papers showing evidence of error(s) may be required.

Bids may be withdrawn any time prior to the bid opening. Withdrawal of bids may be accomplished by submitting such request in writing on the issuing company's letterhead in person, electronically (email) or by certified mail.

9. **Addenda**: If issued, addenda to this solicitation will be posted on the Purchasing website <http://www.co.isle-of-wight.va.us/budget-and-finance/> and on the Commonwealth's website, <http://eva.virginia.gov/>. It is the bidder's responsibility to check one of the websites or to contact the Purchasing division prior to the submittal deadline to ensure that the bidder has a complete, up-to-date package. Acknowledgement of all issued Addenda shall be indicated on the bid form in the appropriate spaces.
10. **Governing Document**: The solicitation document maintained by Purchasing in the bid file, shall be considered the official copy. In the case of any inconsistency between bid documents submitted to the County, but not clearly listed as an exception, the language of the official copy shall prevail. Furthermore, any exception or change to the specifications made by the bidder may because to disqualify your bid.
11. **Award**: Award will be made to the lowest responsive and responsible bidder. The quality of the goods and/or services to be supplied, their conformity with the specifications, their suitability to the requirements, the delivery, qualifications and references will be taken into consideration in making the award. The Town reserves the right to refuse all bids. Determination of low bid shall be determined by the **Total Lump Sum Bid**.
12. **Brand Names**: The use of the name of a manufacturer, brand, make or catalog designation in specifying an item shall restrict bidders to the manufacturer, brand, make or catalog designation identified, unless qualified by the provision "or equal." If qualified by the provision "or equal" the Brand Names are used simply to indicate the character, quality and/or performance equivalence of the goods and/or services desired. The goods and/or services on which bids are submitted must be of such character, quality and/or performance equivalence that it will serve as that specified. In submitting bids on goods and/or services other than as specified, bidder shall furnish complete data and identification with respect to the alternate goods and/or services that they propose to furnish. It shall be in the Town's sole judgment if a substitute product offered is an approved equal and acceptable
13. **Samples**: Samples, when requested, must be furnished free of expense, and upon request, if not destroyed, will be returned at the bidder's risk and expense. Once a decision to award has been made, samples may be returned. Those left for more than 60 days may incur storage fees or be disposed of by the Town.
14. **Negotiation**: Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted; except that if the bid from the lowest responsible bidder exceeds available funds, the Town may negotiate with the apparent low bidder to obtain a contract price within the available funds.
15. **Announcements**: Upon the award or the announcement of the decision to award a contract, the Town will publicly post such notice on the bulletin board located at Town Hall and the Town Manager's Office and on the Town's web site: www.smithfieldva.gov
16. **Town's Rights**: The Town reserves the right to reject any and all bids, and to waive any informality if it is determined to be in the best interest of the Town. Requirements of the bid may not be waived.
17. **Prices**: Prices shall be stated in units of quantity specified. No additional charges shall be passed to the Town, including any applicable taxes, delivery, or surcharges. Prices quoted shall be the final cost to the Town. In case of error in the extension of prices, the unit price shall govern.

18. **Corrections:** All prices and notations should be in ink or typewritten. Mistakes may be crossed out and corrections made in ink and must be initialed and dated by the person signing the bid.
19. **Delivery:** The time of performance of work must be as required in the specifications.
20. **Standard equipment:** Any equipment delivered must be standard, new and unused equipment, latest model, except as otherwise specifically stated in the bid. Where any part or the normal accessories of equipment is not described, it shall be understood that all the equipment and accessories that are usually provided in the manufacturer's stock model shall be furnished.
21. **Silence of Specifications:** The apparent silence of these specifications and any supplemental specifications as to any detail or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and correct type, size and design are to be used. All interpretations of these specifications shall be made based on this statement.
22. **Capacity of Bidder:** All bids must be signed by a responsible officer or employee having the authority to bind the firm in contract. The bidder agrees that its contract performance shall be in strict conformance with the contract documents.
23. **Rights to Damages:** By signing this bid, the bidder assigns to the Town any and all rights that it may have under the antitrust laws of the United States and the Commonwealth of Virginia in any way arising from or pertaining to this bid. This provision is remedial in nature and is to be liberally construed by any court in favor of the Town.
24. **Anti-collusion:** The bidder certifies by signing this Invitation of Bid that this bid is made without prior understanding, agreement, or accord with any other person or firm submitting a bid for the same goods and/or services and that this bid is in all respects bona fide, fair, and not the result of any act of fraud or collusion with another person or firm engaged in the same line of business or commerce. Any false statement hereunder may constitute a felony and can result in a fine and imprisonment, as well as civil damages.
25. **Indemnification:** The Contractor shall defend, indemnify and hold the Town, and the Town's employees, agents, and volunteers, harmless, from and against any and all damage claim, liability, cost, or expense (including, without limitation, attorney's fees and court costs) of every kind and nature (including, without limitation, those arising from any injury or damage to any person, property or business) incurred by or claimed against the contractor, its employees, agents, and volunteers, or incurred by or claimed against the Town, the Town's employees, agents, and volunteers, arising out of, or in connection with, the performance of all services hereunder by the contractor. This indemnification and hold harmless includes, but is not limited to, any financial or other loss including, but not limited to, any adverse regulatory, agency or administrative sanction or civil penalties, incurred by the Town due to the negligent, fraudulent or criminal acts of the contractor or any of the Contractor's officers, shareholders, employees, agents, contractors, subcontractors, or any other person or entity acting on behalf of the Contractor. Unless otherwise provided by law, the Contractor indemnification obligations hereunder shall not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the Contractor under worker's compensation acts, disability benefit acts, other employee benefit acts, or benefits payable under any insurance policy. This paragraph shall survive the termination of the contract including any renewal or extension thereof.

(The Town of Smithfield has no legal authority to indemnify others. Firms submitting responses agree that they will not require the Town to indemnify them in any resulting contract.)

- 26. **Laws, Regulations:** The Contractor shall keep fully informed of all federal, state, and local laws, ordinances and regulations that in any manner affect the conduct of the work. The Contractor shall always observe and comply with all such laws, ordinances and regulations.
- 27. **Alien employment:** The Contractor certifies that he does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ unauthorized aliens as defined in the federal Immigration Reform and Control Act of 1986, as amended.
- 28. **SCC Authorization:** All bidders or offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50, as amended, shall include the identification number issued to it by the State Corporation Commission. Any bidder or 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, as amended, or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

SCC Number or Statement: _____

Any business entity that enters into a contract with a public body pursuant to this chapter 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, as amended, to be revoked or cancelled at any time during the term of the contract. The Town may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

- 29. **Contractor’s License:** If any of the services promulgated under this solicitation consist of construction work, it is required under Title 54.1, Chapter 11, Code of Virginia, for a contractor who performs or manages construction, removal, repair, or improvement when the total value referred to in a single contract or project is:

One hundred twenty thousand dollars (\$120,000) or more, or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is seven hundred fifty thousand dollars (\$ 750,000) or more shall show evidence of being licensed as a Class A Contractor.

Ten thousand dollars (\$10,000) or more, but less than one hundred twenty thousand dollars (\$120,000) or the total value of all such construction, removal, repair, or improvement undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) or more, but less than seven hundred fifty thousand dollars (\$750,000) shall show evidence of being licensed as a Class B Contractor.

Over one thousand (\$1,000) but less than ten thousand (\$10,000), or the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) shall show evidence of being licensed as a Class C Contractor.

The Town shall require master certification as a condition of licensure or certification of electrical, plumbing and heating, ventilation and air conditions contractors.

A valid business license from the Town may be required. The bidder shall complete whichever of the following notations as appropriate:

“Licensed Class ‘A’ Virginia Contractor Number _____.”

“Licensed Class ‘B’ Virginia Contractor Number _____.”

“Licensed Class ‘C’ Virginia Contractor Number _____.”

30. **Payment Terms:** Payment terms shall be ‘Net 30’ days, from the date of Contractor invoice approval by the Town.

Payment terms, if offered, shall not be considered in determining the low bidder.

Discount period, if offered, shall be computed from the date of proper receipt of the contractor’s correct invoice, or from the date of acceptable receipt of the goods and/or services, whichever is latest.

The payment terms stated herein must appear on the contractor’s invoice. Failure to comply with this requirement shall result in the invoice being returned to the contractor for correction.

Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act. (1% per month)

Contractor shall submit invoices in duplicate, such statement to include detailed breakdown of all charges, and shall be based on completion of tasks or deliverables.

Individual Contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide their federal employer identification number on their submittal.

31. **Default:** In event of default by the Contractor, the Town reserves the right to procure the services from other sources and hold the Contractor liable for any excess cost occasioned thereby. Such actions taken by the Town shall not release the contractor from additional remedies that may be allowed by law.

32. **Availability of Funds:** A contract shall be deemed in force only to the extent of appropriations available to each department for the purchase of such goods and/or services. The Town’s extended obligations on those contracts that envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following years.

33. **Appeals Procedure:** Upon your request, administrative appeals information will be provided that shall be used for hearing protests of a decision to award, or an award, appeals from refusal to allow withdrawal of bids, appeals from disqualification, appeals for debarment or suspension, or determination of non-responsibility and appeals from decision or disputes arising during the performance of a contract. To be timely all appeals shall be made within the time periods set forth by the Virginia Public Procurement Act, §2.2-4357, et seq. Contact the buyer at once for assistance.

34. **Faith-based Organizations:** The Town of Smithfield does not discriminate against faith-based organizations.

35. **Anti-Discrimination:** By submitting their bids, bidders certify to the Town that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the

organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia 2.2.4343.1E).

In every contract over \$10,000 shall include the following provisions:

1. 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, service disabled veterans 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, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 2. The Contractor will include the provisions of Section a, b, and c above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
36. **Drug-Free Workplace:** During the performance of this contract, the Contractor agrees to (1) provide a drug-free workplace for the Contractor's employees; (2) post in conspicuous place, 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 solicitation or advertisement for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- For the 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, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
37. **Assignment of Contract:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Town.
38. **Independent Contractor:** The Contractor and any employees, agents, or other persons or entities acting on behalf of the Contractor shall act in an independent capacity and not as officers, employees, or agents of the Town.

39. **Scheduling and Delays:** The parties to any contract resultant of this solicitation acknowledge that all or part of the work to be performed hereunder may be delayed and extended at the option of the Town. Such delays may be caused by delays, denials and modifications of the various state or federal permits, or for other reasons. The Town shall not be required to pay any of the Contractor's direct or indirect costs, or claims for compensation, extended overhead, or other damage or consequential damages arising out of or related to any delays or interruptions required or ordered by the Town. If the Town delays the project for any reason for a continuous period of ninety (90) days or more, the Town and Contractor will negotiate a mutually agreeable adjustment to the Contractor's award amount. Notwithstanding the above, in construction contracts, to the extent that an unreasonable delay is caused by the act or omissions of the Town due to causes within the Town's control, the above waiver or release shall not apply.

40. **Governing Law:** This Agreement is made, entered into, and shall be performed in the Town of Smithfield and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to its conflict of law rules. In the event of litigation concerning this Agreement, the parties agree to the exclusive jurisdiction and venue of the Circuit Court of the County of Isle of Wight, Virginia; however, in the event that the federal court has jurisdiction over the matter, then the parties agree to the exclusive jurisdiction and venue of the U.S. District Court for the Eastern District of Virginia, Norfolk Division.

The Contractor shall not cause a delay in services because of the pending or during litigation proceedings, except with the express, written consent of the Town or written instruction/order from the Court.

41. **Severability:** If any provision of this contract or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this contract, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected hereby, and each provision of this contract shall be valid and enforced to the full extent permitted by law.

42. **Termination for Convenience:** The Town may at any time, and for any reason, terminate this Contract by written notice to Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed.

Notice shall be given to Contractor by certified mail/return receipt requested at the address set forth in Contractor's Bid Proposal or as provided in this Contract. In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by the Town, at the time of termination. If the Town terminates this Contract, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to the Town any work completed or in process for which payment has been made.

43. **Termination for Cause:** In the event that Contractor shall for any reason or through any cause be in default of the terms of this Contract, the Town may give Contractor written notice of such default by certified mail/return receipt requested at the address set forth in Contractor's Bid/Proposal or as provided in this Contract.

Unless otherwise provided, Contractor shall have ten (10) days from the date such notice is delivered, whether electronic, by mail, or in person, in which to cure the default. Upon failure of Contractor to cure the default, the Town may immediately cancel and terminate this Contract as of the delivery date, whether electronic, US Mail, or by hand, of the default notice.

Upon termination, Contractor shall withdraw its personnel and equipment, cease performance of

any further work under the Contract, and turn over to the Town any work in process for which payment has been made. In the event of violations of law, safety or health standards and regulations, this Contract may be immediately cancelled and terminated by the Town and provisions herein with respect to opportunity to cure default shall not be applicable.

44. **Contact Prohibition:** Direct contact with Town departments other than Isle of Wight's Purchasing Office, on the subject of this bid, is expressly forbidden except with the foreknowledge and permission of the Contract Officer. Violation may result in a determination that your firm is ineligible for an award.

All questions shall be in writing to the Contract Officer shown on the title page of the bid. The respondents to this IFB shall not contact, either directly or indirectly, any other employee or agent of the County regarding this IFB. This prohibition shall also extend to the Smithfield Town Council and locally elected officials. Any such unauthorized contact may disqualify the bidder from this procurement.

45. **Additional Conditions:** The Conditions and Instructions in this solicitation are intended to apply to the resulting contract and shall supersede any conflicting terms offered. Any additional conditions a bidder intends be considered must be submitted with the bid and noted as an exception. Such exceptions may result in a finding that the submittal is 'non-responsive' to the bid, negating possibility of an award to that bidder. Contractual documents submitted by the successful firm after an award will not be accepted.

46. **Contractor Failure to Perform:** Failure of the Contractor to perform the contract by reason of the Town's non-acceptance of additional conditions submitted after the award shall result in termination of the contract by the Town and may result in debarment of the Contractor for a period of up to three (3) years. Termination and /or debarment of the Contractor shall not constitute a waiver by the Town of any other rights or remedies available to the Town by law or contract.

47. **Conflict:** In the event of a conflict between the contract documents, including these Conditions and Instructions, and the terms of a purchase order, or related document issued by Purchasing, the contract documents shall control.

48. **Records and Inspection:** The Contractor shall maintain full and accurate records with respect to all matters covered under this contract, including, without limitation, accounting records, written policies, procedures, time records, telephone records, and any other supporting evidence used to memorialize, reflect, and substantiate charges or fees related to this contract. The Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the County and its employees, agents or authorized representatives after giving at least three (3) days' notice to the Contractor by the Town. The Town shall have access to such records from the effective date of this contract, for the duration of the contract, and for five (5) years after the date of final payment by the Town to the Contractor pursuant to this contract or any renewal or extension of this contract. The Town's employees, agents or authorized representatives shall have access to the Contractor's facilities, shall have access to all necessary records and shall be provided adequate and appropriate workspace, in order to conduct audits.

49. **Rights and Remedies Not Waived:** In no event shall the making by the Town of any payment to the Contractor, or the waiver by the Town of any provision under this contract including any obligation of the Contractor, constitute or be construed as a waiver by the Town of any other provision, obligation, breach of covenant, or any default which may exist under this contract on the part of the Contractor, and the making of any such payment by the Town while any such breach or default exists shall not impair or prejudice any right or remedies available to the Town.

50. **Entire Agreement:** This contract and any additional or supplementary documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto. This contract shall not be modified, altered, changed or amended unless in writing and signed by the parties hereto.
51. **Conflicts of Interests:** Contractor shall not accept or receive commissions or other payments from third parties for soliciting, negotiating, procuring, or effecting insurance on behalf of the Town.
52. **Responsibility of Contractor:** The Contractor shall, without additional costs or fee to the Town, correct or revise any errors or deficiencies in his performance. Neither the Town's review, approval or acceptance of, nor payment for any of the services required under this Agreement shall be deemed a waiver of rights by the Town, and the Contractor shall remain liable to the Town for all costs which are incurred by the Town as a result of the Contractor's negligent performance of any of the services furnished under this Agreement.
53. **Changes and Additions:** It shall be the responsibility of the Contractor to notify the Town, in writing, of any necessary modifications or additions in the Scope of this Agreement. Compensation for changes or additions in the Scope of this Agreement will be negotiated and approved by the Town, in writing.

It is understood and agreed to by both the Town and the Contractor that such modifications or additions to this Agreement shall be made only by the full execution of the Town's standard Agreement change order form. Furthermore, it is understood and agreed by both parties that any work done by the Contractor on such modification or addition to this Agreement prior to the Town's execution of its standard Agreement change order form shall be at the total risk of the Contractor and said work may not be compensated by the Town.

54. **Debarment Status:** By submitting a bid, bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
55. **Safety:** All Contractors and subcontractors performing services for the Town are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and Town Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all Contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.
56. **License Requirement:** All firms doing business in the Town of Smithfield are required to be licensed in accordance with the Town of Smithfield business license ordinance. Wholesale and retail merchants without a business location in the Town of Smithfield are exempt from this requirement. Any questions concerning business licenses should be directed to the Commissioner of the Revenue's Office.
57. **Contractor's Form:** In cases where the Town may accept the Contractor's form agreement, whereas certain standard clauses that may appear in the Contractor's form agreement cannot be accepted by the Town, and in consideration of the convenience of using that form, and this form, without the necessity of negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor's form contract,

the Town's contract addendum shall prevail over the terms of the Contractor's agreement in the event of a conflict.

58. **Contract Quantities:** The quantities specified in the Invitation for Bid are estimates only unless otherwise clearly noted and are given for the information of bidders and for the purpose of bid evaluation. They do not indicate the actual quantity that will be required, since such volume will depend upon requirements that may develop during the contract period. Quantities shown shall not be construed to represent any amount which the Town shall be obligated to purchase under the contract or relieve the Contractor of his obligation to fill all orders placed by the Town, except as clearly noted. To make determination of low bid these quantities shall be used.
59. **Bidder Qualifications:** Only bids from established contractors for work similar in scope to work herein shall be considered; the Town reserves the right to request specific reference information prior to award. Bidder shall demonstrate that he has adequate and appropriate manpower, tools and equipment to respond and perform in accordance with the provisions herein.

The Town may, at its option, disqualify a bidder and reject his bid for cause. Reasons deemed to be sufficient for this action shall include, but not be limited to, the following:

- Evidence of collusion among bidders.
 - Receipt of more than one bid on any project from an individual, or from a corporation. This restriction does not apply to subcontractors
 - Default on any previous contract.
 - For unreasonable failure to complete a previous contract within the specified time or for being in arrears on an existing contract without reasonable cause for being in arrears.
 - Inability to perform as revealed by an investigation of the Bidder's financial statement, experience and/or plant and equipment.
 - Contractor does not meet project-specific requirements, as identified in the Contract Documents.
60. **Competition Intended:** It is the Town's intent that the Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the Buyer 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 Contract Officer prior to the date set for bids to close.
61. **Value Engineering:** The purchasing agent may provide for incentive contracting that offers a Contractor whose bid is accepted, the opportunity to share in any cost savings realized by the locality when the projects costs are reduced by such Contractor, without affecting project quality, during the construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings. Such provisions, including the percentage of cost sharing, shall be included in the language of the contract or may be added by change order with the agreement of both parties.
62. **Default on Taxes:** The Town reserves the right to withhold payment to any contractor that is in arrears, or in default to the Town on any debt or Contract, or that has defaulted as a surety, or otherwise on any obligation to the Town.

INSURANCE REQUIREMENTS

The Contractor shall comply with the insurance requirements set forth in the Contract, including the items set forth below:

- A. Neither the Contractor nor any subcontractor shall commence work under this Contract until the Contractor has obtained and provided proof of the required insurance coverages to the Town, and such proof has been approved by the Town. The Contractor confirms to the Town that all subcontractors have provided Contractor with proof of such insurance or will do so prior to commencing any work under this Contract.

- B. Contractor, including all subcontractors, shall, at their sole expense, obtain and maintain during the life of this Contract the insurance policies and/or coverages required by this section. The Town and its officers, employees, agents, assigns, and volunteers shall be added as an additional insured to the general liability and automobile coverages of any such policies and such insurance coverages shall be primary and noncontributory to any insurance and/or self-insurance such additional insureds may have. The Contractor shall immediately notify in writing the Town of any changes, modifications, and/or termination of any insurance coverages and/or policies required by this Contract. The Contractor shall provide to the Town with the signed Contract an Acord certificate of insurance which states in the description of operations section one of the two paragraphs below:
 - (1) The Town and its officers, employees, agents, assigns, and volunteers are additional insureds as coverage under this policy includes ISO endorsement CG 20 33 which provides that the insured status of such entities is automatic if required by a contract or a written agreement. If additional insured status is automatic under a different coverage form, Contractor must attach a copy of the coverage form to its certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractors under this Contract.

OR

- (2) ISO endorsement CG 20 10 will be issued, prior to the beginning of any work or other performance by Contractor under this Contract, to the Town and its officers, employees, agents, assigns, and volunteers naming them as an additional insured under the general liability coverage. A copy of the binder confirming the issuance must be attached to the certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractors under this Contract.

However, if B (1) or (2) cannot be provided, the Town's Attorney, in such Attorney's sole discretion, may approve such other certificate of insurance or insurance document(s) that the Attorney deems acceptable.

C. The minimum insurance policies and/or coverages that shall be provided by the Contractor, including its subcontractors, include the following:

(1) Commercial General Liability: \$1,000,000.00

\$1,000,000.00 General Aggregate Limit (other than Products/Completed Operations).

\$1,000,000.00 Products/Completed Operations Aggregate Limit.

\$1,000,000.00 Personal Injury Liability (including liability for slander, libel, and defamation of character).

\$1,000,000.00 each occurrence limit.

(2) Automobile Liability: \$1,000,000.00 combined single limit with applicable endorsement to cover waste cargo.

(3) **Workers' Compensation and Employer's Liability:**

Workers' Compensation: statutory coverage for Virginia

Employer's Liability:

\$100,000.00 Bodily Injury by Accident each occurrence

\$500,000.00 Bodily Injury by Disease Policy Limit.

\$100,000.00 Bodily Injury by Disease each employee.

(A) Errors and Omissions coverage in an amount of not less than \$1,000,000 per occurrence and in the aggregate. Coverage may be written on an occurrence or claims made coverage form. However, if a claim made coverage form is used, coverage must remain in effect for a minimum of 3 years after the Contractor's work is concluded.

(4) The required limits of insurance for this Contract may be achieved by combining underlying primary coverage with an umbrella liability coverage to apply in excess of the general and automobile liability policies, provided that such umbrella liability policy follows the form of the underlying primary coverage.

(5) Such insurance policies and/or coverages shall provide for coverage against any and all claims and demands made by a person or persons or any other entity for property damages or bodily or personal injury (including death) incurred in connection with the services, work, items, and/or other matters to be provided under this Contract with respect to the commercial general liability coverages and the automobile liability coverages. With respect to the workers' compensation coverage, Contractor's and its subcontractors' insurance company shall waive

rights of subrogation against the Town and its officers, employees, agents, assigns, and volunteers.

- (6) Contractor shall provide such other insurance policies and/or coverages that may be required by other parts of this Contract. If required by the Contract, such policies and/or coverages could include, but are not limited to, Errors and Omissions/Professional Liability, Crime/ Fidelity, Environmental and/or Pollution, Builder's Risk, Umbrella/Excess.

D. Proof of Insurance Coverage:

- (1) Contractor shall furnish the Town with the above required certificates of insurance showing the type, amount, effective dates, and date of expiration of the policies.
- (2) Where waiver of subrogation is required with respect to any policy of insurance required under this Section, such waiver shall be specified on the certificate of insurance.

E. Insurance coverage shall be in a form and with an insurance company approved by the Town, which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Contract shall be authorized to do business in the Commonwealth of Virginia.

F. The Contractor's insurance policies and/or coverages shall not contain any exclusions for the Contractor's subcontractors.

G. The continued maintenance of the insurance policies and coverages required by the Contract is a continuing obligation, and the lapse and/or termination of any such policies or coverages without approved replacement policies and/or coverages being obtained shall be grounds for termination of the Contractor for default.

H. Nothing contained in the insurance requirements is to be construed as limiting the liability of the Contractor, and/or its subcontractors, or their insurance carriers. The Town does not in any way represent that the coverages or the limits of insurance specified are sufficient or adequate to protect the Contractor's interest or liabilities but are merely minimums. The obligation of the Contractor, and its subcontractors, to purchase insurance shall not in any way limit the obligations of the Contractor in the event that the Town or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance. Furthermore, there is no requirement or obligation for the Town to seek any recovery against the Contractor's insurance company before seeking recovery directly from the Contractor.

ANTICOLLUSION / DRUG FREE WORKPLACE CLAUSES

ANTICOLLUSION CLAUSE:

IN THE PREPARATION AND SUBMISSION OF THIS BID, SAID BIDDER DID NOT EITHER DIRECTLY OR INDIRECTLY ENTER INTO ANY COMBINATION OR ARRANGEMENT WITH ANY PERSON, FIRM OR CORPORATION, OR ENTER INTO ANY AGREEMENT, PARTICIPATE IN ANY COLLUSION, OR OTHERWISE TAKE ANY ACTION IN THE RESTRAINT OF FREE, COMPETITIVE BIDDING IN VIOLATION OF THE SHERMAN ACT (15 U.S.C. SECTION 1), SECTIONS 59.1-9.1 THROUGH 59.1-9.17 OR SECTIONS 59.1-68.6 THROUGH 59.1-68.8 OF THE CODE OF VIRGINIA.

THE UNDERSIGNED BIDDER HEREBY CERTIFIES THAT THIS AGREEMENT, OR ANY CLAIMS RESULTING THEREFROM, IS NOT THE RESULT OF, OR AFFECTED BY, ANY ACT OF COLLUSION WITH, OR ANY ACT OF, ANOTHER PERSON OR PERSONS, FIRM OR CORPORATION ENGAGED IN THE SAME LINE OF BUSINESS OR COMMERCE; AND, THAT NO PERSON ACTING FOR, OR EMPLOYED BY, THE ISLE OF WIGHT COUNTY HAS AN INTEREST IN, OR IS CONCERNED WITH, THIS BID; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS BID.

DRUG-FREE WORKPLACE:

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 ON BEHALF OF THE CONTRACTOR THAT THE CONTRACTOR MAINTAINS A DRUG-FREE WORKPLACE; AND (IV) INCLUDE THE PROVISIONS OF THE FOREGOING SECTIONS I, II, AND III IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

FOR THE PURPOSE OF THIS SECTION, "DRUG-FREE WORKPLACE" MEANS A SITE FOR THE PERFORMANCE OR 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 ANY CONTROLLED SUBSTANCE OR MARIJUANA DURING THE PERFORMANCE OF THE CONTRACT.

Name and Address of Bidder:	Date:
	By:
	Signature In Ink
	Printed Name
Telephone Number: ()	Title
Fax Phone Number: ()	
FIN/SSN#:	

Is your firm a "minority" business? Yes No If yes, please indicate the "minority" classification below:
 African American Hispanic American American Indian Eskimo Asian American Aleut
 Other; Please Explain: _____
 Is your firm Woman Owned? Yes No Is your firm a Small Business? Yes No

PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

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

Pursuant to Virginia Code §2.2-4311.2 an Offeror/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 proposal/bid the identification number issued to it by the State Corporation Commission (“SCC”). Any Offeror/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 proposal/bid a statement describing why the Offeror/Bidder is not required to be so authorized. Any Offeror/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 establish to implement this section is granted by the Town Manager, as applicable.

If this quote for goods or services is accepted by the Town of Smithfield, 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.

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

_____.

B. _____ Offeror/Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such vendor’s identification Number issued to it by the SCC is

_____.

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

Please attach additional sheets if you need to explain why such Offeror/Bidder is not required to be authorized to transact business in Virginia.

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

Legal Name of Offeror/Bidder

Date

Authorized Signature

Print or Type Name and Title

RETURN THIS PAGE WITH COPIES OF DOCUMENTATION

BID BOND

KNOW ALL MEN BY THOSE PRESENT: That we, the undersigned: _____ as Principal, and _____, as Surety, are hereby held and firmly bound unto the Town of Smithfield as Owner in the penal sum of five (5%) percent of the Total Lump Sum Bid for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns. Signed, this ____ day of _____ 20___. The condition of the above obligation is such that whereas the Principal has submitted to the Town of Smithfield a certain BID, attached hereto and herby made a part thereof to enter into an Agreement in writing, for the **Relining of Well # 8A, IFB #2020-003**.

NOW, THEREFORE,

- a) If said BID shall be rejected, or
- b) If said BID shall be accepted and the Principal shall execute and deliver an Agreement in the form attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said Agreement, and from the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all respects perform the Agreement created by the acceptance of said BID, then this obligation shall be void; otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall , in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year set forth above.

Principal

Surety
BY: _____

IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

Section B (*Successful Bidder Submits*)

The items on the following pages are to be filled out and returned only by successful bidder(s) once a notice of intent to award is issued:

PERFORMANCE BOND

(CONTRACT DOCUMENT TO BE COMPLETED AT TIME OF AWARD)

Bond No. _____

Amount: \$ _____

KNOW ALL PERSONS BY THESE PRESENTS, that

_____ of _____, hereinafter called the Contractor and _____ a corporation duly organized and existing under and by virtue of the laws of the State of _____, hereinafter called the Surety, and authorized to transact business within the Commonwealth of Virginia as the Surety, are held and firmly bound unto the Town of Smithfield, Virginia as Owner, in the sum of _____ dollars (\$ _____), lawful money of the United States of America, for payment of which, well and truly be made to the Owner, the Contractor and the Surety bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, the Contractor has executed and entered into a certain Agreement, hereto attached, with the Owner dated _____, 2020, for project location(s) _____ as described in the bid titled, **Relining of Well # 8A, IFB #2020-003**, including detailed plans.

NOW THEREFORE, if the Contractor, and its successors and assigns, shall at all times duly, promptly, and faithfully perform the Work and any alteration in or addition to the obligations of the Contractor arising there under, including the matter of infringement, if any, of patents or other proprietary rights, and shall assure all guarantees against defective workmanship and materials, including the guarantee period following final completion by the Contractor and final acceptance by the Owner and comply with all the covenants therein contained in the Specifications, Drawings, and other Contract Documents required to be performed by the Contractor, in the manner and within the times provided in the Agreement, and shall fully indemnify and save harmless the Owner from all costs and damage which it may suffer by reason or failure to do so, and shall fully reimburse and repay it all outlay and expenses which it may incur in making good any default, and reasonable counsel fees incurred in the prosecution of or defense of any action arising out of or in connection with any such default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that the Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract Documents or to the Work to be performed there under, or payment there under before the time required therein, or waiver of any provision thereof, or assignment, subletting or transfer thereof or any part thereof, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, addition to the terms of the Contract Documents or any such payment, waiver, assignment, subcontract or transfer.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied. Whenever Contractor shall be declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations there under, the Owner shall have the right, at its option, to require the Surety to promptly proceed to remedy the default within 30 days of notice by proceeding or procuring others to proceed with completing the Agreement with its terms and conditions; and all reserves, deferred payments, and other funds provided by the Agreement to be paid to Contractor shall be paid to Surety at the same times and under the same conditions as by the terms of that Agreement such fund would have been paid to Contractor had the Agreement been performed by Contractor; and Surety shall be entitled to such funds in preference to any assignee of Principal of any adverse claimant. Notwithstanding the above, the Owner shall have

the right, with the approval of the Surety which shall not be unreasonably withheld, to take over and assume completion of the Agreement and be promptly paid in cash by the Surety for the cost of such completion less the balance of the Contract price.

IN WITNESS WHEREOF, all above parties bounded together have executed this instrument this ____ day of _____, 2020, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

CONTRACTOR

By: _____ (Seal)

Name: _____

Title: _____

Attest

SURETY

By: _____ (Seal)

Attest

APPROVED AS TO FORM: _____, 20__

William H. Riddick, III, Town Attorney

NOTE: Date of Bond shall not be prior to the date of the Agreement. If the Contractor is a partnership, all partners shall execute the Bond.

IMPORTANT: The Surety named on this Bond shall be one who is licensed to conduct business in the Commonwealth of Virginia and named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent shall be accompanied by a certified copy of the authority to act for the Surety at the time of signing of this Bond.

PAYMENT BOND

(CONTRACT DOCUMENT TO BE COMPLETED AT TIME OF AWARD)

Bond No. _____

Amount: _____

KNOW ALL PERSONS BY THESE PRESENTS, that _____ of _____ hereinafter called the Contractor and _____, a Corporation duly organized and existing under and by virtue of the laws of the State _____, Virginia as the Surety, are held and firmly bound unto the Town of Smithfield, Virginia as Owner, in the sum of _____ dollars (\$ _____), lawful money of the United States of America, for payment of which, well and truly be made to the Owner, the Contractor and the Surety bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, the Contractor has executed and entered into a certain Agreement, hereto attached, with the Owner dated _____, 2020, for the construction of stormwater improvements as described and awarded to the Contractor for project location(s) _____ according to the bid entitled, **Relining of Well # 8A, IFB #2020-003.**

Detailed drawings are shown and part of the Agreement.

NOW THEREFORE, if the Contractor shall promptly make payments to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the Work provided for in the Agreement, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, repairs on machinery, equipment, and tools consumed, used or rented in connection with the construction of the Work, and all insurance premiums on the Work, and for all labor performed in the Work, whether by Subcontractor or otherwise, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract Documents or to the Work to be performed there under, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract Documents.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, all above parties bounded together have executed this instrument this _____ day of _____, 2020, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

CONTRACTOR

By: _____ (Seal)

Name: _____

Title: _____

Attest

SURETY

By: _____ (Seal)

Attest

APPROVED AS TO FORM: _____, 20__

William H. Riddick, III, Town Attorney

NOTE: Date of Bond shall not be prior to the date of the Agreement. If the Contractor is a partnership, all partners shall execute the Bond.

IMPORTANT: The Surety named on this Bond shall be one who is licensed to conduct business in the Commonwealth of Virginia and named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent shall be accompanied by a certified copy of the authority to act for the Surety at the time of signing of this Bond.

AGREEMENT

THIS AGREEMENT, made and entered into this day of _____, 2020, by and between the Town of Smithfield, VIRGINIA, whose principal office is 310 Institute Street, Smithfield, Virginia 23430, hereinafter called "OWNER", party of the first part, and _____ hereinafter referred to as "CONTRACTOR", party of the second part.

The CONTRACTOR did, on the ____ day of _____, 2020 submit a sealed bid to perform the services at _____ stipulated in accordance with plans and specifications prepared by the OWNER entitled for the project location(s) awarded, _____ described, **Relining of Well # 8A, IFB #2020-003**

Details are shown on plans, which by reference is made a part hereof.

It is mutually understood and agreed by the parties hereto that the Invitation to Bid inviting Contractors to bid as published, Instructions to Bidder, Schedule of Unit Prices, Bid Form, Bid Bond, Contract Agreement, Hold Harmless Agreement, Certificate of Insurance, Scope of Services and Drawings, all proceedings by the governing body of the OWNER pertaining to the subject matter of this Contract, all of which documents are hereinafter referred to as Contract Documents and are a part of this Contract by reference the same as if each had been fully set out and attached hereto.

In consideration of the following mutual agreements and covenants to be kept by each party:

- a. The CONTRACTOR agrees to furnish and pay for all labor, permits, tools, equipment, machinery, supplies, facilities, superintendence, insurance, taxes, utilities and services necessary to perform all items set forth in the written Contract Documents hereto attached and made a part hereof in strict compliance with the Contract Documents and Total Bid for a sum of _____ (the "Contract Sum"), subject to adjustment as provided in said documents.
- b. Invoice payments for work completed under this contract shall be made in strict accordance with the project specifications and any special conditions attached thereto.
- c. It is understood and agreed that all work shall be accomplished in strict compliance with the provisions of the Contract Documents. It is understood and agreed by both the Town and the Contractor that any modifications or additions to this agreement shall be made only by the full execution of the Town's standard contract change order form. Furthermore, it is understood and agreed by both parties that any work done by the CONTRACTOR on any such modification or addition to this AGREEMENT prior to the Town's execution of its standard Contract Change Order form shall be at the total risk of the CONTRACTOR and said work shall not be compensated by the County.
- d. CONTRACTOR agrees that final completion shall be in accordance with the final completion date on the Notice to Proceed.
- e. The parties agree that damages due to delay in completion of the work are uncertain and not readily capable of ascertainment. Accordingly, if the CONTRACTOR shall fail to complete the work or any part thereof

within the time stipulated, or an applicable extension thereof, the CONTRACTOR shall pay to the OWNER as fixed and agreed, liquidated damages for each calendar day of delay until the delayed work is corrected or accepted, an amount of \$500 per day. The parties agree that this sum is proportionate to the probable loss and is not a penalty.

- a) The CONTRACTOR expressly waives any defense as to the validity of any liquidated damages stated in this Agreement as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

IN WITNESS WHEREOF, the parties hereto have executed and sealed this Agreement as of the day and year first above written.

OWNER: Town of Smithfield, Virginia

By: _____

Michael R. Stallings, Jr., Town Manager

CONTRACTOR:

By: _____

ATTEST:

By: _____

Title: _____

Approved as to form:

William H. Riddick, III, Town Attorney

COUNTY OF ISLE OF WIGHT
CONSTRUCTION CONTRACT ESCROW AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20__, by, between and among the Town of Smithfield (County), a political subdivision of the Commonwealth of Virginia, _____(Contractor), _____ (Name of Bank), having its principle place of business at _____ (Address of Bank), a trust company, bank, or savings and loan institution (hereinafter referred to collectively as "Bank") and _____(Surety).

The parties hereto agree as follows:

The Town and the Contractor have entered into a contract with respect to: **Relining of Well # 8A, IFB #2020-003**. ("the 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 by the Contractor.

To assure full and satisfactory performance by the Contractor of its obligations under the CONTRACT, the Town is required thereby to retain certain amounts otherwise due the Contractor. The Contractor has, with the approval of the Town, 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.

The Town 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 Town, the Contractor shall look solely to the Bank for the payment of funds retained under the CONTRACT and paid by the Town to the Bank. The risk of loss by diminution of the principal of any funds invested under the terms of this Agreement 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 his interest in the escrow account or any part thereof, except to the Surety.

Upon receipt of checks drawn by the Town and made payable to it as escrow agent, the Bank shall promptly notify the Contractor, negotiate the same and 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.

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 evidences of indebtedness unconditionally guaranteed as to the payment of principal and interest by the United States,
3. Bonds or notes of the Commonwealth of Virginia,
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, 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.

The Contractor may from time to time withdraw the whole or any portion of the escrow 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 Town Manager, Town Treasurer, or Town Engineer, the Bank shall pay the principal of the fund, or any specified amount thereof, to the Town. 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 Town Manager, Town Treasurer, or Town Engineer, 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.

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.

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.

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.

TOWN OF SMITHFIELD

BY _____
TOWN MANAGER

ATTEST:

TOWN CLERK

CONTRACTOR

BY _____
OFFICER, PARTNER OR OWNER

BANK

BY _____
PRESIDENT/VICE-PRESIDENT

SURETY

BY _____
ATTORNEY-IN-FACT

APPROVED AS TO FORM: _____
TOWN ATTORNEY

Section C (*Drawings and Technical Specifications*)

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GENERAL CONDITIONS

ARTICLE 1. DEFINITION OF TERMS

- A. THE "**CONTRACT DOCUMENTS**" SHALL CONSIST OF INVITATION TO BID, INSTRUCTIONS TO BIDDERS, BID CONTRACT AGREEMENT, PERFORMANCE BOND, PAYMENT BOND, CONTRACTOR'S CERTIFICATE OF INSURANCE AND ENDORSEMENTS, GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, SPECIFICATION SECTIONS, CONSTRUCTION DETAILS, ADDENDA, THE DRAWINGS, NOTICE OF AWARD, NOTICE TO PROCEED, INCLUDING ALL MODIFICATIONS THERETO INCORPORATED IN ANY OF THE DOCUMENTS BEFORE AND AFTER EXECUTION OF THE AGREEMENT.
- B. THE WORD "**OWNER**" IS USED TO DESIGNATE THE DULY CONSTITUTED GOVERNMENT OF ISLE OF WIGHT COUNTY, VIRGINIA, ACTING THROUGH THE PROPERLY AUTHORIZED REPRESENTATIVES.
- C. THE WORD "**ENGINEER**" SHALL MEAN THE ENGINEER DESIGNATED BY THE OWNER, WHETHER ACTING DIRECTLY OR THROUGH PROPERLY AUTHORIZED AGENTS, INSPECTORS OR REPRESENTATIVES OF THE ENGINEER, ACTING WITHIN THE SCOPE OF DUTIES ENTRUSTED TO THEM. IN THE EVENT THE OWNER SHOULD NOT REQUIRE THE SERVICES OF THE ENGINEER FOR CONTRACT ADMINISTRATION OR INSPECTIONS, THEN THE POWERS, DUTIES, AND RESPONSIBILITIES CONFERRED HEREIN TO THE ENGINEER SHALL BE CONSTRUED TO BE THOSE OF THE OWNER.
- D. THE WORD "**BIDDER**" SHALL BE USED TO DESIGNATE ANY PARTY OR PARTIES SUBMITTING IN PROPER FORM A BID TO PERFORM THE WORK HEREINAFTER SPECIFIED. THE SUCCESSFUL BIDDER, SELECTED BY THE OWNER TO PERFORM THE WORK SPECIFIED, WILL THEREAFTER BE KNOWN AS THE CONTRACTOR.
- E. THE WORD "**CONTRACTOR**" IS USED TO DESIGNATE THE PARTY OR PARTIES CONTRACTING TO PERFORM THE WORK OR HIS OR THEIR HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS, OR ASSIGNS.
- F. THE WORD "**SUPERINTENDENT**" SHALL BE USED TO DESIGNATE THE PERSON APPOINTED BY THE CONTRACTOR, ACTING UNDER HIS INSTRUCTIONS AND IN DIRECT CHARGE OF THE WORK FOR THE CONTRACTOR.
- G. THE TERM "**SUBCONTRACTOR**" SHALL MEAN ANY INDIVIDUAL, FIRM OR CORPORATION HAVING A DIRECT CONTRACT, WITH THE CONTRACTOR OR WITH ANY OTHER SUBCONTRACTOR FOR PERFORMANCE OF ANY PART OF THE WORK.
- H. THE TERM "**WORK**" SHALL INCLUDE LABOR, MATERIALS, EQUIPMENT, TRANSPORTATION, SUPERVISION, OR OTHER FACILITIES, DUTIES, OR INCIDENTALS NECESSARY TO COMPLETE THE PROJECT IN COMPLIANCE WITH THE TERMS OF THE CONTRACT DOCUMENTS.
- I. THE WORD "**PROJECT**" SHALL MEAN THE ENTIRE CONSTRUCTION TO BE PERFORMED AS PROVIDED IN THE CONTRACT DOCUMENTS.
- J. "**PROJECT AREA**" SHALL MEAN THE AREA WHERE WORK IS BEING PERFORMED FOR THE TOWN OF SMITHFIELD, VIRGINIA.

- K. **"WRITTEN NOTICE"** SHALL BE DEEMED TO HAVE BEEN DULY SERVED IF DELIVERED IN PERSON TO THE INDIVIDUAL OR TO A MEMBER OF THE FIRM OR TO AN OFFICER OF THE CORPORATION FOR WHOM IT IS INTENDED, OR IF DELIVERED AT OR SENT BY REGISTERED MAIL TO THE LAST BUSINESS ADDRESS KNOWN TO HIM WHO GIVES THE NOTICE.
- L. THE WORDS **"AS DIRECTED," "AS REQUIRED," "AS PERMITTED," "AS ALLOWED,"** OR PHRASES OF LIKE EFFECT OR IMPORT AS USED HEREIN SHALL MEAN THAT THE DIRECTION, REQUIREMENT, PERMISSION OR ALLOWANCE OF THE ENGINEER OR OWNER IS INTENDED, AND SIMILARLY THE WORDS **"ACCEPTED," "APPROVED," "REASONABLE," "SUITABLE," "PROPERLY," "SATISFACTORY,"** OR WORDS OF LIKE EFFECT OR IMPORT, UNLESS OTHERWISE PARTICULARLY SPECIFIED HERE, SHALL MEAN ACCEPTABLE, APPROVED, REASONABLE, SUITABLE, PROPERLY OR SATISFACTORY IN THE JUDGMENT OF THE ENGINEER OR OWNER.
- M. THE WORD **"ADDENDUM"** SHALL MEAN A MODIFICATION OF THE CONTRACT DOCUMENTS ISSUED IN WRITING BY THE ENGINEER OR OWNER PRIOR TO THE OPENING OF THE BIDS.
- N. THE TERM **"FIELD ORDER"** SHALL MEAN A WRITTEN ORDER ISSUED BY THE OWNER SUBSEQUENT TO THE FORMAL EXECUTION OF THE CONTRACT DOCUMENTS. WHICH ORDERS MINOR CHANGES IN THE WORK WHICH ARE COMPATIBLE WITH THE DESIGN CONCEPT OF THE COMPLETED PROJECT AS A FUNCTIONING WHOLE AS INDICATED BY THE CONTRACT DOCUMENTS BUT WHICH DOES NOT INVOLVE A CHANGE IN CONTRACT PRICE OR THE CONTRACT TIMES.
- O. THE TERM **"CHANGE ORDER"** SHALL MEAN A MODIFICATION OF THE CONTRACT REQUIREMENTS ISSUED IN WRITING BY THE OWNER SUBSEQUENT TO THE FORMAL EXECUTION OF THE CONTRACT DOCUMENTS WHICH INVOLVES A CHANGE IN CONTRACT PRICE OR THE CONTRACT TIMES.
- P. ALL TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE CONTRACT. UNLESS SPECIFICALLY NOTED OTHERWISE, ALL "DAYS" SHALL BE CONSTRUED TO MEAN CALENDAR DAYS.
- Q. THE WORDS **"SUBSTANTIAL COMPLETION"** SHALL MEAN THE WORK (OR A SPECIFIED PORTION THEREOF) HAS PROGRESSED TO THE POINT WHERE, IN THE OPINION OF THE ENGINEER, IT IS SUFFICIENTLY COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, SO THAT THE WORK CAN BE UTILIZED FOR THE PURPOSES FOR WHICH IT WAS INTENDED.
- R. THE TERM **"OR APPROVED EQUAL"** PERTAINS TO THE USE OF MATERIALS CURRENTLY ACCEPTED BY THE DEPARTMENT OF PUBLIC UTILITIES. ITEMS NOT CURRENTLY ACCEPTED MUST BE SUBMITTED FOR REVIEW AND APPROVAL PRIOR TO INCORPORATION IN THE WORK.
- S. THE TERM **"FORCE ACCOUNT"** SHALL MEAN WORK NOT SHOWN ON THE PLANS OR REQUIRED BY THE CONTRACT DOCUMENTS THAT IS NECESSARY FOR THE COMPLETION OF THE CONTRACT, WHICH SHALL BE CONSIDERED ADDITIONAL WORK AND WILL BE PAID FOR IN THE MANNER SET FORTH HEREINAFTER.

ARTICLE 2. EXECUTION, CORRELATION, AND INTENT OF CONTRACT DOCUMENTS.

THE CONTRACT DOCUMENTS SHALL BE EXECUTED BY THE OWNER AND THE CONTRACTOR IN SUCH NUMBERS AS REQUIRED BY THE OWNER.

THE CONTRACT DOCUMENTS ARE COMPLEMENTARY AND WHAT IS CALLED FOR BY ANY ONE SHALL BE AS BINDING AS IF CALLED FOR BY ALL. THE INTENTION OF THE DOCUMENTS IS TO INCLUDE ALL LABOR AND MATERIALS, EQUIPMENT, AND SUPPLIES NECESSARY FOR THE PROPER EXECUTION OF THE WORK. IT IS NOT INTENDED, HOWEVER, THAT MATERIALS OR WORK NOT COVERED BY OR PROPERLY INFERABLE FROM ANY HEADING, BRANCH, CLASS, OR TRADE OF THE SPECIFICATIONS SHALL BE SUPPLIED UNLESS DISTINCTLY SO NOTED ON THE DRAWINGS. MATERIALS OR WORK DESCRIBED IN WORDS WHICH SO APPLIED HAVE A WELL-KNOWN TECHNICAL OR TRADE MEANING SHALL BE HELD TO REFER TO SUCH RECOGNIZED STANDARDS. THE DESIGNATION "ARCHITECTURAL," "STRUCTURAL," "ELECTRICAL," AND THE LIKE, IN THE DRAWING TITLES ARE PROVIDED FOR CONVENIENCE ONLY, AND ARE NOT INTENDED TO DEFINE THE WORK TO BE DONE BY ANY TRADES OR SUBCONTRACTORS.

ARTICLE 3. CONTRACTOR'S UNDERSTANDING.

IT IS UNDERSTOOD AND AGREED THAT THE CONTRACTOR HAS, BY CAREFUL EXAMINATION, SATISFIED HIMSELF AS TO THE NATURE AND LOCATION OF THE WORK, THE CONFORMATION OF THE GROUND, THE CHARACTER, EQUIPMENT AND FACILITIES NEEDED PRELIMINARY TO AND DURING THE PROSECUTION OF THE WORK, THE GENERAL AND LOCAL CONDITIONS, AND ALL OTHER MATTERS WHICH CAN IN ANY WAY AFFECT THE WORK UNDER THIS CONTRACT. NO VERBAL AGREEMENT OR CONVERSATION WITH ANY OFFICER, AGENT OR EMPLOYEE OF THE OWNER, EITHER BEFORE OR AFTER THE EXECUTION OF THIS CONTRACT, SHALL AFFECT OR MODIFY ANY OF THE TERMS OR OBLIGATIONS HEREIN CONTAINED.

THE SUBMISSION OF A BID SHALL BE PRIMA FACIE EVIDENCE THAT THE BIDDER THOROUGHLY UNDERSTANDS THE DRAWINGS, TERMS OF THE SPECIFICATIONS, AND HAS MADE HIMSELF FAMILIAR WITH ALL FEDERAL AND STATE LAWS, LOCAL LAWS, ORDINANCES, AND REGULATIONS WHICH IN ANY MANNER AFFECT THE WORK OR ITS PROSECUTION.

ARTICLE 4. CONSTRUCTION STANDARDS.

THE CONTRACTOR WILL BE RESPONSIBLE FOR COMPLYING WITH ISLE OF WIGHT COUNTY, DEPARTMENT OF PUBLIC UTILITIES CONSTRUCTION SPECIFICATIONS AND STANDARDS FOR WATERWORKS AND SANITARY SEWERAGE FACILITIES DATED OCTOBER, 1996, AND ALL REVISIONS THERETO WHERE CONFLICTS OCCUR WITH THE STANDARDS AND THE REQUIREMENTS SET FORTH HEREIN, THE STANDARDS SHALL GOVERN. WAIVER OF ANY REQUIREMENTS SET FORTH BY THE STANDARDS IS AT THE DISCRETION OF THE OWNER.

ARTICLE 5. DETAILED DRAWINGS AND INSTRUCTIONS.

THE ENGINEER SHALL FURNISH WITH REASONABLE PROMPTNESS, ADDITIONAL INSTRUCTION, BY MEANS OF DRAWINGS OR OTHERWISE, NECESSARY FOR THE PROPER EXECUTION OF THE WORK. ALL SUCH DRAWINGS AND INSTRUCTIONS SHALL BE CONSISTENT WITH THE CONTRACT DOCUMENTS. WHERE SIZES ARE NOT MARKED PLAINLY ON THE DRAWINGS, THE SIZE OF CORRESPONDING PARTS MAY BE FOLLOWED, OR THE ENGINEER WILL DETERMINE THE SIZES WHEN DIMENSIONS ARE ENTIRELY OMITTED.

THE CONTRACTOR SHALL VERIFY ALL FIGURES ON THE PLANS AND WILL BE RESPONSIBLE FOR THE PROPER COORDINATION OF ALL DIMENSIONS AS WELL AS THE DIFFERENT PARTS OF THE WORK.

ARTICLE 6. SHOP DRAWINGS.

- A. THE TERM "SHOP DRAWINGS," AS USED HEREIN SHALL INCLUDE FABRICATION, ERECTION AND SETTING DRAWINGS, MANUFACTURERS' STANDARD DRAWINGS, SCHEDULES, DESCRIPTIVE LITERATURE, CATALOGS, BROCHURES, PERFORMANCE AND TEST DATA, WIRING AND CONTROL DIAGRAMS AND ALL OTHER DESCRIPTIVE DATA PERTAINING TO THE MATERIALS AND EQUIPMENT AS REQUIRED TO DEMONSTRATE COMPLIANCE WITH THE CONTRACT REQUIREMENTS.
- B. THE CONTRACTOR SHALL SUBMIT FOR THE APPROVAL OF THE OWNER ALL SHOP DRAWINGS REQUIRED BY THE SPECIFICATIONS OR REQUESTED BY THE OWNER. ALL SUCH SUBMISSIONS SHALL BE MADE WITH SUCH PROMPTNESS AS TO CAUSE NO DELAY IN THIS OR ANY OTHER CONTRACTOR ON THE PROJECT, AND TO ALLOW REASONABLE TIME FOR REVIEW.
- C. SHOP DRAWINGS SHALL BE SUBMITTED IN SUCH NUMBER OF COPIES THAT THREE (3) COPIES MAY BE RETAINED BY THE OWNER. EACH SUBMISSION SHALL BE ACCOMPANIED BY A LETTER OF TRANSMITTAL IN DUPLICATE, LISTING THE CONTENTS OF THE SUBMISSION AND IDENTIFYING EACH ITEM BY REFERENCE TO SPECIFICATION SECTION OR DRAWING. ALL SHOP DRAWINGS SHALL BE CLEARLY LABELED WITH THE NAME OF THE PROJECT AND OTHER NECESSARY INFORMATION. CATALOG PLATES AND OTHER SIMILAR MATERIAL THAT CANNOT BE SO LABELED CONVENIENTLY, SHALL BE BOUND IN SUITABLE COVERS BEARING THE IDENTIFYING DATA.
- D. SHOP DRAWINGS SHALL BE ACCOMPANIED BY ALL REQUIRED CERTIFICATIONS AND OTHER SUCH SUPPORTING MATERIAL AND SHALL BE SUBMITTED IN SUCH SEQUENCE OR IN SUCH GROUPS THAT ALL RELATED ITEMS MAY BE REVIEWED TOGETHER. WHEN SHOP DRAWINGS CANNOT BE REVIEWED BECAUSE THE SUBMISSION IS NOT COMPLETE, OR BECAUSE SHOP DRAWINGS ON RELATED ITEMS HAVE NOT BEEN RECEIVED, THEN SUCH SHOP DRAWINGS WILL BE RETURNED WITHOUT ACTION OR WILL BE HELD, AND NOT REVIEWED, UNTIL THE LACKING MATERIAL IS RECEIVED.
- E. SHOP DRAWINGS SHALL HAVE BEEN CHECKED BY THE CONTRACTOR AND COORDINATED WITH ALL OTHER RELATED OR AFFECTED WORK BEFORE THEY ARE SUBMITTED FOR APPROVAL AND SHALL BEAR THE CONTRACTOR'S CERTIFICATION THAT HE HAS CHECKED AND APPROVED THEM AS COMPLYING WITH THE INFORMATION GIVEN IN THE CONTRACT DOCUMENTS. SHOP DRAWINGS SUBMITTED WITHOUT SUCH CERTIFICATION AND COORDINATION WILL BE RETURNED TO THE CONTRACTOR WITHOUT ACTION AND WILL NOT BE CONSIDERED A FORMAL SUBMISSION.
- F. IF THE SHOP DRAWINGS SHOW VARIATIONS FROM THE DRAWINGS AND SPECIFICATIONS BECAUSE OF STANDARD SHOP PRACTICE OR OTHER REASONS, THE CONTRACTOR SHALL MAKE SPECIFIC MENTION OF SUCH VARIATION IN HIS LETTER OF TRANSMITTAL IN ORDER THAT, IF ACCEPTABLE, SUITABLE ACTION MAY BE TAKEN FOR PROPER ADJUSTMENT; OTHERWISE, THE CONTRACTOR WILL NOT BE RELIEVED OF THE RESPONSIBILITY FOR EXECUTING THE WORK IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS EVEN THOUGH SUCH SHOP DRAWINGS HAVE BEEN APPROVED.
- G. THE OWNER SHALL PASS UPON THE SHOP DRAWINGS WITH REASONABLE PROMPTNESS. REVIEWING AND/OR APPROVAL OF SHOP DRAWINGS WILL BE GENERAL, FOR CONFORMANCE WITH THE DESIGN CONCEPT OF THE PROJECT AND COMPLIANCE WITH THE INFORMATION GIVEN IN THE CONTRACT DOCUMENTS, AND WILL NOT INCLUDE

QUANTITIES, DETAIL DIMENSIONS, NOR ADJUSTMENTS OF DIMENSIONS TO ACTUAL FIELD CONDITIONS. APPROVAL SHALL NOT BE CONSTRUED AS PERMITTING ANY DEPARTURE FROM CONTRACT REQUIREMENTS, AUTHORIZATION OF ANY INCREASE IN PRICE NOR AS RELIEVING THE CONTRACTOR OF THE RESPONSIBILITY FOR ANY ERROR IN DETAILS, DIMENSIONS OR OTHERWISE THAT MAY EXIST.

ARTICLE 7. DISCREPANCIES.

ANY DISCREPANCIES FOUND BETWEEN THE PLANS AND SPECIFICATIONS AND SITE CONDITIONS OR ANY INCONSISTENCIES OR AMBIGUITIES IN THE PLANS OR SPECIFICATIONS SHALL BE IMMEDIATELY REPORTED TO THE ENGINEER, IN WRITING, WHO SHALL PROMPTLY CORRECT SUCH INCONSISTENCIES OR AMBIGUITIES IN WRITING. WORK DONE BY THE CONTRACTOR AFTER HIS DISCOVERY OF SUCH DISCREPANCIES, INCONSISTENCIES OR AMBIGUITIES SHALL BE DONE AT THE CONTRACTOR'S RISK. IF THE CONTRACTOR, IN THE COURSE OF THE WORK, FINDS ANY DISCREPANCY BETWEEN THE DRAWINGS AND THE PHYSICAL CONDITIONS OF THE LOCALITY, OR ANY ERRORS, OR OMISSIONS IN DRAWINGS OR IN THE LAYOUT AS GIVEN BY POINTS AND INSTRUCTIONS, IT SHALL BE HIS DUTY TO IMMEDIATELY INFORM THE ENGINEER AND THE OWNER IN WRITING, AND THE ENGINEER AND OWNER SHALL PROMPTLY VERIFY THE SAME. ANY WORK DONE AFTER SUCH DISCOVERY, UNTIL AUTHORIZED, WILL BE DONE AT THE CONTRACTOR'S RISK AND EXPENSE.

ARTICLE 8. COPIES OF DRAWINGS: ATTACHED.

ARTICLE 9. OWNERSHIP OF DRAWINGS.

ALL DRAWINGS AND SPECIFICATIONS FURNISHED BY THE ENGINEER ARE PROPERTY OF THE OWNER. THEY ARE NOT TO BE USED ON OTHER WORK AND, WITH THE EXCEPTION OF THE SIGNED CONTRACT SET, ARE TO BE RETURNED TO THE OWNER ON REQUEST, AT THE COMPLETION OF THE WORK. ALL MODELS ARE THE PROPERTY OF THE OWNER.

ARTICLE 10. DRAWINGS AND SPECIFICATIONS ON THE WORK.

THE CONTRACTOR SHALL KEEP ONE (1) COPY OF ALL DRAWINGS AND THE SPECIFICATIONS AT THE JOB SITE, IN GOOD ORDER, AVAILABLE TO THE OWNER.

ARTICLE 11. PROGRESS OF THE WORK.

IT IS UNDERSTOOD AND AGREED THAT THE CONTRACTOR WILL EXECUTE THE AGREEMENT WITHIN TEN (10) DAYS AFTER WRITTEN NOTICE OF AWARD. THE CONTRACTOR SHALL PROVIDE AN ADEQUATE FORCE OF LABOR AND EQUIPMENT TO PROSECUTE THE WORK AT AS MANY DIFFERENT POINTS AS MAY BE NECESSARY TO ENSURE THE COMPLETION OF SAME WITHIN THE TIME LIMIT FOR THE COMPLETION AS SET FORTH IN THIS AGREEMENT.

THE CONTRACTOR SHALL FURNISH A PROGRESS SCHEDULE FOR APPROVAL BY THE OWNER AND THE ENGINEER. IT SHALL BE INCUMBENT UPON THE CONTRACTOR TO PROVIDE THE MANPOWER AND EQUIPMENT TO MAINTAIN THIS SCHEDULE. IN THE EVENT PERIODIC ESTIMATES INDICATE THE SCHEDULE IS NOT BEING MET, THE CONTRACTOR MAY BE REQUIRED TO FURNISH IN WRITING TO THE ENGINEER THE METHOD HE PROPOSES TO EMPLOY TO RETURN THE PROJECT TO THE ORIGINAL SCHEDULE. THE OWNER MAY WITHHOLD PAYMENTS IF THE WORK IS NOT PROCEEDING IN ACCORDANCE WITH TERMS OF THIS AGREEMENT. ALL WORK SHALL BE FAITHFULLY UNDERTAKEN, PERFORMED AND COMPLETED WITHIN THE TIME DESIGNATED IN THE CONTRACT, AS TIME IS UNDERSTOOD TO BE THE ESSENCE OF THE CONTRACT.

ARTICLE 12. ORDER OF COMPLETION.

THE CONTRACTOR SHALL SUBMIT AT SUCH TIME AS MAY BE REQUESTED BY THE OWNER, SCHEDULES WHICH SHALL SHOW THE ORDER IN WHICH THE CONTRACTOR WILL START THE SEVERAL PARTS OF THE WORK AND ESTIMATED DATES OF COMPLETION OF THE SEVERAL PARTS. WHEN APPROVED, SUCH SCHEDULE SHALL GOVERN THE WORK. THE OWNER RESERVES THE RIGHT TO ESTABLISH AN ORDER OF PRECEDENCE FOR THE COMPLETION OF THE WORK.

ARTICLE 13. SUPERINTENDENCE, SUPERVISION.

THE CONTRACTOR SHALL KEEP ON HIS WORK DURING ITS PROGRESS A COMPETENT SUPERINTENDENT AND ANY NECESSARY ASSISTANTS, ALL SATISFACTORY TO THE OWNER. THE SUPERINTENDENT SHALL NOT BE CHANGED EXCEPT WITH THE CONSENT OF THE OWNER, UNLESS THE SUPERINTENDENT PROVES TO BE UNSATISFACTORY TO THE CONTRACTOR AND CEASES TO BE IN HIS EMPLOY. THE SUPERINTENDENT SHALL REPRESENT THE CONTRACTOR IN HIS ABSENCE AND ALL DIRECTIONS GIVEN TO HIM SHALL BE AS BINDING AS IF GIVEN TO THE CONTRACTOR. IMPORTANT DIRECTIONS SHALL BE CONFIRMED UPON WRITTEN REQUEST IN EACH CASE. THE CONTRACTOR SHALL GIVE EFFICIENT SUPERVISION TO THE WORK, USING HIS BEST SKILL AND ATTENTION.

ARTICLE 14. MATERIALS, APPLIANCES, EMPLOYEES.

UNLESS OTHERWISE STIPULATED, THE CONTRACTOR SHALL PROVIDE AND PAY FOR ALL MATERIALS, LABOR, WATER, TOOLS, EQUIPMENT, LIGHT, POWER, TRANSPORTATION, SANITARY FACILITIES, AND OTHER FACILITIES NECESSARY FOR THE EXECUTION AND COMPLETION OF THE WORK.

UNLESS OTHERWISE SPECIFIED, ALL MATERIALS SHALL BE NEW AND BOTH WORKMANSHIP AND MATERIALS SHALL BE OF GOOD QUALITY. THE CONTRACTOR SHALL, IF REQUIRED, FURNISH SATISFACTORY EVIDENCE AS TO THE KIND AND QUALITY OF MATERIALS.

THE CHARACTER, CONDITIONS, ADAPTABILITY, AND QUANTITY OF EQUIPMENT USED BY THE CONTRACTOR SHALL BE SUCH AS MAY BE NECESSARY FOR THE PROPER EXECUTION OF THE WORK WITHIN THE SPECIFIED WORKING TIME. THE EQUIPMENT USED SHALL BE MAINTAINED IN GOOD CONDITION AND SHALL BE SUBJECT TO APPROVAL OF THE OWNER PRIOR TO AND DURING ITS USE IN CONNECTION WITH THE WORK TO BE PERFORMED UNDER THIS CONTRACT.

THE CONTRACTOR SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. NO PERSON UNDER THE AGE OF SIXTEEN (16) YEARS, NO PERSON WHO, AT THE TIME, IS SERVING A SENTENCE IN A PENAL OR CORRECTIONAL INSTITUTION, AND NO PERSON WHO HAS BEEN CONVICTED OF COMMISSION OF FRAUD OR A CRIMINAL OFFENSE IN CONNECTION WITH OBTAINING, ATTEMPTING TO OBTAIN, OR PERFORMING A PUBLIC CONTRACT OR SUBCONTRACT, SHALL BE EMPLOYED ON THE WORK COVERED BY THIS CONTRACT.

NEITHER PARTY SHALL EMPLOY OR HIRE ANY EMPLOYEES OF THE OTHER PARTY WITHOUT HIS CONSENT. THE CONTRACTOR SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. IF THE CONTRACTOR OR ANY OF HIS EMPLOYEES AT ANY TIME IN ANY WAY ABUSES PHYSICALLY OR VERBALLY ANY COUNTY EMPLOYEE ENGAGED IN PERFORMANCE OF HIS DUTIES WITH REFERENCE TO SUPERVISION OR INSPECTION OF THE PROJECT OR PERFORMANCE OF ANY OTHER DUTIES RELATED TO THE COUNTY, THE CONTRACTOR MAY BE ORDERED BY THE COUNTY TO REMOVE HIS PERSON AND/OR ANY OF HIS EMPLOYEES ENGAGING IN SUCH CONDUCT FROM THE JOB SITE FOR THE DURATION OF THE CONTRACT. SHOULD THE CONTRACTOR REFUSE TO DO SO, THE CONTRACT MAY IMMEDIATELY AND WITHOUT ADVANCE NOTICE TO SURETIES BE TERMINATED BY THE COUNTY.

ARTICLE 15. ROYALTIES AND PATENTS.

THE CONTRACTOR SHALL PAY ROYALTIES AND LICENSE FEES. HE SHALL DEFEND ALL SUITS OR CLAIMS FOR THE INFRINGEMENT OF ANY PATENT RIGHTS AND SHALL SAVE THE OWNER HARMLESS FROM LOSS ON ACCOUNT THEREOF, EXCEPT THAT THE OWNER SHALL BE RESPONSIBLE FOR ALL SUCH LOSS WHEN A PARTICULAR PROCESS OR THE PRODUCT OF A PARTICULAR MANUFACTURER OR MANUFACTURERS IS SPECIFIED, BUT IF THE CONTRACTOR HAS INFORMATION THAT THE PROCESS OR ARTICLE SPECIFIED IS INFRINGEMENT OF A PATENT, HE SHALL BE RESPONSIBLE FOR SUCH LOSS UNLESS HE PROMPTLY GIVES SUCH INFORMATION IN WRITING TO THE ENGINEER AND OWNER.

ARTICLE 16. SURVEYS, PERMITS, AND REGULATIONS.

PERMITS AND LICENSES NECESSARY FOR THE PROSECUTION OF THE WORK SHALL BE SECURED AND PAID FOR BY THE CONTRACTOR. EASEMENTS AND RIGHT-OF-WAY FOR PERMANENT STRUCTURES OR PERMANENT CHANGES IN EXISTING FACILITIES SHALL BE SECURED AND PAID FOR BY THE OWNER, UNLESS OTHERWISE SPECIFIED.

THE CONTRACTOR WILL HAVE IN HAND, ON SITE, AN APPROVED TRAFFIC CONTROL PLAN AND AN APPROVED HIGHWAY PERMIT PRIOR TO COMMENCEMENT OF CONSTRUCTION. NO CONSTRUCTION WILL BE PERFORMED UNTIL THESE REQUIREMENTS ARE MET.

THE CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, AND REGULATIONS BEARING ON THE CONDUCT OF THE WORK AS DRAWN AND SPECIFIED. IF THE CONTRACTOR OBSERVES THAT THE DRAWINGS AND SPECIFICATIONS ARE AT VARIANCE THEREWITH, HE SHALL PROMPTLY NOTIFY THE ENGINEER AND OWNER IN WRITING, AND ANY NECESSARY CHANGES SHALL BE ADJUSTED AS PROVIDED IN THE CONTRACT FOR CHANGES IN THE WORK. IF THE CONTRACTOR PERFORMS ANY WORK KNOWING IT TO BE CONTRARY TO SUCH LAWS, ORDINANCES, RULES AND REGULATIONS AND WITHOUT SUCH NOTICE TO THE ENGINEER AND OWNER, HE AGREES TO BEAR ALL COSTS AND PENALTIES ARISING THEREFROM.

UNLESS OTHERWISE SPECIFIED, THE OWNER SHALL FURNISH ALL LAND SURVEYS AND ESTABLISH ALL BASE LINES FOR LOCATING THE PRINCIPAL COMPONENT PARTS OF THE WORK TOGETHER WITH A SUITABLE NUMBER OF BENCHMARKS ADJACENT TO THE WORK. FROM THE INFORMATION PROVIDED BY THE OWNER, THE CONTRACTOR SHALL DEVELOP AND MAKE ALL DETAIL SURVEYS NEEDED FOR CONSTRUCTION.

ARTICLE 17. POINTS AND INSTRUCTIONS.

THE CONTRACTOR SHALL PROVIDE REASONABLE AND NECESSARY OPPORTUNITIES AND FACILITIES FOR SETTING POINTS AND MAKING MEASUREMENTS. HE SHALL NOT PROCEED UNTIL HE HAS MADE TIMELY DEMAND UPON THE OWNER FOR, AND HAS RECEIVED FROM HIM, SUCH POINTS AND INSTRUCTIONS AS MAY BE NECESSARY AS THE WORK PROGRESSES. THE WORK SHALL BE DONE IN STRICT CONFORMITY WITH SUCH POINTS AND INSTRUCTIONS.

ARTICLE 18. EXISTING STRUCTURES.

THE LOCATION OF EXISTING SEWERS, WATER AND GAS PIPES, CONDUITS AND OTHER STRUCTURES ACROSS OR ALONG THE LINE OF THE PROPOSED WORK ARE NOT NECESSARILY SHOWN ON THE PLANS, AND IF SHOWN, THE LOCATION, DEPTH AND DIMENSION OF SUCH STRUCTURE ARE ONLY APPROXIMATELY CORRECT. THE CONTRACTOR SHALL HAVE A WORKING PIPE LOCATOR ON THE JOB AT ALL TIMES.

THE CONTRACTOR SHALL DIG THE NECESSARY TEST HOLES FOR THE PURPOSE OF LOCATING EXISTING UNDERGROUND STRUCTURES. SUCH EXCAVATION SHALL NOT BE UNDERTAKEN WITHOUT FORTY-EIGHT (48) HOURS PRIOR NOTICE TO THE OWNER.

NO CLAIMS FOR DAMAGES OR EXTRA COMPENSATION SHALL ACCRUE TO THE CONTRACTOR FROM THE PRESENCE OF SUCH PIPE OR OTHER OBSTRUCTION OR FROM ANY DELAY DUE TO REMOVAL OR REARRANGEMENT OF SAME.

ARTICLE 19. CARE OF EXISTING STRUCTURES.

THE CONTRACTOR SHALL BE LIABLE FOR ALL DAMAGE DONE TO ANY STRUCTURES OR PROPERTY ARISING THROUGH HIS NEGLIGENCE OR CARELESSNESS. HE SHALL TAKE CARE OF AND MAINTAIN ALL UNDERGROUND, OVERHEAD OR SURFACE UTILITIES ENCOUNTERED IN THE PERFORMANCE OF THE WORK. PRIOR TO COMMENCING WORK, CONTRACTOR SHALL CONTACT THE UTILITY INFORMATION CENTER ("MISS UTILITY"), TELEPHONE 1-800-552-7001 FOR ASSISTANCE IN LOCATING EXISTING UNDERGROUND UTILITIES.

THE CONTRACTOR SHALL OBSERVE ALL PRECAUTIONS WITH RESPECT TO FIRE AND AVOID THE INDISCRIMINATE MUTILATION, OR CUTTING DOWN OF TREES, WITHIN AND OUTSIDE OF PROJECT WORK AREAS OR EASEMENTS. ANY DAMAGE TO PROPERTY OR EASEMENTS NOT IN THE WORK AREA ARISING FROM THE CONTRACTOR'S NEGLIGENCE OR CARELESSNESS IN PERFORMANCE OF THE WORK WILL BE THE CONTRACTOR'S RESPONSIBILITY.

THE CONTRACTOR SHALL NOT USE PRIVATE PROPERTY IN CONNECTION WITH THE WORK UNLESS PRIOR WRITTEN PERMISSION IS OBTAINED FROM THE PROPERTY OWNER. A COPY OF THE WRITTEN PERMISSION SHALL BE FURNISHED TO THE COUNTY ENGINEERING DIVISION. THE WRITTEN STATEMENT OF PERMISSION SHALL ALSO INDICATE THE NAME, ADDRESS, AND PHONE NUMBER OF THE PROPERTY OWNER. IT WILL BE THE RESPONSIBILITY OF THE CONTRACTOR TO TAKE PHOTOGRAPHS OF THE PROPERTY PRIOR TO ITS USE IN CASE OF DISPUTES ARISING FROM THE USE OF THE PROPERTY. VERIFICATION OF OWNERSHIP SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.

ARTICLE 20. PROTECTION OF WORK AND PROPERTY.

THE CONTRACTOR SHALL PROVIDE AND MAINTAIN ALL NECESSARY WATCHMEN, BARRICADES, LIGHTS AND WARNING SIGNS, AND TAKE ALL NECESSARY PRECAUTIONS FOR THE PROTECTION AND SAFETY OF THE PUBLIC. HE SHALL CONTINUOUSLY MAINTAIN ADEQUATE PROTECTION OF ALL WORK FROM DAMAGE AND SHALL TAKE ALL REASONABLE PRECAUTIONS TO PROTECT THE OWNER'S PROPERTY FROM INJURY OR LOSS ARISING IN CONNECTION WITH THIS CONTRACT. HE SHALL MAKE GOOD ANY DAMAGE, INJURY OR LOSS TO HIS WORK AND TO THE PROPERTY OF THE OWNER RESULTING FROM LACK OF REASONABLE PROTECTIVE PRECAUTIONS, EXCEPT SUCH AS MAY BE DUE TO ERRORS IN THE CONTRACT DOCUMENTS OR CAUSED BY AGENT OR EMPLOYEES OF THE OWNER. HE SHALL ADEQUATELY PROTECT ADJACENT PRIVATE AND PUBLIC PROPERTY, AS PROVIDED BY LAW AND THE CONTRACT DOCUMENTS.

IN AN EMERGENCY AFFECTING THE SAFETY OF LIFE OR LOSS OR DAMAGE TO THE WORK OR TO THE ADJOINING PROPERTY, THE CONTRACTOR WITHOUT SPECIAL INSTRUCTION OR AUTHORIZATION FROM THE ENGINEER OR OWNER, IS HEREBY PERMITTED TO ACT, AT HIS DISCRETION, TO PREVENT SUCH THREATENED LOSS OR INJURY, AND HE SHALL SO ACT, WITHOUT APPEAL AS IF INSTRUCTED OR AUTHORIZED. THE CONTRACTOR SHALL PROVIDE WRITTEN DOCUMENTATION CONCERNING THE CIRCUMSTANCES OF THE EMERGENCY TO THE OWNER AS SOON AS PRACTICAL. ANY COMPENSATION, CLAIMED BY THE CONTRACTOR ON ACCOUNT OF EMERGENCY WORK, SHALL BE DETERMINED BY AGREEMENT OR LITIGATION AS PROVIDED FOR IN ARTICLE 59 HEREIN.

THE CONTRACTOR SHALL CAREFULLY PRESERVE BENCHMARKS, REFERENCE POINTS AND STAKES, AND IN CASE OF WILLFUL OR CARELESS DESTRUCTION, HE SHALL BE CHARGED WITH THE RESULTING EXPENSE AND SHALL BE RESPONSIBLE FOR ANY MISTAKES THAT MAY BE CAUSED BY THEIR UNNECESSARY LOSS OR DISTURBANCE.

ARTICLE 21. PROJECT COORDINATION.

WHERE REQUIRED BY STATE, FEDERAL, OR LOCAL REGULATIONS, THE CONTRACTOR SHALL COORDINATE HIS CONSTRUCTION PLAN WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND WILL OBTAIN THEIR APPROVALS TO DATE OF WORK, PERMITS, TYPE OF TEMPORARY PATCHING, TRAFFIC CONTROL, TYPE AND PLACEMENT OF TRAFFIC CONTROLS, SAFETY DEVICES, AND FLAGMEN. EXISTING COUNTY WATER AND SEWER VALVES MAY ONLY BE OPENED AND CLOSED BY OR UNDER THE DIRECT SUPERVISION OF DEPARTMENT OF PUBLIC UTILITIES PERSONNEL. THE ONLY EXCEPTION IS AN EMERGENCY SITUATION AFFECTING PUBLIC HEALTH OR SAFETY IN WHICH CASE THE CONTRACTOR WOULD ACT IN ACCORDANCE WITH ARTICLE 20.

ANY CONTRACTOR FOUND VIOLATING THIS PROVISION MAY BE SUBJECT TO PROSECUTION FOR TAMPERING WITH COUNTY PROPERTY.

WHEN THE CONTRACTOR REQUIRES VALVE OPERATING SERVICES, HE SHALL VERBALLY INFORM THE DEPARTMENT OF PUBLIC UTILITIES AND GIVE WRITTEN NOTICE OF THE REQUIREMENT TO THE PROJECT ENGINEER. THE WRITTEN AND DATED REQUEST SHALL BE DELIVERED TO THE OFFICE OF THE PROJECT ENGINEER AT LEAST FORTY-EIGHT (48) HOURS IN ADVANCE OF THE SERVICE.

ARTICLE 22. INSPECTION OF SITE AND WORK.

THE OWNER AND HIS REPRESENTATIVES SHALL AT ALL TIMES HAVE ACCESS TO THE WORK WHEREVER AND WHENEVER IT IS, IN PREPARATION OR PROGRESS, AND THE CONTRACTOR SHALL PROVIDE FOR SUCH ACCESS AND FOR INSPECTION.

THE OWNER WILL APPOINT SUCH PERSON OR PERSONS AS HE MAY DEEM NECESSARY TO PROPERLY INSPECT THE MATERIALS FURNISHED AND WORK DONE UNDER THE CONTRACT, AND TO SEE THAT THE SAME STRICTLY CORRESPONDS WITH THE DRAWINGS AND SPECIFICATIONS. WORK AND MATERIALS WILL BE INSPECTED PROMPTLY, BUT IF, FOR ANY REASON DELAY SHOULD OCCUR, THE CONTRACTOR SHALL HAVE NO CLAIM FOR DAMAGES OR EXTRA COMPENSATION.

THE FAILURE OF THE INSPECTOR TO REJECT OR CONDEMN IMPROPER MATERIALS AND WORKMANSHIP SHALL NOT PREVENT THE OWNER FROM REJECTING MATERIALS AND WORKMANSHIP FOUND DEFECTIVE AT ANY TIME PRIOR TO THE FINAL ACCEPTANCE OF THE COMPLETED WORK, NOR SHALL IT BE CONSIDERED AS A WAIVER OF ANY DEFECTS WHICH MAY BE DISCOVERED LATER, OR AS PREVENTING THE COUNTY AT ANY TIME PRIOR TO THE EXPIRATION OF THE GUARANTEE PERIOD FROM RECOVERING DAMAGES FOR WORK ACTUALLY DEFECTIVE.

IF THE SPECIFICATIONS, OWNER'S INSTRUCTIONS, LAWS, ORDINANCES, OR ANY PUBLIC AUTHORITY REQUIRE ANY WORK TO BE SPECIFICALLY TESTED OR APPROVED, THE CONTRACTOR SHALL GIVE THE OWNER TIMELY NOTICE OF ITS READINESS FOR INSPECTION AND, IF THE INSPECTION IS BY ANOTHER AUTHORITY THAN THE OWNER, OF THE DATE FIXED FOR SUCH INSPECTION. INSPECTIONS BY THE OWNER SHALL BE PROMPTLY MADE, AND WHERE PRACTICABLE AT THE SOURCE OF SUPPLY. IF ANY WORK SHOULD BE COVERED UP WITHOUT APPROVAL OR CONSENT OF THE OWNER, IT MUST, IF REQUIRED BY THE OWNER, BE UNCOVERED FOR EXAMINATION.

REEXAMINATION OF QUESTIONED WORK MAY BE ORDERED BY THE OWNER AND IF SO ORDERED, THE WORK MUST BE UNCOVERED BY THE CONTRACTOR. IF SUCH WORK BE FOUND IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, THE OWNER SHALL PAY THE COST OF REEXAMINATION AND REPLACEMENT. IF SUCH WORK BE FOUND NOT IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL PAY SUCH COST, UNLESS HE SHALL SHOW THAT THE DEFECT IN THE WORK WAS CAUSED BY ANOTHER CONTRACTOR, AND IN THAT EVENT THE OWNER SHALL SEEK CORRECTIVE ACTION FROM THE OTHER CONTRACTOR.

ARTICLE 23. ENGINEER'S/OWNER'S STATUS.

THE ENGINEER AND/OR OWNER SHALL MAKE PERIODIC VISITS TO THE JOB TO FAMILIARIZE HIMSELF GENERALLY WITH THE PROGRESS AND QUALITY OF THE WORK BEING CONSTRUCTED. HE WILL CARRY OUT REASONABLE INSPECTIONS OF THE WORK TO DETERMINE IF, IN GENERAL, THE CONTRACTOR IS PROCEEDING IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE OWNER MAY STOP THE PROCEEDING IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE OWNER MAY STOP THE WORK WHENEVER SUCH STOPPAGE MAY BE NECESSARY TO INSURE THE PROPER EXECUTION OF THE CONTRACT. HE SHALL ALSO HAVE AUTHORITY TO REJECT ALL WORK AND MATERIALS WHICH DO NOT CONFORM TO THE CONTRACT, TO REQUIRE THE APPLICATION OF FORCES TO ANY PORTION OF THE WORK AS IN HIS JUDGEMENT IS NECESSARY, AND TO DECIDE QUESTIONS WHICH ARISE IN THE EXECUTION OF THE WORK.

ARTICLE 24. CORRECTION OF WORK BEFORE FINAL PAYMENT.

THE CONTRACTOR SHALL PROMPTLY REMOVE FROM THE PREMISES ALL MATERIALS CONDEMNED BY THE OWNER AS FAILING TO CONFORM TO THE CONTRACT, WHETHER INCORPORATED IN THE WORK OR NOT, AND THE CONTRACTOR SHALL PROMPTLY REPLACE AND RE-EXECUTE HIS OWN WORK IN ACCORDANCE WITH THE CONTRACT AND WITHOUT EXPENSE TO THE OWNER AND SHALL BEAR THE EXPENSE OF MAKING GOOD ALL WORK OF OTHERS DESTROYED OR DAMAGED BY SUCH REMOVAL OR REPLACEMENT.

IF THE CONTRACTOR DOES NOT REMOVE SUCH CONDEMNED WORK AND MATERIALS WITHIN A REASONABLE TIME, FIXED BY WRITTEN NOTICE, THE OWNER MAY REMOVE AND THEN MAY STORE THE MATERIALS AT THE EXPENSE OF THE CONTRACTOR. IF THE CONTRACTOR DOES NOT PAY THE EXPENSE OF SUCH REMOVAL AND STORAGE WITHIN TEN (10) DAYS TIME THEREAFTER, THE OWNER MAY UPON TEN (10) DAYS WRITTEN NOTICE, SELL SUCH MATERIALS AT AUCTION OR AT PRIVATE SALE AND SHALL ACCOUNT FOR THE NET PROCEEDS THEREOF AFTER DEDUCTING ALL THE COSTS AND EXPENSES THAT SHOULD HAVE BEEN BORNE BY THE CONTRACTOR.

ARTICLE 25. SUSPENSION OF WORK.

THE OWNER MAY AT ANY TIME SUSPEND THE WORK, OR ANY PART THEREOF BY GIVING TEN (10) DAYS NOTICE TO THE CONTRACTOR IN WRITING. THE WORK SHALL BE RESUMED BY THE CONTRACTOR WITHIN TEN (10) DAYS AFTER THE DATE FIXED IN THE WRITTEN NOTICE FROM THE OWNER TO THE CONTRACTOR TO DO SO. THE OWNER SHALL REIMBURSE THE CONTRACTOR FOR EXPENSES INCURRED BY THE CONTRACTOR IN CONNECTION WITH THE WORK UNDER HIS CONTRACT AS A RESULT OF SUCH SUSPENSION.

BUT IF THE WORK OR ANY PART THEREOF SHALL BE STOPPED BY THE NOTICE IN WRITING AFORESAID, AND IF THE OWNER DOES NOT GIVE NOTICE IN WRITING TO THE CONTRACTOR TO RESUME WORK AT A DATE WITHIN NINETY (90) DAYS OF THE DATE FIXED IN THE WRITTEN NOTICE TO SUSPEND, THE CONTRACTOR MAY ABANDON THAT PORTION OF THE WORK SO SUSPENDED AND HE WILL BE ENTITLED TO PAYMENT FOR ALL WORK COMPLETED UP TO THE DATE OF NOTICE TO SUSPEND IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.

ARTICLE 26. CHANGED CONDITIONS.

NOTWITHSTANDING ANY OTHER PROVISION OR CONDITION SET FORTH IN THE CONTRACT DOCUMENTS AS HEREIN DEFINED, IT IS UNDERSTOOD AND AGREED THAT SHOULD THE CONTRACTOR ENCOUNTER OR THE OWNER DISCOVER, DURING THE PROGRESS OF THE WORK, SUBSURFACE AND/OR LATENT CONDITIONS AT THE SITE MATERIALLY DIFFERING FROM THOSE SHOWN ON THE DRAWINGS OR INDICATED IN THE SPECIFICATIONS, OR UNKNOWN CONDITIONS OF AN UNUSUAL NATURE DIFFERING MATERIALLY FROM THOSE ORDINARILY ENCOUNTERED AND GENERALLY RECOGNIZED AS INHERENT IN WORK OF THE CHARACTER PROVIDED FOR IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL IMMEDIATELY INFORM THE PROJECT ENGINEER VERBALLY AND SHALL THEN FOLLOW UP IN WRITING WITHIN TEN (10) DAYS OF THE FIRST OBSERVATION OF ANY SUCH CONDITION. IF THE CONTRACTOR SHOULD FAIL TO NOTIFY THE PROJECT ENGINEER AS REQUIRED ABOVE, THEN ANY WORK PERFORMED SHALL BE DONE AT THE CONTRACTOR'S RISK AND EXPENSE. IF IT IS FOUND CONDITIONS DO MATERIALLY DIFFER, THE CONTRACT SHALL BE MODIFIED VIA WRITTEN CHANGE ORDER TO PROVIDE ANY INCREASE OR DECREASE OF COST AND/OR DIFFERENCE IN TIME RESULTING FROM SUCH CONDITION; THE OWNER MAY TERMINATE THE CONTRACT DUE TO CHANGED CONDITIONS BY DELIVERY OF WRITTEN NOTICE TO THE CONTRACTOR AND THE CONTRACTOR WILL BE ENTITLED ONLY TO PAYMENT FOR WORK COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AS OF THE RECEIPT OF SUCH NOTICE.

ARTICLE 27. CHANGE OF PLANS.

IT IS AGREED THAT THE ENGINEER, WITH THE APPROVAL OF THE OWNER, MAY MAKE ALTERATIONS FOR LINE, GRADE, PLAN POSITIONS, DIMENSIONS OR MATERIALS OF WORK HEREIN CONTEMPLATED OR ANY PART THEREOF, EITHER BEFORE OR AFTER COMMENCEMENT OF THE CONSTRUCTION UNDER THIS AGREEMENT SO LONG AS SUCH CHANGES DO NOT RENDER THE TERMS OF THE AGREEMENT INAPPLICABLE.

ARTICLE 28. ENGINEER'S/OWNER DECISIONS.

THE OWNER SHALL WITHIN FIFTEEN (15) DAYS TIME AFTER PRESENTATION TO HIM IN WRITING, RENDER DECISIONS, IN WRITING, ON ALL CLAIMS OF THE CONTRACTOR, OR OTHER MATTERS RELATING TO THE EXECUTION AND PROGRESS OF THE WORK.

QUESTIONS WHICH ARISE AND PERTAIN TO THE INTERPRETATION OF THE CONTRACT DOCUMENTS SHALL BE SUBMITTED IN WRITING TO THE ENGINEER. THE ENGINEER SHALL WITHIN FIFTEEN (15) DAYS TIME RENDER A DECISION AS TO THE INTERPRETATION OF THE CONTRACT DOCUMENTS.

ARTICLE 29. CLEANING UP AND RESTORATION OF SITE.

THE CONTRACTOR SHALL, DURING THE PROGRESS OF THE WORK AND AS DIRECTED BY THE OWNER, REMOVE FROM THE OWNER'S PROPERTY AND FROM ALL PUBLIC AND PRIVATE PROPERTY AND RIGHTS-OF-WAY, AT HIS OWN EXPENSE, ALL TEMPORARY STRUCTURES, RUBBISH, DEBRIS, PILES OF EARTH, FOREIGN MATTER, AND WASTE MATERIALS RESULTING FROM HIS OPERATIONS. THE SITE OF THE WORK SHALL BE RESTORED TO THE CONDITIONS EXISTING BEFORE THE WORK WAS STARTED, TO THE SATISFACTION OF THE OWNER. LAWNS, PAVEMENTS, SIDEWALKS, AND OTHER SURFACES SHALL BE PRESERVED WHERE PRACTICABLE BUT IF DAMAGED SHALL BE FULLY RESTORED.

IF THE CONTRACTOR FAILS TO PERFORM CLEANUP AND RESTORATION IN AN ORDERLY, CONTINUOUS, AND EXPEDITIOUS MANNER, THE OWNER MAY TAKE CORRECTIVE ACTION THREE (3) DAYS AFTER DELIVERY OF NOTICE TO DO SO TO THE CONTRACTOR; ANY EXPENSE

RESULTING FROM CORRECTIVE ACTION TAKEN BY THE OWNER FOR CLEANUP OR RESTORATION SHALL BE DEDUCTED FROM PAYMENTS DUE TO THE CONTRACTOR.

ARTICLE 30. FINAL INSPECTION.

THE OWNER SHALL SCHEDULE A FINAL INSPECTION OF THE WORK INCLUDED IN THE CONTRACT WITHIN TEN (10) DAYS AFTER RECEIPT OF WRITTEN NOTIFICATION FROM THE CONTRACTOR THAT THE WORK IS COMPLETED. IF THE WORK IS NOT ACCEPTABLE TO THE ENGINEER OR OWNER, THE CONTRACTOR SHALL BE ADVISED AS TO THE PARTICULAR DEFECTS TO BE REMEDIED BEFORE FINAL ACCEPTANCE CAN BE MADE.

FAILURE OF THE OWNER TO MAKE THIS INSPECTION WITHIN THE TIME SPECIFIED IN NO WAY RELIEVES THE CONTRACTOR OF ANY OF HIS OBLIGATIONS UNDER THE CONTRACT.

ONLY WRITTEN NOTIFICATION FROM THE OWNER WILL CONSTITUTE FINAL ACCEPTANCE OF ANY PART OF THE WORK UNDER THIS CONTRACT.

ARTICLE 31. GUARANTEE OF WORK.

CONTRACTOR WARRANTS AND GUARANTEES TO THE OWNER AND TO THE ENGINEER THAT ALL WORK WILL BE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND WILL BE WITHOUT DEFECT. THE GUARANTEE PERIOD SHALL BE NOT LESS THAN ONE YEAR AFTER THE DATE OF SUBSTANTIAL COMPLETION. SHOULD ANY MANUFACTURER'S WARRANTY BE GREATER THAN ONE YEAR OR SHOULD ANY PERMIT, SPECIFICATION, OR REGULATORY WARRANTY REQUIREMENT BE GREATER THAN ONE YEAR, THE CONTRACTOR SHALL GUARANTEE THE WORK FOR THE LONGER PERIOD. IF DURING THE GUARANTEE PERIOD ANY WORK IS FOUND TO BE DEFECTIVE, CONTRACTOR SHALL PROMPTLY, WITHOUT COST TO OWNER, AND IN ACCORDANCE WITH OWNER'S WRITTEN INSTRUCTION, EITHER CORRECT SUCH DEFECTIVE WORK OR REMOVE IT FROM THE SITE AND REPLACE IT WITH NON-DEFECTIVE WORK. IF CONTRACTOR DOES NOT PROMPTLY COMPLY WITH THE TERM OF SUCH INSTRUCTION, OR IN AN EMERGENCY WHERE DELAY WOULD CAUSE SERIOUS RISK OF LOSS OR DAMAGE, OWNER MAY HAVE THE DEFECTIVE WORK CORRECTED OR THE REJECTED WORK REMOVED AND REPLACED, AND ALL DIRECT AND INDIRECT COSTS OF SUCH REMOVAL AND REPLACEMENT, INCLUDING COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES, SHALL BE PAID BY CONTRACTOR.

ARTICLE 32. STATUTE OF LIMITATIONS; WARRANTIES;

AS BETWEEN THE OWNER AND THE CONTRACTOR:

- A. ANY APPLICABLE STATUE OF LIMITATIONS SHALL COMMENCE TO RUN AND ANY ALLEGED CAUSE OF ACTION SHALL BE DEEMED TO HAVE ACCRUED IN ANY AND ALL EVENTS NO EARLIER THAN THE DATE OF FINAL PAYMENT.

- B. AS TO ACTS OR FAILURES TO ACT OCCURRING AFTER THE DATE OF FINAL PAYMENT, ANY APPLICABLE STATUE OF LIMITATIONS SHALL COMMENCETO RUN AND ANY ALLEGED CAUSE OF ACTION SHALL BE DEEMED TO HAVE ACCRUED IN ANY AND ALL EVENTS NO EARLIER THAN THE DATE OF ANY ACT OR FAILURE TO ACT BY THE CONTRACTOR PURSUANT TO ANY REQUIRED OR OTHERWISE PROVIDED WARRANTY, THE DATE OF ANY CORRECTION OF THE WORK OR FAILURE TO CORRECT THE WORK BY THE CONTRACTOR, OR THE DATE OF ACTUAL COMMISSION OF ANY OTHER ACT OR FAILURE TO PERFORM ANY DUTY OR OBLIGATION BY THE CONTRACTOR OR OWNER, WHICHEVER OCCURS LAST.

ARTICLE 33. USE OF COMPLETED PORTIONS.

THE OWNER SHALL HAVE THE RIGHT TO TAKE POSSESSION OF AND USE ANY COMPLETED OR PARTIALLY COMPLETED PORTIONS OF THE WORK, NOTWITHSTANDING THAT THE TIME FOR COMPLETING THE ENTIRE WORK OR SUCH PORTIONS MAY NOT HAVE EXPIRED, BUT SUCH TAKING POSSESSION AND USE SHALL NOT BE DEEMED AN ACCEPTANCE OF ANY WORK NOT COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. IF SUCH PRIOR USE INCREASES THE COST OF OR DELAYS THE WORK, THE CONTRACTOR SHALL BE ENTITLED TO SUCH EXTRA COMPENSATION OR EXTENSION OF TIME OR BOTH AS THE OWNER MAY DETERMINE.

ARTICLE 34. SUBMISSION OF DAILY PERFORMANCE RECORDS.

THE CONTRACTOR SHALL AT THE START OF EACH WORKDAY PROVIDE THE PROJECT INSPECTOR A COPY OF HIS DAILY PERFORMANCE RECORD FOR WORK PERFORMED ON THE PRECEDING WORKDAY. THE PERFORMANCE RECORD SHALL BE SUBMITTED IN FORMAT AS PRESCRIBED BY THE COUNTY ENGINEERING DIVISION.

A COPY OF THE PRESCRIBED FORMAT WILL BE PROVIDED TO THE CONTRACTOR BY THE OWNER.

THE SUBMISSION OF THE DAILY RECORD DOES NOT PRECLUDE THE SUBMISSION OF ADDITIONAL DOCUMENTATION, REPORTS, AND INFORMATION WHEN REQUESTED BY THE OWNER; OR AS SPECIFICALLY PROVIDED FOR OR REQUIRED BY THE CONTRACT DOCUMENTS.

ARTICLE 35. RECORD DOCUMENTS.

THE CONTRACTOR SHALL AT THE END OF CONSTRUCTION PROVIDE THE OWNER WITH ONE COMPLETE SET OF DRAWINGS RECORDING THE INSTALLATION OF THE PROJECT. DURING THE COURSE OF THE CONSTRUCTION THE AS-BUILTS SHALL BE UPDATED DAILY BY THE END OF EACH WORKING DAY. UNDER ARTICLE 47, PARTIAL PAYMENTS MAY BE WITHHELD FOR FAILURE TO KEEP NEAT, ACCURATE AND COMPLETE AS-BUILTS. UNDER ARTICLE 43, THE OWNER MAY ELECT TO PREPARE THE AS-BUILTS AT THE EXPENSE OF THE CONTRACTOR SHOULD THE CONTRACTOR FAIL TO PERFORM UNDER THIS PROVISION OF THE CONTRACT. AS-BUILT INFORMATION SHALL INCLUDE THE FOLLOWING AS A MINIMUM, WHERE APPLICABLE:

- A. STORMWATER FACILITY AND OUTLET STRUCTURE AS-BUILT SURVEY DOCUMENTING THE FACILITY'S STORAGE VOLUME AND CROSS-SECTION IS AS REQUIRED TO MEET THE CORRESPONDING VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY TECHNICAL SPECIFICATIONS AND TO DEMONSTRATE THE VOLUMES, LINES, GRADES, AND IMPROVEMENTS SHOWN ON THE CONSTRUCTION PLANS ARE SUFFICIENT TO MEET THE DESIGN INTENT. RECORD DRAWINGS SHALL INCLUDE AS-CONSTRUCTED ELEVATIONS AND OUTLET STRUCTURE RIM AND INVERTS.

THESE RECORDS ARE A SPECIFIC CONTRACT REQUIREMENT OF THE CONTRACTOR. FINAL PAYMENT WILL NOT BE ISSUED UNTIL SAID DOCUMENTS HAVE BEEN SUBMITTED IN AN ACCEPTABLE FORM.

ARTICLE 36. PARTIAL PAYMENTS.

PARTIAL PAYMENTS WILL BE MADE EACH MONTH FOR THE QUANTITY OF WORK PERFORMED IN THE PRECEDING MONTH LESS FIVE PERCENT (5%) TO BE RETAINED UNTIL FINAL COMPLETION OF THE WORK. REQUESTS FOR PAYMENTS SHALL BE SUBMITTED TO THE OWNER BY THE 1ST OF THE MONTH FOR PAYMENT BY MID-MONTH. REQUESTS FOR PAYMENTS SHALL BE SUBMITTED USING THE APPLICATION FOR PAYMENT AND SUBMITTED TO THE COUNTY PROJECT LEADER FOR

REVIEW AND SIGNATURE APPROVALS; ADDITIONAL INFORMATION MAY BE REQUESTED DEPENDING ON PROJECT:

ARTICLE 37. ESCROW ACCOUNT PROCEDURE.

IN ACCORDANCE WITH SECTION 2.2-4334 OF THE CODE OF VIRGINIA (1950) AS AMENDED, ON PUBLIC CONTRACTS OF \$200,000 OR MORE, THE CONTRACTOR WILL HAVE THE OPTION TO USE AN ESCROW ACCOUNT PROCEDURE FOR UTILIZATION OF RETAINAGE FUNDS. IN THE EVENT THE CONTRACTOR ELECTS TO USE THE ESCROW ACCOUNT PROCEDURE, THE "ESCROW AGREEMENT" FORM SHALL BE EXECUTED AND SUBMITTED TO THE OWNER WITHIN FIFTEEN CALENDAR DAYS AFTER NOTIFICATION OF INTENT TO AWARD. IF THE "ESCROW AGREEMENT" FORM IS NOT SUBMITTED WITHIN THE FIFTEEN-DAY PERIOD, THE CONTRACTOR SHALL FORFEIT HIS RIGHTS TO USE OF THE ESCROW ACCOUNT PROCEDURE. THE "ESCROW AGREEMENT" AND ALL REGULATIONS PERTAINING THERETO SHALL BE IN SUBSTANTIAL ACCORDANCE WITH THE AGREEMENT USED BY COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION. THE CONTRACTOR'S ESCROW AGENT SHALL BE A TRUST COMPANY, BANK OR A SAVINGS INSTITUTION WITH ITS PRINCIPAL OFFICE LOCATED IN THE COMMONWEALTH.

ARTICLE 38. METHOD OF MEASUREMENT.

EXCEPT WHEN STIPULATED OTHERWISE, ALL QUANTITIES OF WORK PERFORMED AND TO BE PAID FOR UNDER THIS CONTRACT SHALL BE CONSTRUED AS THOSE MEASURED IN PLACE BY THE OWNER.

ARTICLE 39. BASIS OF PAYMENT.

THE PRICES TO BE PAID FOR THE WORK PERFORMED UNDER THIS CONTRACT SHALL BE THE PRICES STIPULATED IN THE CONTRACTOR'S BID.

ARTICLE 40. INCREASED OR DECREASED QUANTITIES AND METHOD OF PAYMENT - UNIT PRICES.

THE OWNER RESERVES THE RIGHT TO INCREASE OR DECREASE THE ESTIMATED VALUE OF THE CONTRACT IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE PERCENT (25%). SUCH INCREASE OR DECREASE MAY BE BROUGHT ABOUT EITHER BY VARYING QUANTITIES WITHIN THE ORIGINAL UNITS OF THE CONTRACT OR BY AN EXTENSION OR REDUCTION IN THE ORIGINAL LIMITS OF THE PROJECT.

NO CLAIM FOR EXTRA COMPENSATION WILL BE ALLOWED FOR SUCH INCREASE OR DECREASE IN THE VALUE OF THE CONTRACT NOT EXCEEDING TWENTY-FIVE PERCENT (25%).

CHANGES IN THE ESTIMATED VALUE OF ANY MAJOR OR MINOR ITEM OF MORE THAN TWENTY-FIVE PERCENT (25%) NOT CONSISTENT WITH THE ABOVE, OR CHANGES IN EITHER TOTAL COST OR THE AMOUNT OF ANY ITEM MAJOR OR MINOR WHICH ARE THE RESULTS OF MORE ACCURATE MEASUREMENTS AND ARE NOT DUE TO ANY CHANGE IN PLAN OR IN CHARACTER OF THE WORK SHALL NOT BE CONSIDERED A BASIS OF DEMAND FOR REVISION IN CONTRACT PRICE BY EITHER PARTY TO THE CONTRACT.

FOR ANY INCREASED OR DECREASED QUANTITIES, SETTLEMENT SHALL BE MADE FOR THE ACTUAL AMOUNT OF WORK PERFORMED AT THE UNIT PRICES SHOWN IN THE PROPOSAL FOR THE WORK UNDER CONSIDERATION.

ARTICLE 41. EXTRA WORK AND METHOD OF PAYMENT.

THE OWNER MAY AT ANY TIME BY A WRITTEN ORDER, AND WITHOUT NOTICE TO SURETIES, MAKE CHANGES IN DRAWINGS OR SPECIFICATIONS, WITHIN THE GENERAL SCOPE THEREOF. ANY EXTRA WORK DONE PRIOR TO THE EXECUTION OF THE COUNTY'S STANDARD CHANGE ORDER

FORM BY THE CHAIRMAN OF THE BOARD OF SUPERVISORS IS DONE AT THE CONTRACTOR'S TOTAL RISK AND WITH NO OBLIGATION ON THE PART OF THE COUNTY TO PAY FOR THE WORK.

THE CONTRACTOR SHALL PERFORM UNFORESEEN WORK OR WORK WHICH MAY EXCEED THE TWENTY-FIVE PERCENT (25%) STATED IN ARTICLE 40 OR WORK FOR WHICH THERE IS NO PRICE INCLUDED IN THE CONTRACT, WHENEVER IT IS DEEMED NECESSARY OR DESIRABLE IN ORDER TO COMPLETE FULLY THE WORK AS CONTEMPLATED. SUCH WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE SPECIFICATIONS AND AS DIRECTED BY THE OWNER AND WILL BE PAID FOR AS STIPULATED HEREINAFTER.

EXTRA WORK SHALL BE PAID FOR AT THE UNIT PRICES OR LUMP SUM AS AGREED TO BY THE CONTRACTOR AND THE OWNER, OR IN LIEU OF SUCH AGREEMENT, THE OWNER MAY REQUIRE THE CONTRACTOR TO DO SUCH WORK ON A FORCE ACCOUNT BASIS TO BE COMPENSATED FOR IN THE FOLLOWING MANNER.

- A. LABOR. FOR ALL LABOR AND FOREMEN IN DIRECT CHARGE OF THE SPECIFIC OPERATIONS, THE CONTRACTOR SHALL RECEIVE THE RATE OF WAGE (OR SCALE) AS SET FORTH IN HIS MOST RECENT PAYROLL ON WHICH THE APPLICABLE CLASS OF LABOR AND FOREMEN WERE USED FOR EACH HOUR OF REGULAR TIMES AND 1-1/2 TIMES SUCH RATES FOR OVERTIME WHEN SUCH OVERTIME WORK IS AUTHORIZED, THAT SAID LABOR AND FOREMEN ARE ACTUALLY ENGAGED IN SUCH WORK. IN THE EVENT THE CLASS OF LABOR NEEDED HAS NOT BEEN EMPLOYED ON THE PROJECT, MUTUALLY AGREED UPON RATES WILL BE ESTABLISHED, PROVIDED, HOWEVER, THAT THE RATES SHALL CONFORM TO PREDETERMINED RATES AUTHORIZED FOR THE PROJECT. AN AMOUNT EQUAL TO TEN PERCENT (10%) OF THE SUM THEREFORE SHALL BE ADDED TO THESE RATES.
- B. BOND, INSURANCE, AND TAX, FOR PROPERTY DAMAGE, LIABILITY, AND WORKMEN'S COMPENSATION INSURANCE PREMIUMS, UNEMPLOYMENT INSURANCE CONTRIBUTIONS AND SOCIAL SECURITY TAXES ON FORCE ACCOUNT WORK, THE CONTRACTOR SHALL RECEIVE AN AMOUNT EQUAL TO TWENTY PERCENT (20%) THE BASE COST FOR LABOR.
- C. MATERIALS. FOR MATERIALS ACCEPTED BY THE OWNER AND USED, THE CONTRACTOR SHALL RECEIVE THE ACTUAL COST OF SUCH MATERIALS DELIVERED ON THE WORK, INCLUDING TRANSPORTATION, AND HANDLING CHARGES PAID BY HIM (EXCLUSIVE OF EQUIPMENT RENTALS AS HEREINAFTER SET FORTH), TO WHICH COST TEN PERCENT (10%) WILL BE ADDED.
- D. EQUIPMENT. FOR ANY MACHINERY OR SPECIAL EQUIPMENT (OTHER THAN SMALL TOOLS AND OPERATOR) INCLUDING FUEL, LUBRICANTS AND REPAIRS, THE CONTRACTOR SHALL RECEIVE HOURLY RENTAL RATES WHICH SHALL NOT EXCEED THE RENTAL RATES BASED ON 1/40TH OF THE WEEKLY RATE OF THE CURRENT SCHEDULE PUBLISHED BY THE ASSOCIATED EQUIPMENT DISTRIBUTORS (AED) PLUS TRANSPORTATION COST FOR EQUIPMENT NOT ALREADY ON THE PROJECT. SUCH RATE WILL BE PAID FOR THE ACTUAL TIME THE EQUIPMENT IS IN OPERATION ON THE FORCE ACCOUNT WORK.

THE RATES FOR LICENSED TRUCKS AND SPECIAL EQUIPMENT NOT LISTED IN THE AED SCHEDULE USED ON THE FORCE ACCOUNT WORK SHALL NOT EXCEED THE HOURLY RATE BEING PAID FOR SUCH TRUCKS AND EQUIPMENT BY THE CONTRACTOR AT THE TIME OF THE FORCE ACCOUNT AUTHORIZATION. IN THE ABSENCE OF SUCH RATES, THE PREVAILING RATES BEING PAID IN THE AREA WHERE THE WORK IS CONTEMPLATED SHALL BE USED.

- E. MISCELLANEOUS. NO ADDITIONAL ALLOWANCE WILL BE MADE FOR GENERAL SUPERINTENDENCE, THE USE OF SMALL TOOLS, OR OTHER COSTS FOR WHICH NO SPECIFIC ALLOWANCE IS HEREIN PROVIDED.
- F. COMPENSATION. THE COMPENSATION AS SET FORTH IN THIS SECTION SHALL BE ACCEPTED BY THE CONTRACTOR AS PAYMENT IN FULL INCLUDING PROFIT FOR EXTRA WORK DONE ON A FORCE ACCOUNT BASIS. AT THE END OF EACH DAY THE CONTRACTOR'S REPRESENTATIVE AND THE INSPECTOR SHALL COMPARE RECORDS OF THE COST OF WORK DONE AS ORDERED ON A FORCE ACCOUNT BASIS.
- G. STATEMENTS. NO PAYMENT WILL BE MADE FOR WORK PERFORMED ON A FORCE ACCOUNT BASIS UNTIL THE CONTRACTOR HAS FURNISHED THE ENGINEER OR OWNER WITH DUPLICATE ITEMIZED STATEMENTS OF THE COST OF SUCH FORCE ACCOUNT WORK DETAILED AS FOLLOWS:
 - 1. NAME, CLASSIFICATION, DATE, DAILY HOURS, TOTAL HOURS, RATE AND EXTENSION FOR EACH LABORER, AND FOREMAN
 - 2. DESIGNATION, DATES, DAILY HOURS, TOTAL HOURS, RENTAL RATE, AND EXTENSION FOR EACH UNIT OF EQUIPMENT
 - 3. QUANTITIES OF MATERIALS, PRICES AND EXTENSIONS
 - 4. TRANSPORTATION OF MATERIAL
 - 5. COST OF PROPERTY DAMAGE, LIABILITY AND WORKERS' COMPENSATION INSURANCE PREMIUMS, UNEMPLOYMENT INSURANCE CONTRIBUTIONS, AND SOCIAL SECURITY TAX

STATEMENTS SHALL BE ACCOMPANIED AND SUPPORTED BY RECEIPTED INVOICES FOR ALL MATERIALS USED AND TRANSPORTATION CHARGES. HOWEVER, IF MATERIALS USED ON THE FORCE ACCOUNT WORK ARE NOT SPECIFICALLY PURCHASED FOR SUCH WORK BUT ARE TAKEN FROM THE CONTRACTOR'S STOCK THEN, IN LIEU OF THE INVOICES, THE CONTRACTOR SHALL FURNISH AN AFFIDAVIT CERTIFYING THAT SUCH MATERIALS WERE TAKEN FROM HIS STOCK, THAT THE QUANTITY CLAIMED WAS ACTUALLY USED AND THAT THE PRICE AND TRANSPORTATION AND HANDLING CLAIMED REPRESENT THE ACTUAL COST TO THE CONTRACTOR.

ARTICLE 42. WORK OUTSIDE REGULAR HOURS.

IF THE CONTRACTOR DESIRES TO PERFORM WORK OUTSIDE THE REGULAR HOURS OR ON SATURDAY, HE SHALL REQUEST PERMISSION TO WORK FORTY-EIGHT (48) HOURS IN ADVANCE TO ALLOW ARRANGEMENTS TO BE MADE FOR PROPER INSPECTION. THE OWNER MAY REFUSE THE CONTRACTOR PERMISSION TO WORK IF THE 48-HOUR NOTICE IS NOT GIVEN OR FOR OTHER JUST CAUSE. REASONABLE EFFORTS SHALL BE MADE BY THE CONTRACTOR TO AVOID UNDUE NOISE DURING THE NIGHT AND ON SUNDAYS, IF IT IS NECESSARY TO WORK AT SUCH TIMES. UNDER NORMAL CIRCUMSTANCES THE CONTRACTOR WILL NOT BE PERMITTED TO WORK ON SUNDAYS OR COUNTY HOLIDAYS.

UNLESS SPECIFICALLY SCHEDULED TO WORK OUTSIDE NORMAL HOURS BY THE OWNER IN THE INTEREST OF PUBLIC SAFETY OR CONVENIENCE, THE CONTRACTOR WILL BE LIABLE FOR THE EXPENSE OF OVERTIME WORK REQUIRED BY COUNTY EMPLOYEES. THIS EXPENSE INCLUDES BUT IS NOT LIMITED TO COUNTY EMPLOYEES' PERFORMING INSPECTIONS OUTSIDE NORMAL WORKING HOURS AS WELL AS EMPLOYEES BEING CALLED TO THE JOB SITE OUTSIDE NORMAL WORKING HOURS TO RESOLVE PROBLEMS DIRECTLY RELATED TO THIS CONTRACT. NORMAL WORKING HOURS ARE DEFINED AS 8:30 A.M. TO 5:00 P.M. MONDAY THROUGH FRIDAY, EXCLUDING COUNTY HOLIDAYS.

THE OWNER RESERVES THE RIGHT TO SCHEDULE THE CONTRACTOR TO WORK OUTSIDE NORMAL WORKING HOURS IN THE INTEREST OF PUBLIC SAFETY OR CONVENIENCE. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE MADE BY THE CONTRACTOR WHEN SUCH OCCASIONS OCCUR.

ARTICLE 43. DEDUCTIONS FOR UNCORRECTED WORK.

IF THE OWNER DEEMS IT INEXPEDIENT TO CORRECT WORK DAMAGED OR NOT DONE IN ACCORDANCE WITH THE CONTRACT, AN EQUITABLE DEDUCTION FROM THE CONTRACT PRICE SHALL BE MADE THEREFOR.

ARTICLE 44. LIQUIDATED DAMAGES FOR DELAY AND EXTENSION OF THE TIME.

IF THE CONTRACTOR SHALL FAIL TO COMPLETE THE WORK OR ANY PART THEREOF WITHIN THE TIME STIPULATED IN THESE SPECIFICATIONS AND IN THE CONTRACT AGREEMENT, OR AN APPLICABLE EXTENSION THEREOF, IT WILL BE DIFFICULT OR IMPOSSIBLE TO ASCERTAIN THE ACTUAL DAMAGES FOR THE DELAY, AND IN LIEU THEREOF, THE CONTRACTOR SHALL PAY TO THE OWNER AS FIXED AND AGREED, LIQUIDATED DAMAGES FOR EACH CALENDAR DAY OF DELAY UNTIL THE DELAYED WORK IS CORRECTED OR ACCEPTED, AN AMOUNT EQUAL TO THE CONTRACT PRICE DIVIDED BY THE TOTAL NUMBER OF DAYS UNTIL FINAL COMPLETION PER DAY OF DELAY. THE CONTRACTOR AND OWNER AGREE THAT THIS SUM IS PROPORTIONATE TO THE PROBABLE LOSS AND IS NOT A PENALTY. THE CONTRACTOR EXPRESSLY WAIVES ANY DEFENSE AS TO THE VALIDITY OF ANY LIQUIDATED DAMAGES STATED IN THESE CONTRACT DOCUMENTS AS THEY MAY APPEAR ON THE GROUNDS THAT SUCH LIQUIDATED DAMAGES ARE VOID AS PENALTIES OR ARE NOT REASONABLY RELATED TO ACTUAL DAMAGES. IF, AFTER THE EXPIRATION OF THE TIME STIPULATED IN THESE CONTRACT DOCUMENTS AND IN THE CONTRACT AGREEMENT, OR APPLICABLE EXTENSION THEREOF, THE OWNER TERMINATES THE RIGHT OF THE CONTRACTOR TO PROCEED AND DOES NOT ELECT TO COMPLETE THE WORK, LIQUIDATED DAMAGES SHALL BE PAID AS ABOVE PROVIDED FOR EACH CALENDAR DAY AFTER THE TIME SO STIPULATED, UNTIL THE EFFECTIVE DATE OF THE TERMINATION OF THE CONTRACTOR'S RIGHT TO PROCEED. IF THE OWNER TERMINATES THE CONTRACTOR'S RIGHT TO PROCEED AND ELECTS TO COMPLETE THE WORK AS PROVIDED ELSEWHERE IN THE SPECIFICATIONS, LIQUIDATED DAMAGES SHALL BE PAID AS PROVIDED FOR EACH CALENDAR DAY AFTER THE TIME SO STIPULATED, OR APPLICABLE EXTENSION THEREOF, UNTIL THE DELAYED WORK IS COMPLETED, PROVIDED THE OWNER EXERCISES DUE DILIGENCE IN COMPLETING THE WORK. THE CONTRACTOR AND HIS SURETIES SHALL BE LIABLE FOR ALL SUCH LIQUIDATED DAMAGES OCCURRING HERETOFORE DESCRIBED. IT IS AGREED, HOWEVER, THE CONTRACTOR SHALL NOT BE CHARGED WITH LIQUIDATED DAMAGES OR ACTUAL DAMAGES FOR DELAYS DUE TO CAUSES BEYOND HIS CONTROL AND WITHOUT HIS FAULT OR NEGLIGENCE, INCLUDING BUT NOT RESTRICTED TO: ACTS OF THE OWNER OR OF HIS EMPLOYEES, OR OF ANY OTHER CONTRACTOR EMPLOYED BY THE OWNER; CHANGES ORDERED IN THE WORK; STRIKES; LOCKOUTS; FIRE; UNUSUAL DELAY IN TRANSPORTATION; UNAVOIDABLE CASUALTIES; DELAY AUTHORIZED BY OWNER PENDING LITIGATION AS PROVIDED BY ARTICLE 59.

NO SUCH EXTENSION SHALL BE MADE FOR DELAY OCCURRING MORE THAN SEVEN (7) DAYS BEFORE CLAIM IS MADE IN WRITING TO THE OWNER. IN THE CASE OF A CONTINUING CAUSE OF DELAY ONLY ONE CLAIM IS NECESSARY.

IF NO SCHEDULE OR AGREEMENT STATING THE DATES UPON WHICH DRAWINGS SHALL BE FURNISHED IS MADE, THEN NO CLAIM FOR DELAY SHALL BE ALLOWED ON ACCOUNT OF FAILURE TO FURNISH DRAWINGS UNTIL TEN (10) DAYS AFTER RECEIPT BY THE ENGINEER OF A WRITTEN DEMAND FOR SUCH DRAWINGS.

ARTICLE 45. DAMAGES.

ANY CLAIM FOR DAMAGE ARISING UNDER THIS CONTRACT SHALL BE MADE IN WRITING TO THE PARTY LIABLE WITHIN FIFTEEN (15) DAYS TIME OF THE FIRST OBSERVANCE OF SUCH DAMAGE AND NOT LATER THAN THE TIME OF FINAL PAYMENT EXCEPT AS EXPRESSLY STIPULATED OTHERWISE IN GUARANTEE OF WORK AS IN THE CASE OF THE DEFECTIVE WORK OR MATERIALS, AND SHALL BE ADJUSTED BY AGREEMENT OR LITIGATION AS PROVIDED BY ARTICLE 59.

ARTICLE 46. LIENS.

NEITHER THE FINAL PAYMENT NOR ANY PART OF THE RETAINED PERCENTAGE SHALL BECOME DUE UNTIL THE CONTRACTOR, IF REQUIRED, SHALL DELIVER TO THE OWNER A COMPLETE RELEASE OF ALL LIENS ARISING OUT OF THIS CONTRACT, OR RECEIPTS IN FULL IN LIEU THEREOF, AND IF REQUIRED IN EITHER CASE AN AFFIDAVIT THAT SO FAR AS HE HAS KNOWLEDGE OR INFORMATION THE RELEASES AND RECEIPTS INCLUDE ALL THE LABOR AND MATERIAL FOR WHICH A LIEN COULD BE FILED; BUT THE CONTRACTOR MAY IF ANY SUBCONTRACTOR REFUSES TO FURNISH A RELEASE OR RECEIPT IN FULL, FURNISH A BOND SATISFACTORY TO THE OWNER TO INDEMNIFY THE OWNER AGAINST ANY LIEN. IF ANY LIEN REMAINS UNSATISFIED AFTER ALL PAYMENTS ARE MADE, THE CONTRACTOR SHALL REFUND TO THE OWNER ALL MONIES THAT THE LATTER MAY BE COMPELLED TO PAY IN DISCHARGING SUCH A LIEN, INCLUDING ALL COST AND A REASONABLE ATTORNEY'S FEE.

ARTICLE 47. PAYMENTS WITHHELD.

THE OWNER MAY WITHHOLD OR, ON ACCOUNT OF SUBSEQUENTLY DISCOVERED EVIDENCE, NULLIFY THE WHOLE OR PART OF ANY PAYMENT TO SUCH EXTENT AS MAY BE NECESSARY TO PROTECT HIMSELF FROM LOSS ON ACCOUNT OF:

- A. DEFECTIVE WORK NOT REMEDIED
- B. CLAIMS OR LIENS THAT HAVE BEEN FILED OR EVIDENCE INDICATING THAT THERE IS REASONABLE CAUSE TO BELIEVE SUCH MAY BE FILED
- C. FAILURE OF THE CONTRACTOR TO PAY FOR LABOR OR MATERIALS, OR TO MAKE PAYMENTS PROPERLY TO SUBCONTRACTORS
- D. A REASONABLE DOUBT THAT THE CONTRACT CAN BE COMPLETED FOR THE BALANCE THEN UNPAID
- E. DAMAGE TO ANOTHER CONTRACTOR
- F. THE OWNER HAVING BEEN REQUIRED TO CORRECT DEFECTIVE WORK, COMPLETE ANY WORK, PERFORM EMERGENCY WORK, OR PERFORM OTHER WORK
- G. UNSATISFACTORY PROSECUTION OF THE WORK, INCLUDING FAILURE TO FURNISH ACCEPTABLE SUBMITTALS, FAILURE TO MAKE ADEQUATE PROGRESS TOWARDS COMPLETING THE WORK WITHIN THE CONTRACT TIME OR FAILURE TO MAINTAIN THE WORK SITE AT ALL TIMES IN A NEAT, ORDERLY, AND WORKMAN-LIKE APPEARANCE.
- H. FAILURE TO KEEP NEAT, ACCURATE, AND COMPLETE SET OF "AS-BUILTS" UPDATED ON A DAILY BASIS.
- I. FAILURE TO SUBMIT A DAILY PERFORMANCE RECORD IN SUITABLE FORMAT.

WHEN THE ABOVE GROUNDS ARE REMOVED, PAYMENT SHALL BE MADE FOR AMOUNTS WITHHELD BECAUSE OF THEM.

ARTICLE 48. THE OWNER'S RIGHT TO DO WORK.

IF THE CONTRACTOR SHOULD FAIL TO PROSECUTE THE WORK OR FAITHFULLY PERFORM ANY PROVISIONS OF THIS CONTRACT, IT SHALL BE CONSTRUED AS GROUNDS FOR THE OWNER'S RIGHT TO PERFORM WORK. THE OWNER, HAVING DULY SERVED WRITTEN NOTICE TO THE CONTRACTOR OF HIS INTENT TO PERFORM WORK, MAY REMEDY SUCH DEFICIENCIES AFTER THREE (3) DAYS FROM DELIVERY OF SAID NOTICE TO THE CONTRACTOR. THE COSTS INCURRED BY THE OWNER IN CORRECTING THE DEFICIENCY SHALL BE PAID FOR BY THE CONTRACTOR.

ARTICLE 49. THE OWNER'S RIGHT TO TERMINATE CONTRACT.

IF THE CONTRACTOR SHOULD BE ADJUDGED BANKRUPT, OR IF HE SHOULD MAKE A GENERAL ASSIGNMENT FOR THE BENEFIT OF HIS CREDITORS, OR A RECEIVER SHOULD BE APPOINTED ON ACCOUNT OF HIS INSOLVENCY, OR IF HE SHOULD PERSISTENTLY OR REPEATEDLY REFUSE OR SHOULD FAIL, EXCEPT IN CASES FOR WHICH EXTENSION OF TIME IS PROVIDED, TO SUPPLY ENOUGH PROPERLY SKILLED WORKMEN OR PROPER MATERIALS, OR IF HE SHOULD FAIL TO MAKE PROMPT PAYMENT TO SUBCONTRACTORS OR FOR MATERIALS OR LABOR OR PERSISTENTLY DISREGARD LAWS, ORDINANCES, OR THE INSTRUCTIONS OF THE OWNER, OR OTHERWISE BE GUILTY OF A VIOLATION OF ANY PROVISION OF THE CONTRACT, THEN THE OWNER, UPON THE CERTIFICATE OF THE ENGINEER THAT CAUSE EXISTS TO JUSTIFY SUCH ACTIONS, MAY, WITHOUT PREJUDICE TO ANY OTHER RIGHT OF REMEDY AND AFTER GIVING THE CONTRACTOR SEVEN (7) DAYS WRITTEN NOTICE, TERMINATE THE EMPLOYMENT OF THE CONTRACTOR AND TAKE POSSESSION OF THE PREMISES AND ALL OF THE MATERIALS, TOOLS, AND EQUIPMENT THEREON AND FINISH THE WORK BY WHATEVER METHOD HE MAY DEEM EXPEDIENT. IN SUCH CASE THE CONTRACTOR SHALL NOT BE ENTITLED TO RECEIVE ANY FURTHER PAYMENT UNTIL THE WORK IS FINISHED. IF THE UNPAID BALANCE OF THE CONTRACT PRICE SHALL EXCEED THE EXPENSE OF FINISHING THE WORK INCLUDING COMPENSATION FOR ADDITIONAL MANAGERIAL AND ADMINISTRATIVE SERVICES, SUCH EXCESS SHALL BE PAID TO THE CONTRACTOR. IF SUCH EXPENSE SHALL EXCEED SUCH UNPAID BALANCE THE CONTRACTOR SHALL PAY THE DIFFERENCE TO THE OWNER. THE EXPENSE INCURRED BY THE OWNER AS HEREIN PROVIDED, AND THE DAMAGE INCURRED THROUGH THE CONTRACTOR'S DEFAULT, SHALL BE CERTIFIED BY THE ENGINEER.

ARTICLE 50. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT.

IF THE WORK SHOULD BE STOPPED UNDER AN ORDER OF ANY COURT, OR OTHER PUBLIC AUTHORITY, FOR A PERIOD OF NINETY (90) DAYS, THROUGH NO ACT OR FAULT OF THE CONTRACTOR OR OF ANYONE EMPLOYED BY HIM, OR IF THE ENGINEER SHOULD FAIL TO ISSUE ANY ESTIMATE FOR PAYMENT WITHIN THIRTY (30) DAYS AFTER IT IS DUE, OR IF THE OWNER SHOULD FAIL TO PAY THE CONTRACTOR WITHIN THIRTY (30) DAYS OF ITS MATURITY AND PRESENTATION, ANY SUM CERTIFIED BY THE ENGINEER OR AWARDED BY ARBITRATORS; THEN THE CONTRACTOR MAY, UPON SEVEN (7) DAYS WRITTEN NOTICE TO THE OWNER AND THE ENGINEER, STOP WORK OR TERMINATE THIS CONTRACT AND RECOVER FROM THE OWNER PAYMENT OF ALL WORK EXECUTED AND ANY LOSS SUSTAINED UPON ANY PLANT OR MATERIAL AND REASONABLE PROFIT AND DAMAGES.

ARTICLE 51. REMOVAL OF MATERIALS AND EQUIPMENT.

IN THE CASE OF ANNULMENT OF THIS CONTRACT BEFORE COMPLETION FROM ANY CAUSE WHATEVER OR IN THE CASE OF ACCEPTANCE OF THE WORK AFTER COMPLETION, THE CONTRACTOR WHEN NOTIFIED BY THE OWNER IN WRITING, SHALL WITHIN FIVE (5) DAYS AFTER RECEIPT OF NOTIFICATION REMOVE ALL OR ANY PORTION AS DIRECTED OF HIS EQUIPMENT AND

MATERIALS FROM THE PROPERTY OF THE OWNER. SHOULD THE CONTRACTOR BE UNABLE OR UNWILLING TO COMPLY WITH THE OWNER'S REQUEST, THEN THE OWNER RESERVES THE RIGHT TO REMOVE AND/OR STORE SUCH EQUIPMENT AND MATERIALS AT THE CONTRACTOR'S EXPENSE.

ARTICLE 52. ASSIGNMENT.

NEITHER PARTY TO THE CONTRACT SHALL ASSIGN THE CONTRACT OR SUBLET IT AS A WHOLE WITHOUT THE WRITTEN CONSENT OF THE OTHER, NOR SHALL THE CONTRACTOR ASSIGN ANY MONIES DUE OR TO BECOME DUE TO HIM HEREUNDER, WITHOUT THE PREVIOUS WRITTEN CONSENT OF THE OWNER. SUCH CONSENT SHALL NOT BE UNREASONABLY WITHHELD.

ARTICLE 53. RIGHTS OF VARIOUS INTEREST.

WHEREVER WORK BEING DONE BY THE OWNER'S FORCES OR OTHER CONTRACTORS IS CONTIGUOUS TO WORK COVERED BY THIS CONTRACT, THE RESPECTIVE RIGHTS OF THE VARIOUS INTERESTS INVOLVED SHALL BE ESTABLISHED BY THE OWNER, TO SECURE THE COMPLETION OF THE VARIOUS PORTIONS OF THE WORK IN GENERAL HARMONY.

ARTICLE 54. SEPARATE CONTRACT.

THE OWNER RESERVES THE RIGHT TO LET OTHER CONTRACTS IN CONNECTION WITH THIS WORK. THE CONTRACTOR SHALL AFFORD OTHER CONTRACTORS REASONABLE OPPORTUNITY FOR THE INTRODUCTION AND STORAGE OF THEIR MATERIALS AND THE EXECUTION OF THEIR WORK, AND SHALL PROPERLY CONNECT AND COORDINATE HIS WORK WITH THEIRS.

IF ANY PART OF THE CONTRACTOR'S WORK DEPENDS FOR PROPER EXECUTION OR RESULTS UPON THE WORK OF ANY OTHER CONTRACTOR, THE CONTRACTOR SHALL INSPECT AND PROMPTLY REPORT TO THE OWNER ANY DEFECTS IN SUCH WORK THAT RENDER IT UNSUITABLE FOR SUCH PROPER EXECUTION AND RESULTS. HIS FAILURE SO TO INSPECT AND REPORT SHALL CONSTITUTE AN ACCEPTANCE OF THE OTHER CONTRACTOR'S WORK, AS FIT AND PROPER FOR THE RECEPTION OF HIS WORK, EXCEPT AS TO DEFECTS WHICH MAY DEVELOP IN THE OTHER CONTRACTOR'S WORK AFTER THE EXECUTION OF HIS WORK.

TO INSURE THE PROPER EXECUTION OF HIS SUBSEQUENT WORK, THE CONTRACTOR SHALL MEASURE WORK ALREADY IN PLACE AND SHALL AT ONCE REPORT IN WRITING TO THE OWNER ANY DISCREPANCY BETWEEN THE EXECUTED WORK AND THE DRAWINGS.

ARTICLE 55. SUBCONTRACTS.

THE CONTRACTOR SHALL, WITHIN TEN (10) DAYS AFTER THE SIGNATURE OF THE CONTRACT, NOTIFY THE OWNER IN WRITING OF THE NAMES OF SUBCONTRACTORS PROPOSED FOR THE WORK AND SHALL NOT EMPLOY ANY THAT THE OWNER MAY WITHIN TEN (10) DAYS AFTER RECEIPT OF NOTIFICATION OBJECT TO AS INCOMPETENT OR UNFIT OR ANY THAT APPEAR ON THE HUD AREA OFFICE CONSOLIDATED LIST OF DEBARRED, SUSPENDED, AND INELIGIBLE CONTRACTORS.

THE CONTRACTOR AGREES THAT HE IS AS FULLY RESPONSIBLE TO THE OWNER FOR THE ACTS AND OMISSIONS OF HIS SUBCONTRACTORS AND PERSONS EITHER DIRECTLY OR INDIRECTLY EMPLOYED BY THEM AS HE IS FOR THE ACTS OR OMISSIONS OF PERSONS DIRECTLY EMPLOYED BY HIM.

WITH THE EXCEPTION OF SUBCONTRACTS FOR LESS THAN \$10,000 EACH, AND SUBCONTRACTS WITH A MANUFACTURER OR A FABRICATOR, ANY AGREEMENT BETWEEN THE CONTRACTOR AND ANY SUBCONTRACTOR SHALL REQUIRE OF THE SUBCONTRACTOR A PAYMENT BOND WITH SURETY THEREON IN THE AMOUNT OF ONE HUNDRED PERCENT (100%) OF THE WORK SUBLET TO THE SUBCONTRACTOR, WHICH SHALL BE CONDITIONED UPON THE PAYMENT TO ALL PERSONS

WHO HAVE AND FULFILL, CONTRACTS WHICH ARE DIRECTLY WITH THE SUBCONTRACTOR FOR PERFORMING LABOR AND/OR FURNISHING MATERIALS IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE SUBCONTRACT, AND TO PAY THOSE PERSONS WHO FURNISH LABOR AND/OR MATERIALS AS AFORESAID. IN THE EVENT THE CONTRACTOR FAILS TO REQUIRE SAID BOND, ANY PERSON WHO HAS AND FULFILLS A CONTRACT DIRECTLY WITH SUCH SUBCONTRACTOR IN PERFORMING LABOR AND/OR FURNISHING MATERIALS IN THE PROSECUTION OF THE WORK PROVIDED FOR IN THE SUBCONTRACT SHALL HAVE A DIRECT RIGHT OF ACTION AGAINST THE OBLIGORS AND SURETIES ON THE PAYMENT BOND REQUIRED OF THE CONTRACTOR.

PAYMENTS TO SUBCONTRACTORS SHALL BE MADE IN ACCORDANCE WITH THE TERMS OF VIRGINIA CODE SECTION 2.2-4354, WHICH ARE INCORPORATED HEREIN BY REFERENCE.

NOTHING CONTAINED IN THE CONTRACT DOCUMENTS SHALL CREATE ANY CONTRACTUAL RELATION BETWEEN ANY SUBCONTRACTOR AND THE OWNER.

ARTICLE 56. EMPLOYMENT DISCRIMINATION PROHIBITED.

IN ACCORDANCE WITH SECTION 2.2-4311 OF THE CODE OF VIRGINIA, EVERY CONTRACT FOR GOODS OR SERVICES OVER \$10,000 SHALL INCLUDE THE FOLLOWING PROVISIONS DURING THE PERFORMANCE OF THIS CONTRACT.

- A. THE CONTRACTOR WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, SEX OR NATIONAL ORIGIN EXCEPT WHERE RELIGION, SEX OR NATIONAL ORIGIN IS A BONA FIDE OCCUPATIONAL QUALIFICATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THE CONTRACTOR. THE CONTRACTOR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.
- B. THE CONTRACTOR, IN ALL SOLICITATION OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR, WILL STATE THAT SUCH CONTRACTOR IS AN EQUAL OPPORTUNITY EMPLOYER.
- C. NOTICES, ADVERTISEMENTS AND SOLICITATIONS PLACED IN ACCORDANCE WITH FEDERAL LAW, RULE OR REGULATION SHALL BE DEEMED SUFFICIENT FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF THIS SECTION.

THE CONTRACTOR WILL INCLUDE THE PROVISIONS OF THE FOREGOING PARAGRAPHS A, B, AND C IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000 SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

FURTHER, ALL INDIVIDUALS OR FIRMS CONTRACTING WITH ISLE OF WIGHT COUNTY ARE ENCOURAGED TO USE MINORITY BUSINESS ENTERPRISES AS SUBCONTRACTORS AND SUPPLIERS TO THE FULLEST EXTENT POSSIBLE IN PROVIDING SERVICES OR PRODUCTS TO ISLE OF WIGHT COUNTY.

ARTICLE 57. DRUG FREE WORKPLACE.

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 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 ON 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 TEN THOUSAND DOLLARS (\$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 ANY CONTROLLED SUBSTANCE OR MARIJUANA DURING THE PERFORMANCE OF THE CONTRACT.

ARTICLE 58. INSURANCE.

CONTRACTOR SHALL PURCHASE AND MAINTAIN INSURANCE WITH THE LIMITS OF LIABILITY NOT LESS THAN THE FOLLOWING AMOUNTS OR GREATER WHERE REQUIRED BY LAW:

- A. WORKMAN'S COMPENSATION INCLUDING EMPLOYER'S LIABILITY INSURANCE COMPLYING WITH STATE REQUIREMENTS. EMPLOYER'S LIABILITY INSURANCE SHALL BE PROVIDED WITH A LIMIT OF NOT LESS THAN \$500,000 PER OCCURRENCE.

- B. COMMERCIAL GENERAL LIABILITY INSURANCE INCLUDING: PREMISES AND OPERATIONS; INDEPENDENT CONTRACTORS' PROTECTION; PRODUCTS AND COMPLETED OPERATIONS; BROAD FORM PROPERTY DAMAGE; AND ENDORSEMENTS TO THE AGGREGATE LIMIT OF INSURANCE SPECIFYING AGGREGATE APPLIES SEPARATELY TO EACH PROJECT AND EACH LOCATION. THE GENERAL LIABILITY COVERAGE SHALL NAME THE OWNER AND ENGINEER AS ADDITIONAL INSURED.

1. LIMITS OF LIABILITY

AGGREGATE LIMITS:

\$2,000,000 PRODUCTS/COMPLETED OPERATIONS

\$2,000,000 GENERAL AGGREGATE

COVERAGE A:

BODILY INJURY AND PROPERTY DAMAGE \$1,000,000 ANY ONE OCCURRENCE

FIRE DAMAGE LIMIT \$50,000 ANY ONE FIRE

COVERAGE B:

PERSONAL & ADVERTISING INJURY

\$1,000,000 ANY ONE PERSON OR ORGANIZATION

COVERAGE C:

MEDICAL EXPENSE LIMIT \$5,000 ANY ONE PERSON

C. COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE:

1. COMBINED SINGLE LIMIT

(BODILY INJURY & PROPERTY DAMAGE) \$1,000,000 EACH OCCURRENCE

D. CONTRACTUAL LIABILITY:

- 1. BODILY INJURY \$1,000,000 EACH OCCURRENCE
- 2. PROPERTY DAMAGE \$1,000,000 EACH OCCURRENCE
\$2,000,000 ANNUAL AGGREGATE

E. CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS ISLE OF WIGHT COUNTY, THE ENGINEER, CONSULTANTS OF THE ENGINEER, AND EMPLOYEES OR AGENTS OF ANY OF THEM FROM ANY AND ALL LOSSES, DAMAGES, CLAIMS, FINES, PENALTIES, SUITS AND COSTS, INCLUDING INJURY OR DEATH OF ANY PERSONS, OR DAMAGE TO OR LOSS OF PROPERTY, AS WELL AS FINES, ASSESSMENTS AND PENALTIES IMPOSED BY ANY AUTHORITY WHICH ARISE OUT OF ANY VIOLATION OF LAW BY, AND ALL ACTS AND OMISSION OF THE CONTRACTOR, THE CONTRACTOR'S AGENTS, EMPLOYEES, OR CUSTOMERS, OCCURRING IN CONNECTION WITH THE PRODUCTS AND SERVICES COVERED HEREIN.

F. COMMERCIAL UMBRELLA (EXCESS) LIABILITY

1. LIMIT OF LIABILITY

AGGREGATE LIMIT: \$3,000,000 PRODUCTS AND COMPLETED OPERATIONS

COVERAGE A: BODILY INJURY AND PROPERTY DAMAGE
\$3,000,000 ANY ONE OCCURRENCE

COVERAGE B: PERSONAL & ADVERTISING INJURY
\$3,000,000 ANY ONE PERSON OR ORGANIZATION

RETAINED LIMIT: \$10,000 ANY ONE OCCURRENCE OR OFFENSE

A CERTIFICATE EVIDENCING INSURANCE COVERAGE AS ABOVE SHALL BE PROVIDED BY THE CONTRACTOR TO ISLE OF WIGHT COUNTY. THE COUNTY AND ITS CONSULTING ENGINEERS SHALL BE NAMED AS ADDITIONAL INSURES UNDER GENERAL LIABILITY COVERAGE; ENDORSEMENT OF SAME SHALL BE SUBMITTED WITH THE CERTIFICATE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO KEEP SAID INSURANCE COVERAGE IN FULL FORCE AND EFFECT UNTIL FINAL PAYMENT AND AT ALL TIMES THEREAFTER WHEN CONTRACTOR MAY BE CORRECTING, REMOVING OR REPLACING DEFECTIVE WORK IN ACCORDANCE WITH TERMS OF THIS AGREEMENT. SUCH CERTIFICATE SHALL PROVIDE THAT THIRTY (30) DAYS ADVANCE

WRITTEN NOTICE SHALL BE GIVEN TO THE COUNTY IN THE EVENT OF ANY CHANGE IN, OR CANCELLATION OF SUCH INSURANCE.

ALL INSURANCE SHALL BE WRITTEN BY INSURANCE COMPANIES LICENSED TO DO BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

ARTICLE 59. PERFORMANCE BOND AND LABOR AND MATERIALS BOND.

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FURNISH A PERFORMANCE BOND AND LABOR AND MATERIALS BOND PAYABLE TO THE TREASURER OF ISLE OF WIGHT COUNTY, EACH IN THE AMOUNT OF ONE HUNDRED PERCENT (100%) OF THE TOTAL AMOUNT OF THE CONTRACT, AS A GUARANTEE FOR THE FAITHFUL PERFORMANCE THEREOF. SUCH BONDS MUST BE FURNISHED TO THE COUNTY WITHIN TWENTY (20) DAYS AFTER REQUESTED BY THE COUNTY. THE SUCCESSFUL BIDDER UPON FAILURE OR REFUSAL TO FURNISH THE REQUIRED BONDS OR DEPOSIT WITHIN THE TIME SPECIFIED SHALL PAY TO ISLE OF WIGHT COUNTY AS LIQUIDATED DAMAGES FOR SUCH FAILURE OR REFUSAL AN AMOUNT EQUAL TO THE BID SECURITY DEPOSITED WITH BID.

ALL BONDS MUST BE FURNISHED BY SUCH SURETY COMPANY OR COMPANIES AS ARE AUTHORIZED AND LICENSED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

ARTICLE 60. CONTRACTUAL CLAIMS.

CONTRACTUAL CLAIMS, WHETHER FOR MONEY OR OTHER RELIEF, SHALL BE SUBMITTED IN WRITING NO LATER THAN SIXTY (60) DAYS AFTER FINAL PAYMENT; HOWEVER, WRITTEN NOTICE OF THE CONTRACTOR'S INTENTION TO FILE SUCH CLAIM SHALL HAVE BEEN GIVEN AT THE TIME OF THE OCCURRENCE OR BEGINNING OF THE WORK UPON WHICH THE CLAIM IS BASED. ANY NOTICE OR CLAIM SHALL BE DELIVERED TO JESSIE SNEAD, DIRECTOR OF UTILITY SERVICES, COUNTY OF ISLE OF WIGHT, P.O. BOX 80, ISLE OF WIGHT, VIRGINIA 23397 AND SHALL INCLUDE A DESCRIPTION OF THE FACTUAL BASIS FOR THE CLAIM AND A STATEMENT OF THE ACCOUNTS CLAIMED OR OTHER RELIEF REQUESTED. THE DIRECTOR OF UTILITY SERVICES SHALL RENDER A DECISION ON THE CLAIM AND SHALL NOTIFY THE CONTRACTOR WITHIN THIRTY (30) DAYS OF RECEIPT OF THE CLAIM. THE CONTRACTOR MAY APPEAL THE DECISION OF THE DIRECTOR OF UTILITY SERVICES TO THE COUNTY ADMINISTRATOR BY PROVIDING WRITTEN NOTICE TO THE DIRECTOR OF UTILITY SERVICES WITHIN FIFTEEN (15) DAYS OF THE DATE OF THE DECISION. THE COUNTY ADMINISTRATOR SHALL RENDER A DECISION ON THE CLAIM WITHIN SIXTY (60) DAYS OF THE DATE OF RECEIPT OF THE APPEAL NOTICE AND SUCH DECISION SHALL BE FINAL UNLESS THE CONTRACTOR APPEALS THE DECISION IN ACCORDANCE WITH THE VIRGINIA PUBLIC PROCUREMENT ACT (VPPA). INVOICES FOR ALL SERVICES OR GOODS PROVIDED BY THE CONTRACTOR SHALL BE DELIVERED TO THE COUNTY NO LATER THAN THIRTY (30) DAYS FOLLOWING THE CONCLUSION OF THE WORK OR DELIVERY OF THE GOODS.

ARTICLE 61. LITIGATION.

IN ANY CLAIM OR DISPUTE BETWEEN THE PARTIES TO THIS AGREEMENT, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE BREACH THEREOF, THE PARTIES CONSENT TO THE JURISDICTION AND SOLE VENUE OF THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

ACCEPTANCE OF FINAL PAYMENT SHALL BE DEEMED A WAIVER OF CONTRACTOR'S RIGHT TO FILE CLAIM FOR DISPUTE OR BREACH RELATING TO THIS AGREEMENT.

THE CONTRACTOR SHALL NOT CAUSE A DELAY OF WORK BECAUSE OF THE PENDING LITIGATION PROCEEDINGS, EXCEPT WITH THE EXPRESS, WRITTEN CONSENT OF THE OWNER OR WRITTEN INSTRUCTION FROM THE COURT.

ARTICLE 62. NON-APPROPRIATION.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THIS CONTRACT SHALL BE TERMINATED IF ALL OF THE FOLLOWING EVENT SHALL HAVE OCCURRED:

- A. FUNDS ARE NOT APPROPRIATED FOR A SUBSEQUENT FISCAL PERIOD DURING THE TERM OF THIS CONTRACT FOR THE ACQUISITION OF SUBSTANTIALLY THE SAME FUNCTIONS AS PROVIDE FOR HEREIN, AND WRITTEN NOTICE THEREOF IS GIVEN TO THE CONTRACTOR AT LEAST THIRTY (30) DAYS PRIOR TO THE FIRST DAY OF SUCH SUBSEQUENT FISCAL PERIOD OR WITHIN FIVE (5) DAYS OF THE APPROVAL OF THE FINAL BUDGET FOR SUCH FISCAL YEAR, WHICHEVER OCCURS LATER.

- B. COUNTY HAS EXHAUSTED ALL FUNDS LEGALLY AVAILABLE FOR PAYMENT UNDER THIS CONTRACT.

UPON SUCH TERMINATION, CONTRACTOR'S ONLY REMEDY SHALL BE TO TERMINATE THE CONTRACT AT THE END OF THE FISCAL PERIOD DURING WHICH NOTICE IS GIVEN; AND PAYMENT IN COMPLIANCE WITH THE CONTRACT FOR MATERIALS, GOODS, AND SERVICES RENDERED THEREUNDER DURING THE FISCAL YEAR AT THE END OF WHICH TERMINATION OCCURS, WITHOUT PENALTY, TERMINATION, PROFIT OR OVERHEAD EXPENSES OF ANY KIND, SHALL CONSTITUTE FULL PERFORMANCE ON THE PART OF THE OWNER.

ARTICLE 63. SEVERABILITY.

IN THE EVENT THAT ANY PROVISION OR PORTION THEREOF OF ANY CONTRACT DOCUMENT SHALL BE FOUND TO BE LEGALLY INVALID OR UNENFORCEABLE, THEN SUCH PROVISION OR PORTION THEREOF, SHALL BE REFORMED IN ACCORDANCE WITH APPLICABLE LAW. THE INVALIDITY OR UNENFORCEABILITY OF ANY PROVISION OR PORTION OF ANY CONTRACT DOCUMENT SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER PROVISION OR PORTION OF THE CONTRACT DOCUMENTS.

ARTICLE 64. AGREEMENT CONSTRUED UNDER VIRGINIA LAWS.

THE AGREEMENT AND BOND GIVEN TO SECURE IT ARE TO BE EXECUTED AND PERFORMED IN THE COMMONWEALTH OF VIRGINIA AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA.

END OF SECTION

CHANGE ORDER FORM

CHANGE NO: _____

DATE: _____

PROJECT: _____

CONTRACTOR: _____

The following changes are hereby made to the CONTRACT DOCUMENTS (Use Additional Sheets if Necessary):

Original Contract Date: _____

Original Contract Price: \$ _____

Amount of Prior Change Orders: \$ _____

This Change Order: \$ _____

Cumulative Change Orders: \$ _____

(% of original contract amount)

Revised Contract Amount: \$ _____

Reason For Change Order: _____

Original Contract completion date was: _____

The new completion date for all work is: _____

REQUIRED APPROVALS:

Submitted by:	_____	Contractor
Recommended by:	_____	Construction Administrator
Accepted by:	_____	Town Engineer Funds Available:
	_____	Town Treasurer
Approved:	_____	Town Council

Any work done on this project prior to the execution of this change order by the Town is done at the Contractor's total risk and with no obligation on the part of the Town of Smithfield to pay for the work.