

CONTRACT DOCUMENTS
FOR
WATER SYSTEM
REPAIR SERVICES ANNUAL CONTRACT
DEPARTMENT OF PUBLIC UTILITIES
IFB # 20002-KP



CITY OF SUFFOLK
FINANCE DEPARTMENT / PURCHASING DIVISION
442 W. WASHINGTON STREET
SUFFOLK, VA 23434-5237

July 30, 2019

This page left blank intentionally.

Section A
(Submit with Bid)

This page left blank intentionally.



INVITATION FOR BIDS

City of Suffolk
IFB # 20002-KP
July 30, 2019

Purchasing Division
442 W. Washington Street, Room 1086
Suffolk, VA 23434-5237

Phone: (757) 514-7522/ Fax: (757) 514-7524

<http://www.suffolkva.us/departments/purchasing-division/>

WATER SYSTEM REPAIR SERVICES ANNUAL CONTRACT

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

SCOPE OF WORK – Provide all labor, superintendence, materials, tools, equipment, supplies, incidentals, and other ancillary items necessary, for this annual, renewable, indefinite quantity construction services project in which the City of Suffolk (“City”) may authorize work subject to available funding. The work shall include the construction of new and/or the replacement/repair of existing water system distribution and transmission mains, valves, fittings, and associated items.

Bid Due: 3:00 PM, August 21, 2019

Contract Officer:

Kelly Pittman

Kelly Pittman, Buyer

The Buyer, Kelly Pittman, is the Contract Officer for the City of Suffolk with respect to this IFB. All questions and/or comments should be directed to him at this email address: kpittman@suffolkva.us. The respondents to this IFB shall not contact, either directly or indirectly, any other employee or agent of the City regarding this IFB. Any such unauthorized contact may disqualify the bidder from the procurement.

****AN ORIGINAL SECTION "A" IS REQUESTED AS SUBMITTAL****

Company Name: _____

Address: _____

City / State / Zip: _____

Telephone: _____ FAX No.: _____

E-mail: _____

Print Name: _____ Title: _____

Signature: _____ Date: _____

(This form must be signed. All signatures must be original and not photocopies.)

In compliance with this invitation for bids, and subject to all the conditions thereof, the bidder offers, if this bid is accepted within ninety (90) calendar days from the date of the opening, to furnish any or all of the items and/or services upon which prices are quoted, at the price set opposite each item, to be delivered at the time and place specified herein. The signature of the bidder certifies he/she has read, understands, and agrees to all terms, conditions, and requirements of this bid, and is authorized to contract on behalf of firm named above.

BID OPENING

Bids shall be publicly opened and read aloud on the date that the bids are accepted. Public opening will be held on **August 21, 2019**, at **3:00 PM** (local prevailing time), in the City of Suffolk Conference Room #3, located at 442 W. Washington Street, Suffolk, VA 23434-5237.

BID BOND

Bids shall be accompanied with a bid bond equal to five (5) percent of the total amount of the bid, made payable to the City of Suffolk, Virginia. Or a bidder may furnish a personal bond or a bank or savings and loan association's letter of credit on certain designated funds for the amount required for the Bid Security.

QUESTIONS

Questions concerning this project must be in writing and addressed to the Contract Officer stated herein; and, must be received no later than five (5) business days preceding the date that the bids are accepted.

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.

Bidders are to submit entire Section "A" as their bid. Failure to do so may result in rejection of your bid.

TABLE OF CONTENTS

Section A (*Submit with Bid*)

Invitation for Bids	1 – 2
Table of Contents	3
1.0 Purpose.....	5
2.0 Scope of Work	5
3.0 Contract Term	5
4.0 Special Conditions	5-6
5.0 Additional Instructions.....	7-12
6.0 Contract Terms and Conditions	12-17
Bid Form	19-25
AntiCollusion/NonDiscrimination/Drug Free Workplace	27
Proof of Authority to Transact Business in Virginia	29
Exception Page.....	31
Notice of Escrow Option.....	33
Bid Bond.....	36-37

Section B (*Successful Bidder Submits*)

Insurance Requirements	39 – 40
Performance Bond	41 – 42
Labor and Material Payment Bond	43 – 45
Construction Contract Escrow Agreement	47 – 50

Section C

General Conditions	53 – 76
--------------------------	---------

Appendices

- A. Special Provisions
- B. City of Suffolk Permits

The following are incorporated by reference:

1. Department of Public Utilities, Public Facilities Manual, Volume II, 2017 Release 1
2. The following Divisions of the Technical Specifications from the Hampton Roads Planning District Commission (HRPDC) Regional Construction Standards:

DIVISION 2 - PRODUCTS AND MATERIALS
DIVISION 3 - ROADWAY CONSTRUCTION
DIVISION 4 - MISCELLANEOUS
DIVISION 5 - INCIDENTAL CONSTRUCTION
DIVISION 6 - LANDSCAPING
DIVISION 7 - TRAFFIC CONTROL DEVICES
DIVISION 8 - WATER AND WASTEWATER UTILITIES

3. Standard Details from the HRPDC Regional Construction Standards.

This page left blank intentionally.

WATER SYSTEM REPAIR SERVICES ANNUAL CONTRACT

1.0 Purpose

This is an annual, renewable, indefinite delivery/indefinite quantity contract. The City seeks a qualified firm to provide all labor, superintendence, materials, tools, equipment, supplies, incidentals, and other ancillary items necessary, for this annual, renewable, indefinite quantity construction services project in which the City may authorize work subject to available funding.

2.0 Scope of Work

The work shall include the construction of new and/or the replacement/repair of existing water system distribution and transmission mains, valves, fittings, and associated items. The City, upon determining the need for new construction and/or replacement/repair services, will issue, by means of Purchase Order, a Work Order to the Contractor specifying the scope of work to be performed, the estimated units of measurement and payment, and the time to complete the work. Work performed under this Contract will be located throughout the City of Suffolk, Virginia, and will include the construction of new and/or the replacement/repair of existing water system distribution and transmission mains, valves, fittings, and associated items. All authorized work will be compensated utilizing established unit prices and shall be completed in accordance with the Bid Documents. The maximum amount of any individual job shall not exceed \$500,000.00.

3.0 Contract Term

The Contract shall cover the period beginning immediately upon signature of Contract between the City and Contractor and will continue through August 1, 2020.

This Contract may be renewed based on the terms and conditions at the expiration of its term at the sole discretion of the City. Automatic renewals will occur for up to three (3) additional one-year periods through August 1, 2023. The Contractor will submit any price increases in writing to the City no less than sixty (60) days prior to the renewal date. Any increase in rates shall require prior approval in writing from the City. The City does not guarantee approval of any rate increases.

4.0 Special Conditions

1. Mobilization and Demobilization: A total allowance of 7% to cover both mobilization and demobilization will be made for each Work Order generated for the Project.
2. Performance and Payment Bond: The Contractor shall post a Performance and Payment Bond of Five Hundred Thousand Dollars (\$500,000). This bond is based on the maximum work in progress at any time.
3. Pre-construction Conference and Progress Schedule: Not required unless otherwise specified in an individual Purchase Order.
4. Notice to Proceed: The issuance of a Purchase Order will serve as the Notice to Proceed.

5. Drawings: Drawings will be provided as required on a Work Order basis.

6. Prices: There will be two methods of payment for Work Orders:

Unit Price Method - This method of developing a Work Order will be used when the work elements are covered under the Schedule A unit prices. The unit prices for various items in the bid shall include all costs required for the specified work to be completed in accordance with the Contract Documents, including all materials, labor, equipment, tools, supervision, permits, fees, traffic control, erosion and sediment control, and overhead and profit.

Time and Materials Method – This method will only be used to manage the execution of a work order where the work elements are not covered under the Schedule A unit prices. Under this method, work will be compensated based on a Time and Materials method of payment using the prices established in the Schedule B unit prices. The hourly rates on the bid form shall include all overhead, administrative, and profit markups. Total payment for materials shall be based on the actual cost paid by the contractor for materials installed and accepted plus the markup indicated on the bid form. No additional costs such as transportation and handling charges will be paid for by the City.

7. Indefinite Quantity: All work will be on an as-needed basis. The City does not guarantee any minimum amount of work to the Contractor during the contract period.

8. Monthly Progress Meetings: The Contractor shall attend and participate in regular monthly progress meetings at the City of Suffolk, Department of Public Utilities Operations Center and report on the progress of all work and compliance with schedules.

9. Reconciliation Meetings: Following the completion of work issued to the Contractor, there will be an in-person meeting at the City of Suffolk, Department of Public Utilities Operations Center that will include applicable City staff and the Contractor. The purpose of the meeting will be to reconcile work order quantities and make necessary work order invoice adjustments to reflect field measurements and installed quantities, in accordance with the Contract Documents. After this meeting, the final invoice will be submitted by the Contractor for payment

5.0 ADDITIONAL INSTRUCTIONS

Revised: 6/6/2019

1. **Use of Form:** All bids shall be submitted on and in accordance with this form. If more space is required to furnish a description of the goods and/or services bid, or delivery terms, the bidder may attach a letter hereto that will be made a part of the bid. In case of conflict, the bid may be considered non-responsive. The City's published specifications for this Invitation for Bid shall supersede any additional writings submitted with the bid. Such writings shall be clearly marked and noted as an exception.
2. **Submittals:** All bids shall be submitted sealed, plainly marked showing the bid number, date and time. The entire solicitation document is to be returned when submitting a bid unless otherwise directed by the bid document. Failure to return all pages may result in a determination that the submittal is non-responsive.
3. **Late Bids:** Bids and amendments thereto, if received by the City's Purchasing Division ("Purchasing") after the date and time specified for bid opening, will not be considered. It will be the responsibility of the bidder to see that their bid is received by Purchasing as specified. There will be no exceptions. Date of postmark will not be considered. Telephone, facsimile, electronic and verbal bids will not be accepted. Prices or changes shown on the outside of an envelope will not be considered in determination of low bid.
4. **City Hall Closure:** If City Hall is closed for business at the time scheduled for the bid opening, for whatever reasons, sealed bids will be accepted and opened on the next business day of the City, at the original scheduled hour.
5. **Competition Intended:** It is the City's intent that the Invitation for Bid (IFB) permits competition. It shall be the bidder's responsibility to advise the Contract Officer in writing if any language requirement, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in the IFB to a single source. Such notifications must be received by the Contract Officer five (5) days prior to the date set for the bids to close.
6. **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 City shall be obligated to purchase under the contract, or relieve the bidder of his obligation to fill all orders placed by the City, except as clearly noted.
7. **Delivery:** The time of delivery must be stated in definite terms. If time of delivery for different goods and/or services varies, the bidder shall so state.
8. **Faith-based Organizations:** The City of Suffolk does not discriminate against faith-based organizations.
9. **Bidder Qualifications:** Only bids from established bidders for work similar in scope to work herein shall be considered; the City reserves the right to request specific reference information prior to award. Bidder shall demonstrate that it has adequate and appropriate manpower, tools and equipment to respond and perform in accordance with the provisions herein. The City may, at its

option, disqualify a bidder and reject its 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.
- Bidder does not meet project-specific requirements, as identified in the contract documents

10. **Pricing to be F.O.B. Destination – Freight Allowed:** Pricing shall be F.O.B. destination-freight included for all competitive bids. F.O.B. Destination-Freight Included shall include all shipping costs to the City location(s) at the unit cost. No additional shipping charges shall be allowed.
11. **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.
12. **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 on the basis of this statement.
13. **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.
14. **Rights to Damages:** By signing this bid, the bidder assigns to the City 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 City.
15. **Anti-collusion:** The bidder certifies by signing this Invitation for 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.
16. **Contact Prohibition:** Direct contact with City departments other than Purchasing, 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 City regarding this IFB. This prohibition shall also extend to the Suffolk City Council and locally elected officials. Any such unauthorized contact may disqualify the bidder from this procurement.

17. **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.
18. **Ethics in Procurement:** Contractors, offerors, bidders or consultants must provide written disclosure with their bid or proposal if one of its officers, directors, trustees, partners, employees or lenders is an employee or an immediate family member (as defined by §2.2-4368 of the Virginia Public Procurement Act) of the City who is involved personally or substantially participates in this procurement transaction or owns or controls an interest of more than three percent (3%) of the company or received more than \$5,000 annually from the bidder, offeror, contractor, or consultant.
19. **Addenda:** If issued, addenda to this solicitation will be posted on the Purchasing website <http://apps.suffolkva.us/bids/>. It is the bidder's responsibility to check the website or contact Purchasing 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. Failure to acknowledge all addenda will result in bid being non-responsive.
20. **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 either in person, electronically, or by certified mail.
21. **Award:** Award will be made to the lowest responsive and responsible bidder based on the Total Bid price. 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 City reserves the right to refuse all bids. Determination of low bid shall be determined by the audited figure shown on the pricing page titled 'Total Bid Price' In case of error in the extension of prices, the unit price shall govern.
22. **Announcements:** Upon the award or the announcement of the decision to award a contract, the City will publicly post such notice on the bulletin board located outside of the Purchasing Division and on the City's web site: <http://apps.suffolkva.us/bids/>
23. **Offer/Acceptance:** Each bid is received with the understanding that the acceptance in writing by the City of the bidder to furnish any or all of the goods and/or services described therein, shall constitute a contract between the bidder and the City, which shall bind the bidder to furnish and deliver the goods and/or services quoted at the prices stated and in accordance with the conditions of the accepted bid; and the City on its part to order from such bidder, except for causes beyond reasonable control; and pay for, at the agreed prices, all goods and/or services specified and delivered.
24. **Acceptance of Bid:** Receipt of the bid by the City is not to be construed as an award or an order to ship.
25. **City's Rights:** The City 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 City.

26. **Appeals Procedure:** Upon bidder's 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 Contract Officer at once for assistance.
27. **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.
28. **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.
29. **Precedence of Documents:** In interpreting this Invitation for Bid (IFB) and resolving any ambiguities between the main body of the IFB (Sections A, B and C) and any supplemental documents or appendixes, Sections A, B, and C shall take precedence over any supplemental documents.
30. **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 City, 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 be cause to disqualify your bid.
31. **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 City may negotiate with the apparent low bidder to obtain a contract price within the available funds.
32. **Cooperative Agreements:** If authorized by the bidder(s), the resultant contract(s) may be extended to any jurisdiction within the Commonwealth of Virginia to purchase at the contract prices in accordance with the contract terms. Any jurisdiction using such contracts shall place its own order(s) directly with the successful bidder(s). The City of Suffolk acts only as the contracting agent and is not responsible for placement of orders, payment, or discrepancies of the participating jurisdictions. It is the bidder's responsibility to notify the jurisdictions of the availability of contract(s).
33. **Prices:** Prices shall be stated in units of quantity specified. No additional charges shall be passed on to the City, including any applicable taxes, delivery, or surcharges. Prices quoted shall be the final cost to the City. In case of error in the extension of prices, the unit price shall govern.
34. **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.
35. **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 approved equal”. If qualified by the provision “or approved 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 City’s sole judgment if a substitute product offered is an approved equal and acceptable.

36. **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.
37. **Anti-Discrimination:** By submitting their bids, bidders certify to the City 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 bidder 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.
38. **Assignment of Contract:** A contract shall not be assignable by the bidder in whole or in part without the written consent of the City.

6.0 CONTRACT TERMS AND CONDITIONS

1. **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.
2. **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 City's extended obligations on those contracts that envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following years.
3. **Changes and Additions:** It shall be the responsibility of the Contractor to notify the City, in writing, of any necessary modifications or additions in the scope of this contract. Compensation for changes or additions in the scope of this contract will be negotiated and approved by the City, in writing.

It is understood and agreed to by both the City and the Contractor that such modifications or additions to this Agreement shall be made only by the full execution of the City'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 City'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 City.

4. **Contractor's Form:** In cases where the City may accept the Contractor's form contract, whereas certain standard clauses that may appear in the Contractor's form contract cannot be accepted by the City, 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 Contractor's form contract, the City's contract addendum shall prevail over the terms of the Contractor's agreement in the event of a conflict.
5. **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 City.
6. **Contractor Failure to Perform:** Failure of the Contractor to perform the contract by reason of the City's non-acceptance of additional conditions submitted after the award shall result in termination of the contract by the City, 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 City of any other rights or remedies available to the City by law or contract.
7. **Contractual Disputes:** Bidder, Offeror, Contractor or Consultant agree all contractual disputes will be conducted in accordance with provision §2.2-4363 of the Virginia Public Procurement Act.
8. **Default:** In event of default by the Contractor, the City reserves the right to procure the goods and/or services from other sources, and hold the Contractor liable for any excess cost occasioned

thereby. Such actions taken by the City shall not release the Contractor from additional remedies that may be allowed by law.

9. **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.

10. **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.
11. **Exemption from Taxes:** The City is exempt from state sales tax and federal excise tax. A tax exempt certificate indicating the City's tax exempt status will be furnished by the City upon request.
12. **Governing Law:** This Agreement is made, entered into, and shall be performed in the City of Suffolk, Virginia, 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 City of Suffolk, 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 City or written instruction/order from the Court.

13. **Indemnification:** Contractor shall defend and indemnify the City, and the City's employees, agents, and volunteers, 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 City, the City's employees, agents, and volunteers, arising out of, or in connection with, the performance of all services hereunder by the Contractor. This indemnification 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 City due to the negligent, fraudulent or criminal acts of the Contractor or any of the Contractor's officers, shareholders, employees, agents, consultants, sub-consultants, 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 workers' 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.

14. **Copyright Protection:** The Contractor agrees to defend and save the City, its agents, officials, and employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, or which the Contractor is not the patentee, assignee, or licensee, to the same extent as provided in the above paragraph.
15. **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 City.
16. **Payment Terms:** Payment terms shall be 'Net 45' days, from the date of Contractor invoice approval by the City.

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.

The City prefers to make payment with the City's Purchasing Card. Typically this enables faster payments to the Contractor. Are you willing and able to accept this type of payment?

Yes____ No____

17. **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 at all times observe and comply with all such laws, ordinances and regulations.
18. **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 City 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 City may be required. The contractor shall complete whichever of the following notations is appropriate:

“**Licensed Class A Virginia Contractor Number** _____.”

“**Licensed Class B Virginia Contractor Number** _____.”

“**Licensed Class C Virginia Contractor Number** _____.”

19. **License Requirement:** All firms doing business in the City of Suffolk are required to be licensed in accordance with the City of Suffolk business license ordinance. Wholesale and retail merchants without a business location in the City of Suffolk are exempt from this requirement. Any questions concerning business licenses should be directed to the Commissioner of the Revenue’s Office, (757) 514-4260 or email comrev@suffolkva.us

20. **Payments to Subcontractors:** Within seven (7) days after receipt of amounts paid by the City for work performed by a subcontractor under this contract, the Contractor shall either:

- a. Pay the Subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under this contract; or
- b. Notify the City and Subcontractor, in writing, of his intention to withhold all or a portion of the Subcontractor’s payment and reason for non-payment.

The Contractor shall pay interest to the Subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in Item b. above.

Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent (1%) per month.

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

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the provision may not be construed to be an obligation to the City.

21. **Records and Inspection:** The Contractor shall maintain full and accurate records with respect to all matters covered under the 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 City and its employees, agents or authorized representatives after giving at least three (3) days' notice to the Contractor by the City. The City 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 City to the Contractor pursuant to this contract or any renewal or extension of the contract. The City'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 work space, in order to conduct audits.
22. **Responsibility of Contractor:** The Contractor shall, without additional costs or fee to the City, correct or revise any errors or deficiencies in his performance. Neither the City's review, approval, acceptance of, or payment for any of the services required under this Agreement shall be deemed a waiver of rights by the City, and the Contractor shall remain liable to the City for all costs which are incurred by the City as a result of the Contractor's negligent performance of any of the services furnished under this Agreement.
23. **Rights and Remedies Not Waived:** In no event shall the making by the City of any payment to the Contractor, or the waiver by the City of any provision under this contract including any obligation of the Contractor, constitute or be construed as a waiver by the City 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 City while any such breach or default exists shall not impair or prejudice any right or remedies available to the City.
24. **Safety:** All Contractors and sub-contractors performing services for the City are required to and shall comply with all Occupational Safety and Health Administration (OSHA), State and City Safety and Occupational Health Standards and any other applicable rules and regulations. Also all Contractors and sub-contractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to persons or property within and around the work site area under this contract.
25. **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 City. Such delays may be caused by delays, denials and modifications of the various state or federal permits, or for other reasons. The City 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 City. If the City delays the project for any reason for a continuous period of ninety (90) days or more, the City 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 City due to causes within the City's control, the above waiver or release shall not apply.

26. **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.
27. **Termination for Convenience:** The City 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 City, at the time of termination. If the City terminates this Contract, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to the City any work completed or in process for which payment has been made.

28. **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 City may give Contractor written notice of such default by certified mail/return receipt requested at the address set forth in Contractor's Bid or as provided in this Contract.

Unless otherwise provided, Contractor shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of Contractor to cure the default, the City may immediately cancel and terminate this Contract as of the mailing date 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 City 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 City and provisions herein with respect to opportunity to cure default shall not be applicable.

This page left blank intentionally.

BID FORM

TO: Purchasing Division
442 West Washington Street
Room 1086
Suffolk, VA 23434-5237

**BID: WATER SYSTEM
ANNUAL CONSTRUCTION SERVICES
IFB #20002-KP**

DUE: August 21, 2019
TIME: 3:00 PM, Local

The undersigned Bidder, _____, offers and agrees, if this Bid is accepted, to complete all Work as specified or indicated in the Bid Documents for the Total Sum of _____ (\$_____), which shall be referred to the Total Base Bid. The Total Base Bid is in accordance with the Schedule of Prices attached and is based on the estimate of quantities shown. Any additions or deletions to the estimated quantities shown will revise the Total Base Bid accordingly.

Award will be made to the lowest responsive and responsible bidder based on the **Total Base Bid** (Total of Schedule A prices plus Total of Schedule B prices).

Bidder has examined the 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.

Water System Annual Construction Services						
Unit Price Bid						
Schedule of Prices – Schedule A						
Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
1	4" Ductile Iron Pipe (minimum CL 50) (0 LF to 25 LF)	801/Special Provisions	LF	25	\$	\$
2	6" Ductile Iron Pipe (minimum CL 50) (0 LF to 25 LF)	801/Special Provisions	LF	100	\$	\$
3	8" Ductile Iron Pipe (minimum CL 50) (0 LF to 25 LF)	801/Special Provisions	LF	250	\$	\$
4	8" Ductile Iron Pipe (minimum CL 50) (26 LF to 100 LF)	801/Special Provisions	LF	250	\$	\$
5	8" Ductile Iron Pipe (minimum CL 50) (101 LF to 500 LF)	801/Special Provisions	LF	250	\$	\$
6	10" Ductile Iron Pipe (minimum CL 50) (0 LF to 25 LF)	801/Special Provisions	LF	100	\$	\$
7	10" Ductile Iron Pipe (minimum CL 50) (26 LF to 100 LF)	801/Special Provisions	LF	100	\$	\$

Water System Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule A**

Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
8	10" Ductile Iron Pipe (minimum CL 50) (101 LF to 500 LF)	801/Special Provisions	LF	100	\$	\$
9	12" Ductile Iron Pipe (minimum CL 50) (0 LF to 25 LF)	801/Special Provisions	LF	250	\$	\$
10	12" Ductile Iron Pipe (minimum CL 50) (26 LF to 100 LF)	801/Special Provisions	LF	250	\$	\$
11	12" Ductile Iron Pipe (minimum CL 50) (101 LF to 500 LF)	801/Special Provisions	LF	250	\$	\$
12	4" C900 PVC Pressure Pipe (min DR 21) (0 LF to 25 LF)	801/Special Provisions	LF	100	\$	\$
13	6" C900 PVC Pressure Pipe (min DR 21) (0 LF to 25 LF)	801/Special Provisions	LF	100	\$	\$
14	8" C900 PVC Pressure Pipe (min DR 21) (0 LF to 25 LF)	801/Special Provisions	LF	100	\$	\$
15	2" HDPE Pipe (CTS-SDR) (DR9)	801/806	LF	250	\$	\$
16	4" HDPE Pipe (D.I.P.S) (min DR9)	801/806	LF	250	\$	\$
17	6" HDPE Pipe (D.I.P.S) (min DR9)	801/806	LF	250	\$	\$
18	8"x4" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
19	8"x6" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	5	\$	\$
20	8"x8" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	5	\$	\$
21	10"x4" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
22	10"x6" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	5	\$	\$
23	10"x8" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
24	10"x10" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
25	12"x4" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
26	12"x6" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	5	\$	\$

Water System Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule A**

Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
27	12"x8" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
28	12"x10" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
29	12"x12" Tapping Sleeve and Valve (TS&V)	801/Special Provisions	EA	2	\$	\$
30	2" Resilient Wedge Gate Valve	801/Special Provisions	EA	2	\$	\$
31	4" Resilient Wedge Gate Valve	801/Special Provisions	EA	5	\$	\$
32	6" Resilient Wedge Gate Valve	801/Special Provisions	EA	5	\$	\$
33	8" Resilient Wedge Gate Valve	801/Special Provisions	EA	5	\$	\$
34	10" Resilient Wedge Gate Valve	801/Special Provisions	EA	2	\$	\$
35	12" Resilient Wedge Gate Valve	801/Special Provisions	EA	5	\$	\$
36	4" OS&Y Gate Valve	801/Special Provisions	EA	10	\$	\$
37	6" OS&Y Gate Valve	801/Special Provisions	EA	10	\$	\$
38	8" OS&Y Gate Valve	801/Special Provisions	EA	10	\$	\$
39	10" OS&Y Gate Valve	801/Special Provisions	EA	5	\$	\$
40	12" OS&Y Gate Valve	801/Special Provisions	EA	10	\$	\$
41	¾" Corporation Stop	Special Provisions	EA	50	\$	\$
42	1" Corporation Stop	Special Provisions	EA	15	\$	\$
43	1 ½" Corporation Stop	Special Provisions	EA	10	\$	\$
44	2" Corporation Stop	Special Provisions	EA	25	\$	\$
45	¾" Copper Tubing, Type K	801	LF	500	\$	\$

Water System Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule A**

Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
46	1" Copper Tubing, Type K	801	LF	250	\$	\$
47	1 1/2" Copper Tubing, Type K	801	LF	150	\$	\$
48	2" Copper Tubing, Type K	801	LF	350	\$	\$
49	Water Meter Box	Special Provisions	EA	400	\$	\$
50	Valve Box	Special Provisions	EA	50	\$	\$
51	Valve Box Extra Depth	Special Provisions	VF	25	\$	\$
52	Valve Box Adjustment	Special Provisions	EA	50	\$	\$
53	Fire Hydrant Assembly	Special Provisions	EA	10	\$	\$
54	Fire Hydrant	Special Provisions	EA	20	\$	\$
55	Service Saddle (4")	Special Provisions	EA	10	\$	\$
56	Service Saddle (6")	Special Provisions	EA	10	\$	\$
57	Service Saddle (8")	Special Provisions	EA	50	\$	\$
58	Service Saddle (10")	Special Provisions	EA	15	\$	\$
59	Service Saddle (12")	Special Provisions	EA	25	\$	\$
60	Water Meter Setter (3/4")	Special Provisions	EA	400	\$	\$
61	Water Meter Setter (1")	Special Provisions	EA	10	\$	\$
62	Water Meter Setter (1 1/2")	Special Provisions	EA	25	\$	\$
63	Water Meter Setter (2")	Special Provisions	EA	25	\$	\$
64	Manual Air Release Assembly	Special Provisions	EA	10	\$	\$

Water System Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule A**

Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
65	Existing Water Service Line Abandonment	Special Provisions	EA	10	\$	\$
66	New Water Service Line (¾") (0 LF to 50 LF)	Special Provisions	EA	50	\$	\$
67	New Water Service Line (1") (0 LF to 50 LF)	Special Provisions	EA	15	\$	\$
68	New Water Service Line (2") (0 LF to 50 LF)	Special Provisions	EA	10	\$	\$
Asphalt Pavement and Concrete						
69	Concrete, Installed Complete In Place	317/Special Provisions	CY	50	\$	\$
70	Asphalt Pavement, Surface Mix, Installed Complete In Place	317/Special Provisions	CY	75	\$	\$
71	Asphalt Pavement, Base Course, Installed Complete In Place	317/Special Provisions	CY	125	\$	\$
72	1 ½ inch SM 9.5A Asphalt Pavement Overlay	315/Special Provisions	SY	2,000	\$	\$
73	1 ½ inch Asphalt Pavement Milling	515/Special Provisions	SY	2,000	\$	\$
74	21A Aggregate Base	309/Special Provisions	CY	300	\$	\$
75	Concrete Curb and Gutter, <u>CG-6</u> , Installed Complete In Place	502/Special Provisions	LF	200	\$	\$
76	Concrete Sidewalk (6-inch depth), Installed Complete In Place	502/Special Provisions	SY	50	\$	\$
77	Concrete Driveway and Entrances	502/Special Provisions	CY	10	\$	\$
Excavation						
78	Select Material	303 / Special Provisions	CY	2,000	\$	\$
79	Undercut Excavation (as authorized by the Owner)	303 / Special Provisions	CY	200	\$	\$
80	Bedding Stone for Undercut Excavation (as authorized by the Owner) (6-inch increments)	303 / Special Provisions	LF	100	\$	\$
81	Point Dewatering (as authorized by the Owner)	Special Provisions	EA	5	\$	\$

Water System Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule A**

Bid Item Number	Item	Specification Section	Unit	Quantity	Unit Cost	Total Cost
82	<i>Linear Dewatering per 50 LF (as authorized by the Owner)</i>	<i>Special Provisions</i>	<i>EA</i>	5	\$	\$
Permits						
83	<i>Required City Permit Applications</i>	<i>Special Provisions</i>	<i>EA</i>	50	\$ 125.00	\$ 6,250.00
TOTAL SCHEDULE A PRICES					(\$ _____)	

Water Annual Construction Services**Unit Price Bid****Schedule of Prices – Schedule B**

Bid Item Number	Item	Unit	Quantity	Unit Cost	Total Cost
1	<i>Superintendent with Pickup and Small Tools</i>	<i>HR</i>	50	\$	\$
2	<i>Skilled Laborer with Power Tools</i>	<i>HR</i>	50	\$	\$
3	<i>Skilled Laborer</i>	<i>HR</i>	50	\$	\$
4	<i>Unskilled Laborer</i>	<i>HR</i>	75	\$	\$
5	<i>Rubber Tired Loader with Operator, 2-1/4 to 3-1/4 cy Bucket</i>	<i>HR</i>	30	\$	\$
6	<i>Backhoe with Operator, 1-3/4 cy Loader, 1/2 cy Backhoe</i>	<i>HR</i>	30	\$	\$
7	<i>Excavator with Operator</i>	<i>HR</i>	30	\$	\$
8	<i>Dump Truck with Operator</i>	<i>HR</i>	30	\$	\$
9	<i>Crew/Utility Truck with Tools</i>	<i>HR</i>	30	\$	\$
TOTAL SCHEDULE B PRICES				(\$ _____)	

TOTAL SCHEDULE A PLUS SCHEDULE B PRICES – TOTAL BASE BID
 (\$ _____)

REFERENCES

Indicate below a listing of at least three (3) recent references for which you have provided similar services. Include the date that services were furnished and the name, address, and phone number of the person we have your permission to contact.

	<u>Client/Address</u>	<u>Date</u>	<u>Contact Person</u>	<u>Phone No.</u>
1)	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
2)	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
3)	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

Bidder 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

Company Name: _____
 Address: _____
 City / State / Zip: _____
 Person Quoting: _____ Title: _____
 Telephone: _____ FAX No.: _____
 E-mail: _____ Mobile No.: _____
 Social Security Number or FIN Number: _____

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same equipment/materials/ service and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences and civil damage awards. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder.

Bidder agrees to begin the Work within ten (10) days of Notice to Proceed; and that Substantial Completion shall be on or before 600 consecutive calendar days after Notice to Proceed date; and that Final Completion shall be on or before 60 consecutive calendar days after Substantial Completion.

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

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

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 bid documents and the understanding and comprehension of the bid specifications is solely my responsibility; based on this, by my signature below I waive all rights to further claims against the City of Suffolk that the document were incomplete or not understandable.

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, Code of Virginia, Section 2.1-639.1 et. seq.

Signature: _____

Date: _____

(Person signing bid should show title or authority to bind the firm in a contract.)

ANTICOLLUSION / NONDISCRIMINATION / 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 CITY OF SUFFOLK 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.

NONDISCRIMINATION CLAUSE:

1. EMPLOYMENT DISCRIMINATION BY BIDDER SHALL BE PROHIBITED.
2. DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL BIDDER SHALL AGREE AS FOLLOWS:
 - A. THE BIDDER, WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, SEX, NATIONAL ORIGIN, AGE, DISABILITY, OR ANY OTHER BASIS PROHIBITED BY STATE LAW RELATING TO DISCRIMINATION IN EMPLOYMENT, EXCEPT WHERE THERE IS A BONA FIDE OCCUPATIONAL QUALIFICATION/CONSIDERATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THE BIDDER. THE BIDDER AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.
 - B. THE BIDDER, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED ON BEHALF OF THE BIDDER, WILL STATE THAT SUCH BIDDER IS AN EQUAL OPPORTUNITY EMPLOYER.
 - C. NOTICES, ADVERTISEMENTS, AND SOLICITATIONS PLACED IN ACCORDANCE WITH FEDERAL LAW, RULE OR REGULATION SHALL BE DEEMED SUFFICIENT FOR THE PURPOSE OF MEETING THE REQUIREMENTS OF THIS SECTION.
 - D. BIDDER WILL INCLUDE THE PROVISIONS OF THE FOREGOING SECTIONS 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.

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

This page left blank intentionally.

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 City Manager, as applicable.

If this quote for goods or services is accepted by the City of Suffolk, 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

This page left blank intentionally.

EXCEPTION PAGE

EXCEPTIONS:

Provider must sign the appropriate statement below, as applicable:

- () Provider understands and agrees to all terms, conditions, requirements, and specifications stated herein.

Firm: _____

Date: _____

- () Provider takes exception to terms, conditions, requirements, or specifications stated herein (Provider must itemize all exceptions below, and return with this bid):

Firm: _____

Date: _____

Exceptions: _____

Providers should note that any exceptions taken from the stated terms and/or specifications may be cause for their submittal to be deemed "non-responsive", risking the rejection of their submittal.

This page left blank intentionally.

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) _____

(WRITE "YES" OR "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 City 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 City within 15 calendar days after notification of award of the bid. If the "Escrow Agreement" form is not submitted as noted herein before, the Contractor shall forfeit such rights to the use of the escrow account procedure. In order to have retained funds paid to an escrow agent, the Contractor, the escrow agent and the surety shall execute an "Escrow Agreement" form and submit same to the City 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 City to make payment of retained funds to the escrow agent. After approving the agreement, the City 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 City. When the final estimate is released for voucher, the City will direct the escrow agent to settle the escrow account by paying the Contractor or the City monies due them as determined by the City. The City 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.

This page left blank intentionally.

Bid Bond # _____

BID BOND

KNOW ALL MEN BY THOSE PRESENT: That we, the undersigned:

_____ as Principal, and _____

_____ as Surety,

acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia, in the just and full sum of five percent (5%) of the maximum amount of accompanying bid for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

WHEREAS, the Principal has submitted a bid, dated _____, 20____, for **Water System Repair Services Annual Contract IFB #20002-KP**

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect. The General Conditions of the Contract Documents, Section C, Paragraph 11, Progress of Work, requires the Contract shall be executed within fifteen (15) calendar days from Notice of Award.

IN WITNESS WHEREOF, the parties hereto have caused their corporation names and seals, respectively, to be hereunto subscribed and affixed by their officers in that behalf duly authorized this _____ day of _____, 20_____.

CONTRACTOR

BY _____
SEAL

ATTEST:

SURETY

BY _____
SEAL

ATTEST:

Resident Virginia Agent of Surety

Submit with Power of Attorney

Section B

*(To be filled out and returned by
the Successful Bidder after Notice of Award)*

This page left blank intentionally.

INSURANCE REQUIREMENTS

The successful bidder shall procure, maintain, and provide proof of, insurance coverage for injuries to persons and/or property damage as may arise from or in conjunction with, the work performed on behalf of the City by the bidder, his agents, representatives, employees or subcontractors. Proof of coverage as contained herein shall consist of all policies, endorsements, declaration pages, and certificates of insurance and shall be submitted fifteen (15) days prior to the commencement of work, and such coverage shall be maintained by the offeror for the duration of the contract period; for occurrence policies. Claims made policies must be in force or that coverage purchased for three (3) years after delivery date.

a. General Liability

Coverage shall be as broad as: Comprehensive General Liability endorsed to include Broad Form, Commercial General Liability form including Products/Completed Operations.

Minimum Limits, General Liability:

\$2,000,000 General Aggregate Limit
\$2,000,000 Products & Completed Operations
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence Limit
\$ 50,000 Fire Damage Limit
\$ 5,000 Medical Expense Limit

b. Automobile Liability

Coverage sufficient to cover all vehicles owned, used, or hired by the offeror, his agents, representatives, employees or subcontractors.

Minimum Limits, Automobile Liability:

\$1,000,000 Combined Single Limit
\$ 5,000 Medical Expense Limit

c. Workers' Compensation

Limits as required by the Workers' Compensation Act of Virginia.
Employers Liability: \$100,000 / \$500,000 / \$100,000.

d. Umbrella/Excess Liability

\$2,000,000 umbrella/excess liability coverage

e. Coverage Provisions

1. All deductibles or self-insured retention shall appear on the declaration pages, endorsements, and/or policies provided.
2. The City of Suffolk, its' officers/officials, employees, agents and volunteers shall be added as "additional insured" as their interests may appear. A copy of all endorsements, declaration pages, and policies that address additional insured shall be provided. This provision does not apply to Professional Liability or Workers' Compensation/Employers' Liability.

3. The offeror's insurance shall be primary over any applicable insurance or self-insurance maintained by the City.
4. Shall provide thirty (30) days written notice to the City before any cancellation, suspension, or void of coverage in whole or part, where such provision is reasonable.
5. All coverage for subcontractors of the offeror shall be subject to all of the requirements stated herein.
6. Failure to comply with any reporting provisions of the policy(s) shall not affect coverage provided the City, its' officers/officials, agents, employees and volunteers.
8. The insurer shall agree to waive all rights of subrogation against the City, its' officers/officials, agents, employees or volunteers for any act, omission or condition of premises which the parties may be held liable by reason of negligence.
9. The offeror shall furnish the City with all certificates of insurance, endorsements, declaration pages, and policies affecting coverage. All documents are to be signed by a person authorized by the insurance company(s) to bind coverage on its' behalf, if executed by a broker, notarized copy of authorization to bind, or certify coverage must be attached.
10. All insurance shall be placed with insurers maintaining an A.M. Best rating of no less than an A:VII. If A.M. Best rating is less than A:VII, approval must be received from City's Risk Manager.

All coverage designated herein shall be as broad as the Insurance Services Office (ISO) forms filed for use with the Commonwealth of Virginia.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned _____
_____, as Principal, and
_____, as Surety,
acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia as Obligee, in the
amount of _____ dollars, _____ for the payment of which, well and
truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators,
successors and assigns.

WHEREAS, the said _____
did, on the _____ day of _____, 20_____, enter into a contract with the City
of Suffolk, Virginia for the **Water System Repair Services Annual Contract, IFB #20002-KP**,
which said contract is by reference made a part hereof, is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all respects
promptly and faithfully comply with and fulfill all the terms and conditions of said contract, then this
obligation shall be void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any change, alteration or addition to the terms of the Contract or
extension of time made by the City.

Whenever principal shall be, and declared by Obligee to be in default under the Contract, the Surety
may promptly remedy the default, or shall promptly

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and
conditions, and upon determination by Surety of the lowest responsible bidder, or, if
the Obligee elects, upon determination by the Obligee and Surety jointly of the lowest
responsible bidder, arrange for a contract between such bidder and Obligee, and make

available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by the Obligee to principal under the Contract and any amendments thereto, less the amount properly paid by Obligee to principal.

It is hereby expressly further understood and agreed that this Bond is also given and made against defective material and workmanship in the said work covered by the said Contract, provided, however, that no suit, action or proceeding, by reason of any defect whatever, shall be brought upon this Bond after one (1) year following (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, if the action be for such.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of Obligee.

SIGNED AND SEALED this ____ day of _____, 20 ____.

CONTRACTOR

BY _____
Signature of Authorized
City, Partner or Officer

SURETY

BY _____
Attorney In Fact

Attach Original Power of Attorney

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, _____
_____, as Principal, and
_____, as Surety,
acknowledge ourselves held and firmly bound unto the City of Suffolk, Virginia as Obligee in the amount
of _____ Dollars (_____) for the payment of which, well
and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators,
successors and assigns.

WHEREAS, the said _____ did, on the ____ day of
_____, 20____, enter into a contract with the City of Suffolk, Virginia, for the **Water
System Repair Services Annual Contract, IFB #20002-KP**, which said contract is by reference made a
part hereof, as fully and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall
promptly make payment to all claimants as hereinafter defined, for all labor and material used or
reasonably required for use in the performance of the Contract, then this obligation shall be void;
otherwise it shall remain in full force and effect, subject, however to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to also include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above-named Principal and Surety hereby jointly and severally agree with the City that every claimant as herein defined, who has not been paid in full before the expiration of a period ninety (90) days after the date on which the last of such claimant's work or

labor was done or performed, or materials were furnished by such claimant, may sue on this bond for such sum or sums as may be justly due claimant, and have execution thereon. The City shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

A. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice of the following: The Principal, the City, and the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or labor was done or performed.

Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the Principal, City and Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

B. After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

C. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is

situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED this _____ day of _____, 20_____.

Contractor

BY _____

ATTEST:

Surety

BY _____

ATTORNEY-IN-FACT

Resident Virginia Agent of Surety
(if original agent is non-resident)

Submit with Power of Attorney

APPROVED AS
TO FORM

City Attorney

This page left blank intentionally.

CITY OF SUFFOLK
CONSTRUCTION CONTRACT ESCROW AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by, between and among the City of Suffolk (City), _____
_____(Contractor),
_____(Name of Bank),
_____(Address of Bank), a trust company, bank, or savings and loan institution with its principal office located in the Commonwealth (hereinafter referred to collectively as "Bank") and _____
_____ ("Surety") provides:

I.

The City and the Contractor have entered into a contract with respect to: **Water System Repair Services Annual Contract, IFB #20002-KP** ("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.

II.

In order to assure full and satisfactory performance by the Contractor of its obligations under the contract, the City is required thereby to retain certain amounts otherwise due the Contractor. The Contractor has, with the approval of the City, 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 City and the Contractor.

III.

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

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

Funds and securities held by the Bank pursuant to this Escrow Agreement shall not be subject to levy, garnishment, attachment, lien, or other process whatsoever. Contractor agrees not to assign, pledge,

discount, sell or otherwise transfer or dispose of his interest in the escrow account or any part thereof, except to the Surety.

IV.

Upon receipt of checks drawn by the City 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.

V.

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

1. United States Treasury Bonds, United States Treasury Notes, United States Treasury Certificates of Indebtedness or United States Treasury Bills,
2. Bonds, notes and other 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 years after the date of its purchase by the Bank or deposit by the Contractor.

VI.

The Contractor may from time to time withdraw the whole or any portion of the 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 City Manager, Director of Finance, Director of Engineering, or Director of Public Utilities, the Bank shall pay the principal of the fund, or any specified amount thereof, to the City. 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 City Manager, Director of Finance, Director of Engineering, or Director of Public Utilities, the Bank shall pay and deliver the principal of the fund, or any specified amount thereof, to the Contractor, in cash or in kind, as may be specified by the Contractor. Such payment and delivery shall be made as soon as is practicable after receipt of the direction.

VII.

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

VIII.

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

IX.

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

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

CITY OF SUFFOLK

BY _____
CITY MANAGER

ATTEST:

CITY CLERK

CONTRACTOR

BY _____
OFFICER, PARTNER OR CITY

BANK

BY _____
PRESIDENT/VICE-PRESIDENT

SURETY

BY _____
ATTORNEY-IN-FACT

Section C

This page left blank intentionally

GENERAL CONDITIONS

Rev: 12/12/2018

1. **DEFINITION OF TERMS:**

- (A) THE "CONTRACT DOCUMENTS" SHALL CONSIST OF THE ITEMS IDENTIFIED IN SECTIONS A, B AND C HEREIN, ADDENDA, 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 MUNICIPAL GOVERNMENT OF THE CITY OF SUFFOLK, 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 "BIDDER."
- (E) THE WORD "BIDDER" 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 BIDDER, ACTING UNDER HIS INSTRUCTIONS AND IN DIRECT CHARGE OF THE WORK FOR THE BIDDER.
- (G) THE TERM "SUBBIDDER" SHALL MEAN ANY INDIVIDUAL, FIRM OR CORPORATION HAVING A DIRECT CONTRACT, WITH THE BIDDER OR WITH ANY OTHER SUBBIDDER 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 CITY OF SUFFOLK, 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 "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.
- (O) 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.
- (P) 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.
- (Q) THE TERM "OR APPROVED EQUAL" PERTAINS TO THE USE OF MATERIALS CURRENTLY ACCEPTED BY THE DEPARTMENTS OF PUBLIC UTILITIES AND PUBLIC WORKS. ITEMS NOT CURRENTLY ACCEPTED MUST BE SUBMITTED FOR REVIEW AND APPROVAL PRIOR TO INCORPORATION IN THE WORK.
- (R) 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.

- (S) THE TERM "FIELD ORDER" SHALL MEAN A WRITTEN ORDER ISSUED BY ENGINEER 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.
- (T) THE TERM "SIGNIFICANT CHANGE" SHALL MEAN A CHANGE IN CONTRACT PRICE OR THE CONTRACT TIMES. WHEN THE CHARACTER OF THE WORK AS ALTERED DIFFERS MATERIALLY IN KIND OR NATURE FROM THAT INVOLVED OR INCLUDED IN THE ORIGINAL PROPOSED CONSTRUCTION.
- (U) THE TERM "NOTICE TO PROCEED" SHALL MEAN THE DATE THE BIDDER WILL BEGIN THE WORK. CONTRACT TIME WILL COMMENCE ON THE DATE OF THE NOTICE TO PROCEED.

2. **EXECUTION, CORRELATION, AND INTENT OF CONTRACT DOCUMENTS:** THE CONTRACT DOCUMENTS SHALL BE EXECUTED BY THE OWNER AND THE BIDDER 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 SUBBIDDERS.

3. **BIDDER'S UNDERSTANDING:** IT IS UNDERSTOOD AND AGREED THAT THE BIDDER 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.

4. **CONSTRUCTION STANDARDS:** THE BIDDER WILL BE RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE BUILDING CODES AND STANDARDS AND ALL CONSTRUCTION MATERIALS AND PROCEDURES SHALL COMPLY WITH ALL GENERALLY ACCEPTED INDUSTRY STANDARDS. CONSTRUCTION STANDARDS SHALL INCLUDE, BUT ARE NOT LIMITED TO THE LATEST EDITION, AND ALL REVISIONS THERETO, OF THE FOLLOWING: BASIC BUILDING CODE - BUILDING OFFICIALS AND CODE ADMINISTRATION (BOCA), VIRGINIA UNIFORM STATEWIDE BUILDING CODE, AND VIRGINIA DEPARTMENT OF TRANSPORTATION'S (VDOT) ROAD AND BRIDGE SPECIFICATIONS DATED 2016; ROAD AND BRIDGE STANDARDS DATED 2016; WORK AREA PROTECTION MANUAL DATED JANUARY, 2011; COMMONWEALTH OF VIRGINIA/STATE BOARD OF HEALTH – WATERWORKS REGULATIONS; AMERICAN WATER WORKS ASSOCIATION; CITY OF SUFFOLK, DEPARTMENT OF PUBLIC UTILITIES PUBLIC FACILITIES MANUAL. SHOULD CONFLICTS OCCUR WITH THE STANDARDS AND THE SPECIFICATIONS SET FORTH HEREIN, THE BIDDER SHALL NOTIFY THE ENGINEER AND THE OWNER SHALL DETERMINE WHICH SHALL BE APPLICABLE. GENERALLY THE MORE RESTRICTIVE SHALL APPLY AND WAIVER OF ANY REQUIREMENTS SET FORTH BY THE STANDARDS WILL BE AT THE DISCRETION OF THE OWNER.
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 BIDDER 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.

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 BIDDER SHALL SUBMIT FOR THE APPROVAL OF THE ENGINEER ALL SHOP DRAWINGS REQUIRED BY THE SPECIFICATIONS OR REQUESTED BY THE ENGINEER. ALL SUCH SUBMISSIONS SHALL BE MADE WITH SUCH PROMPTNESS AS TO CAUSE NO DELAY IN THIS OR ANY OTHER BIDDER ON THE PROJECT, AND TO ALLOW REASONABLE TIME FOR REVIEW.
- (C) UNLESS OTHERWISE DIRECTED, SHOP DRAWING SUBMITTALS MAY BE MADE TO THE ENGINEER VIA ELECTRONIC TRANSFER METHODS (SUCH

AS E-MAIL OR FTP), IN LIEU OF PAPER COPIES. ELECTRONIC SUBMITTALS SHALL BE PROVIDED IN AN ADOBE® PDF FORMAT, BE OF LEGIBLE RESOLUTION AND CLARITY (600 DPI), AND SHALL CONFORM TO THE INFORMATIONAL REQUIREMENTS STATED HEREIN. SUBMITTALS MADE ELECTRONICALLY WILL REMAIN IN AN ELECTRONIC FORMAT, WITH NO HARD COPIES BEING PROVIDED, RETURNED OR REQUIRED. HARD COPY SHOP DRAWINGS SHALL BE SUBMITTED IN SUCH NUMBER OF COPIES THAT TWO (2) 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 BIDDER AND COORDINATED WITH ALL OTHER RELATED OR AFFECTED WORK BEFORE THEY ARE SUBMITTED FOR APPROVAL, AND SHALL BEAR THE BIDDER'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 BIDDER 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 BIDDER 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 BIDDER 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 ENGINEER SHALL PASS ALONG 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 BIDDER OF THE RESPONSIBILITY FOR ANY ERROR IN DETAILS, DIMENSIONS OR OTHERWISE THAT MAY EXIST.

7. **DISCREPANCIES**: ANY DISCREPANCIES FOUND BETWEEN THE DRAWINGS AND SPECIFICATIONS AND SITE CONDITIONS OR ANY INCONSISTENCIES OR AMBIGUITIES IN THE DRAWINGS 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 BIDDER AFTER HIS DISCOVERY OF SUCH DISCREPANCIES, INCONSISTENCIES OR AMBIGUITIES SHALL BE DONE AT THE BIDDER'S RISK.

IF THE BIDDER, 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 BIDDER'S RISK AND EXPENSE.

8. **COPIES OF DRAWINGS FURNISHED**: THE ENGINEER WILL FURNISH TO THE BIDDER, FREE OF CHARGE, FIVE (5) COPIES OF DRAWINGS AND PROJECT MANUAL NECESSARY FOR EXECUTION OF THE WORK. ADDITIONAL COPIES MAY BE PURCHASED BY THE BIDDER FROM THE ENGINEER FOR \$35.00 PER SET.

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.

10. **DRAWINGS AND PROJECT MANUAL ON THE WORK**: THE BIDDER SHALL KEEP ONE (1) COPY OF ALL DRAWINGS AND THE PROJECT MANUAL AT THE JOB SITE, IN GOOD ORDER, AVAILABLE TO THE OWNER

11. **PROGRESS OF THE WORK**: IT IS UNDERSTOOD AND AGREED THAT THE BIDDER WILL EXECUTE THE AGREEMENT WITHIN FIFTEEN (15) CALENDAR DAYS AFTER WRITTEN NOTICE OF AWARD. THE BIDDER SHALL PROVIDE AN ADEQUATE FORCE OF LABOR AND EQUIPMENT TO PROSECUTE THE WORK AT AS MANY DIFFERENT POINTS AS MAY BE NECESSARY TO INSURE THE COMPLETION OF SAME WITHIN THE TIME LIMIT FOR THE COMPLETION AS SET FORTH IN THIS AGREEMENT.

THE BIDDER SHALL FURNISH A PROGRESS SCHEDULE, BASED ON A MINIMUM OF EIGHT (8) HOURS PER DAY UNLESS OTHERWISE MUTUALLY AGREED UPON, FOR APPROVAL BY THE OWNER AND THE ENGINEER. IT SHALL BE INCUMBENT UPON THE BIDDER TO PROVIDE THE MANPOWER, EQUIPMENT, AND PROJECT MANAGEMENT TO MAINTAIN THIS SCHEDULE. IN THE EVENT PERIODIC ESTIMATES INDICATE THE SCHEDULE IS NOT BEING MET, THE BIDDER 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.

DELAYS IN WORK RESULTING FROM THE BIDDER'S FAILURE TO PROVIDE THE PROGRESS SCHEDULE WILL NOT BE CONSIDERED JUST CAUSE FOR EXTENSION OF THE CONTRACT TIME LIMIT OR FOR ADDITIONAL COMPENSATION.

12. **ORDER OF COMPLETION:** THE BIDDER SHALL SUBMIT AT SUCH TIME AS MAY BE REQUESTED BY THE OWNER, SCHEDULES WHICH SHALL SHOW THE ORDER IN WHICH THE BIDDER 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.
13. **SUPERINTENDENCE, SUPERVISION:** THE BIDDER 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 BIDDER AND CEASES TO BE IN HIS EMPLOY. THE SUPERINTENDENT SHALL REPRESENT THE BIDDER IN HIS ABSENCE AND ALL DIRECTIONS GIVEN TO HIM SHALL BE AS BINDING AS IF GIVEN TO THE BIDDER. IMPORTANT DIRECTIONS SHALL BE CONFIRMED UPON WRITTEN REQUEST IN EACH CASE. THE BIDDER SHALL GIVE EFFICIENT SUPERVISION TO THE WORK, USING HIS BEST SKILL AND ATTENTION.
14. **MATERIALS, APPLIANCES, EMPLOYEES:** UNLESS OTHERWISE STIPULATED, THE BIDDER 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 BIDDER 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 BIDDER 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.

BIDDER SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR SAFETY OF ALL PERSONS AND PROPERTY ON THE JOB SITE CONTINUOUSLY DURING THE PROGRESS OF WORK. SPECIFIC ATTENTION SHALL BE PAID TO OVERHEAD WORK AND EQUIPMENT; EQUIPMENT AND PROCEDURES TO BE OF THE TYPE APPROVED BY DOMINION VIRGINIA POWER, VERIZON, CHARTER COMMUNICATIONS, OSHA, THE NATIONAL ELECTRIC SAFETY CODE, VDOT, AND THE CITY OF SUFFOLK.

THE BIDDER SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. NO PERSON UNDER THE AGE OF EIGHTEEN (18) 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 BIDDER SHALL AT ALL TIMES ENFORCE STRICT DISCIPLINE AND GOOD ORDER AMONG HIS EMPLOYEES. IF THE BIDDER OR ANY OF HIS EMPLOYEES AT ANY TIME IN ANY WAY ABUSES PHYSICALLY OR VERBALLY ANY CITY 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 CITY, THE BIDDER MAY BE ORDERED BY THE CITY 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 BIDDER REFUSE TO DO SO, THE CONTRACT MAY IMMEDIATELY AND WITHOUT ADVANCE NOTICE TO SURETIES BE TERMINATED BY THE CITY.

15. **ROYALTIES AND PATENTS:** THE BIDDER 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 BIDDER 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.

16. **SURVEYS, PERMITS, AND REGULATIONS:** PERMITS AND LICENSES NECESSARY FOR THE PROSECUTION OF THE WORK SHALL BE SECURED AND PAID FOR BY THE BIDDER, UNLESS OTHERWISE SECURED AND PAID FOR BY THE OWNER. 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 BIDDER WILL HAVE IN HAND, ON SITE, AN APPROVED TRAFFIC CONTROL PLAN AND AN APPROVED RIGHT OF WAY PERMIT PRIOR TO COMMENCEMENT OF CONSTRUCTION. NO CONSTRUCTION WILL BE PERFORMED UNTIL THESE REQUIREMENTS ARE MET.

THE BIDDER 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 BIDDER 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 BIDDER 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 BENCH MARKS ADJACENT TO THE WORK. FROM THE INFORMATION PROVIDED BY THE OWNER, THE BIDDER SHALL DEVELOP AND MAKE ALL DETAIL SURVEYS NEEDED FOR CONSTRUCTION.

17. **POINTS AND INSTRUCTIONS:** THE BIDDER 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.
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 BIDDER SHALL HAVE A WORKING PIPE LOCATOR ON THE JOB AT ALL TIMES.

THE BIDDER 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 BIDDER FROM THE PRESENCE OF SUCH PIPE OR OTHER OBSTRUCTION OR FROM ANY DELAY DUE TO REMOVAL OR REARRANGEMENT OF SAME.

19. **CARE OF EXISTING STRUCTURES:** THE BIDDER 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, BIDDER SHALL CONTACT THE UTILITY INFORMATION CENTER ("MISS UTILITY"), TELEPHONE 811 FOR ASSISTANCE IN LOCATING EXISTING UNDERGROUND UTILITIES.

THE BIDDER 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 BIDDER'S NEGLIGENCE OR CARELESSNESS IN PERFORMANCE OF THE WORK WILL BE THE BIDDER'S RESPONSIBILITY.

THE BIDDER 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 DEPARTMENT OF PUBLIC UTILITIES. 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 BIDDER 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 BIDDER.

20. **PROTECTION OF WORK AND PROPERTY:** THE BIDDER 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 BIDDER 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 BIDDER SHALL PROVIDE WRITTEN DOCUMENTATION CONCERNING THE CIRCUMSTANCES OF THE EMERGENCY TO THE OWNER AS SOON AS PRACTICAL. ANY COMPENSATION, CLAIMED BY THE BIDDER ON ACCOUNT OF EMERGENCY WORK, SHALL BE DETERMINED BY AGREEMENT OR LITIGATION. IN CASE OF EMERGENCY IN WHICH THE BIDDER IS NOT AVAILABLE TO TAKE CORRECTIVE ACTION, THE OWNER RESERVES THE RIGHT TO CORRECT PROBLEMS AND THE BIDDER SHALL BE RESPONSIBLE FOR ANY ASSOCIATED COST FOR CORRECTIVE ACTION REASONABLY RELATED TO HIS RESPONSIBILITIES UNDER THE CONTRACT.

THE BIDDER SHALL CAREFULLY PRESERVE BENCH MARKS, 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.

21. **PROJECT COORDINATION:** THE BIDDER SHALL COORDINATE HIS CONSTRUCTION PLAN WITH THE DEPARTMENT OF PUBLIC UTILITIES 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.

ANY WORK ON RAILWAY RIGHT-OF-WAY SHALL BE SCHEDULED AND APPROVED AT LEAST 48 HOURS IN ADVANCE OF THE WORK. INSOFAR AS THE SAFETY OF RAILROAD OPERATIONS IS CONCERNED, BIDDER WILL BE GOVERNED BY RAILWAY REQUIREMENTS REGARDING THE METHOD AND MANNER OF PERFORMING SAID WORK. RAILWAY SHALL FURNISH SUCH FLAGMAN AND WATCHMAN SERVICES AS MAY BE REQUIRED TO PROTECT RAILWAY FACILITIES DURING THE PROSECUTION OF THE WORK; THE CITY WILL REIMBURSE THE RAILWAY IN FULL FOR SUCH COSTS.

EXISTING CITY WATER AND SEWER VALVES MAY ONLY BE OPENED AND CLOSED BY OR UNDER THE DIRECT SUPERVISION OF DEPARTMENT OF PUBLIC UTILITIES OPERATIONS AND/OR PUBLIC UTILITIES ENGINEERING PERSONNEL. THE ONLY EXCEPTION IS AN EMERGENCY SITUATION AFFECTING PUBLIC HEALTH OR SAFETY IN WHICH CASE THE BIDDER WOULD ACT IN ACCORDANCE WITH ARTICLE 20. ANY BIDDER FOUND VIOLATING THIS PROVISION MAY BE SUBJECT TO PROSECUTION UNDER THE CODE OF SUFFOLK FOR TAMPERING WITH CITY PROPERTY.

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 BIDDER 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 BIDDER 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 CITY 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 BIDDER 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 BIDDER. 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 BIDDER SHALL PAY SUCH COST, UNLESS HE SHALL SHOW THAT THE DEFECT IN THE WORK WAS CAUSED BY ANOTHER BIDDER, AND IN THAT EVENT THE OWNER SHALL SEEK CORRECTIVE ACTION FROM THE OTHER BIDDER. IF A CONTRACT INSPECTOR IS UTILIZED ON THIS JOB HE SHALL BE TREATED AND CONSIDERED TO BE A CITY EMPLOYEE IN ALL ASPECT AS REQUIRED BY THIS CONTRACT.

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 BIDDER 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.

24. **CORRECTION OF WORK BEFORE FINAL PAYMENT:** THE BIDDER 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 BIDDER 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 BIDDER 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 BIDDER. IF THE BIDDER 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 BIDDER.

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 BIDDER IN WRITING. THE WORK SHALL BE RESUMED BY THE BIDDER WITHIN TEN (10) DAYS AFTER THE DATE FIXED IN THE WRITTEN NOTICE FROM THE OWNER TO THE BIDDER TO DO SO.

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 BIDDER TO RESUME WORK AT A DATE WITHIN NINETY (90) DAYS OF THE DATE FIXED IN THE WRITTEN NOTICE TO SUSPEND, HE WILL BE ENTITLED TO PAYMENT FOR ALL WORK COMPLETED UP TO THE DATE OF NOTICE TO SUSPEND IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.

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 BIDDER 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 PROJECT MANUAL, 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 BIDDER SHALL IMMEDIATELY INFORM THE ENGINEER VERBALLY AND SHALL THEN FOLLOW UP IN WRITING WITHIN TEN (10) DAYS OF THE FIRST OBSERVATION OF ANY SUCH CONDITION. IF THE BIDDER SHOULD FAIL TO NOTIFY THE ENGINEER AS REQUIRED ABOVE, THEN ANY WORK PERFORMED SHALL BE DONE AT THE BIDDER'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 BIDDER AND THE BIDDER WILL BE ENTITLED ONLY TO PAYMENT FOR WORK COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AS OF THE RECEIPT OF SUCH NOTICE.

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.

28. **ENGINEER'S/OWNER'S DECISIONS:** THE OWNER SHALL WITHIN FIFTEEN (15) DAYS TIME AFTER PRESENTATION TO HIM IN WRITING, RENDER DECISIONS, IN WRITING, ON ALL CLAIMS OF THE BIDDER, 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.

29. **CLEANING UP AND RESTORATION OF SITE:** THE BIDDER 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 BIDDER 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 BIDDER; ANY EXPENSE RESULTING FROM CORRECTIVE ACTION TAKEN BY THE OWNER FOR CLEANUP OR RESTORATION SHALL BE DEDUCTED FROM PAYMENTS DUE TO THE BIDDER.
30. **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 BIDDER SHALL BE ENTITLED TO SUCH EXTRA COMPENSATION OR EXTENSION OF TIME OR BOTH AS THE OWNER AND THE BIDDER MAY AGREE.
31. **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 BIDDER THAT THE WORK IS COMPLETED. IF THE WORK IS NOT ACCEPTABLE TO THE ENGINEER OR OWNER, THE BIDDER 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 BIDDER 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.

32. **GUARANTEE OF WORK:** BIDDER 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 (1) YEAR AFTER THE

DATE OF SUBSTANTIAL COMPLETION. SHOULD ANY MANUFACTURER'S WARRANTY BE GREATER THAN ONE (1) YEAR OR SHOULD ANY PERMIT, SPECIFICATION, OR REGULATORY WARRANTY REQUIREMENT BE GREATER THAN ONE (1) YEAR, THE BIDDER SHALL GUARANTEE THE WORK FOR THE LONGER PERIOD. IF DURING THE GUARANTEE PERIOD ANY WORK IS FOUND TO BE DEFECTIVE, BIDDER 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 BIDDER 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 BIDDER.

33. **STATUTE OF LIMITATIONS; WARRANTIES:** AS BETWEEN THE OWNER AND THE BIDDER:

(A) ANY APPLICABLE STATUTE 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 STATUTE 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 ANY ACT OR FAILURE TO ACT BY THE BIDDER PURSUANT TO ANY REQUIRED OR OTHERWISE PROVIDED WARRANTY, THE DATE OF ANY CORRECTION OF THE WORK OR FAILURE TO CORRECT THE WORK BY THE BIDDER, OR THE DATE OF ACTUAL COMMISSION OF ANY OTHER ACT OR FAILURE TO PERFORM ANY DUTY OR OBLIGATION BY THE BIDDER OR OWNER, WHICHEVER OCCURS LAST.

34. **SUBMISSION OF DAILY PERFORMANCE RECORDS:** THE BIDDER SHALL AT THE START OF EACH WORK DAY PROVIDE THE PROJECT INSPECTOR A COPY OF HIS DAILY PERFORMANCE RECORD FOR WORK PERFORMED ON THE PRECEDING WORK DAY. THE PERFORMANCE RECORD SHALL BE SUBMITTED IN FORMAT AS PRESCRIBED BY THE DEPARTMENT OF PUBLIC WORKS.

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

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

35. **RECORD DOCUMENTS:** THE BIDDER 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. PARTIAL PAYMENTS MAY BE WITHHELD FOR FAILURE TO KEEP NEAT, ACCURATE AND COMPLETE AS BUILTS. THE OWNER MAY ELECT TO PREPARE THE AS-BUILTS AT THE EXPENSE OF THE BIDDER SHOULD THE BIDDER FAIL TO PERFORM UNDER THIS PROVISION OF THE CONTRACT.

AS-BUILT INFORMATION SHALL FOLLOW THE REQUIREMENTS IN THE PFM VOLUME II, LATEST EDITION.

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

36. **PARTIAL PAYMENTS:**

(A) 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 10TH OF THE MONTH FOR PAYMENT BY MONTH END. REQUESTS FOR PAYMENTS SHALL BE SUBMITTED IN A FORMAT ACCEPTABLE TO THE DEPARTMENT OF PUBLIC UTILITIES AND SHALL INCLUDE:

1. BIDDER'S ESTIMATE AND INVOICE TRANSMITTALSHEET
2. STANDARD BIDDER'S ESTIMATE VOUCHER.

37. **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.

38. **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.

39. **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 CITY'S STANDARD CHANGE ORDER FORM BY THE CITY MANAGER IS DONE AT THE BIDDER'S TOTAL RISK AND WITH NO OBLIGATION ON THE PART OF THE CITY TO PAY FOR THE WORK.

THE BIDDER SHALL PERFORM UNFORESEEN WORK OR WORK WHICH MAY EXCEED THE TWENTY-FIVE PERCENT (25%) STATED IN ARTICLE 39 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 BIDDER AND THE OWNER, OR IN LIEU OF SUCH AGREEMENT, THE OWNER MAY REQUIRE THE BIDDER 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 BIDDER 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 BIDDER 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 BIDDER 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 BIDDER 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 BIDDER 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 BIDDER AS PAYMENT IN FULL INCLUDING PROFIT FOR EXTRA WORK DONE ON A FORCE ACCOUNT BASIS. AT THE END OF EACH DAY THE BIDDER'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 BIDDER 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 BIDDER'S STOCK THEN, IN LIEU OF THE INVOICES, THE BIDDER 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 BIDDER.

40. **WORK OUTSIDE REGULAR HOURS:** IF THE BIDDER 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 BIDDER PERMISSION TO WORK IF THE FORTY-EIGHT (48) HOUR NOTICE IS NOT GIVEN OR FOR OTHER JUST CAUSE. REASONABLE EFFORTS SHALL BE MADE BY THE BIDDER TO AVOID UNDUE NOISE DURING THE NIGHT AND ON SUNDAYS, IF IT IS NECESSARY TO WORK AT SUCH TIMES. UNDER NORMAL CIRCUMSTANCES THE BIDDER WILL NOT BE PERMITTED TO WORK ON SUNDAYS OR CITY HOLIDAYS.

NORMAL WORKING HOURS ARE DEFINED AS 7:00 A.M. TO 4:00 P.M. MONDAY THROUGH FRIDAY, EXCLUDING CITY HOLIDAYS.

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

41. **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.
42. **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.
43. **LIENS:** NEITHER THE FINAL PAYMENT NOR ANY PART OF THE RETAINED PERCENTAGE SHALL BECOME DUE UNTIL THE BIDDER, 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 BIDDER MAY IF ANY SUBBIDDER 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 BIDDER 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.

44. **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 BIDDER TO PAY FOR LABOR OR MATERIALS, OR TO MAKE PAYMENTS PROPERLY TO SUBBIDDERS
 - (D) A REASONABLE DOUBT THAT THE CONTRACT CAN BE COMPLETED FOR THE BALANCE THEN UNPAID
 - (E) DAMAGE TO ANOTHER BIDDER
 - (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 "ASBUILTS" 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.

45. **THE OWNER'S RIGHT TO DO WORK:** IF THE BIDDER 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 BIDDER OF HIS INTENT TO PERFORM WORK, MAY REMEDY SUCH DEFICIENCIES AFTER THREE (3) DAYS FROM DELIVERY OF SAID NOTICE TO THE BIDDER. THE COSTS INCURRED BY THE OWNER IN CORRECTING THE DEFICIENCY SHALL BE PAID FOR BY THE BIDDER.

46. **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 BIDDER

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 BIDDER 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 BIDDER'S EXPENSE.

47. **RIGHTS OF VARIOUS INTEREST:** WHEREVER WORK BEING DONE BY THE OWNER'S FORCES OR OTHER BIDDERS 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.

48. **SEPARATE CONTRACT:** THE OWNER RESERVES THE RIGHT TO LET OTHER CONTRACTS IN CONNECTION WITH THIS WORK. THE BIDDER SHALL AFFORD OTHER BIDDERS 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 BIDDER'S WORK DEPENDS FOR PROPER EXECUTION OR RESULTS UPON THE WORK OF ANY OTHER BIDDER, THE BIDDER 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 BIDDER'S WORK, AS FIT AND PROPER FOR THE RECEPTION OF HIS WORK, EXCEPT AS TO DEFECTS WHICH MAY DEVELOP IN THE OTHER BIDDER'S WORK AFTER THE EXECUTION OF HIS WORK.

TO INSURE THE PROPER EXECUTION OF HIS SUBSEQUENT WORK, THE BIDDER 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.

49. **SUBCONTRACTS:** THE BIDDER SHALL, WITHIN TEN (10) DAYS AFTER THE SIGNATURE OF THE CONTRACT, NOTIFY THE OWNER IN WRITING OF THE NAMES OF SUBBIDDERS 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 BIDDERS.

THE BIDDER AGREES THAT HE IS AS FULLY RESPONSIBLE TO THE OWNER FOR THE ACTS AND OMISSIONS OF HIS SUBBIDDERS 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 TEN THOUSAND DOLLARS (\$10,000) EACH, AND SUBCONTRACTS WITH A MANUFACTURER OR A FABRICATOR, ANY AGREEMENT BETWEEN THE BIDDER AND ANY SUBBIDDER SHALL REQUIRE OF THE SUBBIDDER A PAYMENT BOND WITH SURETY THEREON IN THE AMOUNT OF ONE HUNDRED PERCENT (100%) OF THE WORK SUBLET TO THE SUBBIDDER, WHICH SHALL BE CONDITIONED UPON THE PAYMENT TO ALL PERSONS WHO HAVE AND FULFILL, CONTRACTS WHICH ARE DIRECTLY WITH THE SUBBIDDER 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 BIDDER FAILS TO REQUIRE SAID BOND, ANY PERSON WHO HAS AND FULFILLS A CONTRACT DIRECTLY WITH SUCH SUBBIDDER 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 BIDDER.

PAYMENTS TO SUBBIDDER(S) SHALL BE MADE IN ACCORDANCE WITH § 2.2-4354 OF CODE OF VIRGINIA (1950), AS AMENDED. UNLESS OTHERWISE SPECIFIED IN THIS CONTRACT, INTEREST SHALL ACCRUE AT THE RATE OF ONE PERCENT (1%) PER MONTH.

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

50. **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.
51. **NONDISCRIMINATION OF BIDDERS:** A BIDDER, OFFEROR, OR BIDDER SHALL NOT BE DISCRIMINATED AGAINST IN THE SOLICITATION OR AWARD OF THIS CONTRACT BECAUSE OF RACE, RELIGION, COLOR, SEX NATIONAL ORIGIN, AGE OR DISABILITY OR AGAINST FAITH-BASED ORGANIZATIONS. IF THE AWARD OF THIS CONTRACT IS MADE TO A FAITH-BASED ORGANIZATION AND AN INDIVIDUAL, WHO APPLIES FOR OR RECEIVES GOODS, SERVICES, OR DISBURSEMENT PROVIDED PURSUANT TO THIS CONTRACT OBJECT TO THE RELIGIOUS CHARACTER OF THE FAITH-BASED ORGAINIZATION FROM WHICH THE INDIVIDUAL RECEIVES OR WOULD RECEIVE THE GOODS, SERVICES, OR DISBURSEMENTS, THE PUBLIC BODY SHALL OFFER THE INDIVIDUAL, WITHIN A REASONABLE PERIOD OF TIME AFTER THE DATE OF HIS OBJECTION, ACCESS TO EQUIVALENT GOODS, SERVICES, OR DISBURSEMENTS FROM AN ALTERNATIVE PROVIDER.
52. **EXECUTIVE ORDERS:** BIDDER AND ALL SUBBIDDERS WITH CONTRACTS IN EXCESS OF \$10,000 SHALL ABIDE BY THE REQUIREMENTS UNDER EXECUTIVE ORDERS NO. 11246 AND 11375, AS SUPPLEMENTED IN DEPARTMENT OF LABOR REGULATIONS (41 CFR CHAPTER 60), INCLUDING SPECIFICALLY THE PROVISIONS OF EQUAL OPPORTUNITY CLAUSE AND SUBMITTAL OF WRITTEN AFFIRMATIVE ACTION PROGRAM. THE BIDDER MUST CERTIFY THAT SEGREGATED FACILITIES ARE NOT PROVIDED OR MAINTAINED.

53. **COPELAND "ANTI-KICKBACK" ACT:** BIDDER AND ALL SUBBIDDERS SHALL COMPLY WITH THE COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874) AS SUPPLEMENTED IN DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 3).
54. **BIDDERS WORK HOURS AND SAFETY STANDARDS:** BIDDER AND ALL SUBBIDDERS WITH CONTRACTS IN EXCESS OF \$2,000 SHALL COMPLY WITH SECTIONS 103 AND 107 OF THE BIDDERS WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-330) AS SUPPLEMENTED BY DEPARTMENT OF LABOR REGULATIONS (29 CFR PART 5).
55. **CLEAN AIR ACT:** BIDDER AND ALL SUBBIDDERS WITH CONTRACTS IN EXCESS OF \$100,000 SHALL COMPLY WITH APPLICABLE STANDARDS, ORDERS, PROVISIONS OR REQUIREMENTS ISSUED UNDER SECTION 306 OF THE CLEAN AIR ACT, SECTION 508 OF THE CLEAN WATER ACT, EXECUTIVE ORDER 11738, AND ENVIRONMENTAL PROTECTION AGENCY REGULATIONS (40 CFR PART 15) OR IN ACCORDANCE WITH SUCH APPLICABLE SUCCESSOR PROVISIONS TO THE ABOVE.
56. **ENERGY EFFICIENCY:** BIDDER SHALL COMPLY WITH ALL MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY EFFICIENCY WHICH ARE CONTAINED IN THE STATE ENERGY CONSERVATION PLAN ISSUED IN COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT (PUB. L. 94-163).
57. **NOTICE TO PROCEED:** AFTER NOTIFICATION OF AWARD THE BIDDER WILL ATTEND A PRE-CONSTRUCTION CONFERENCE SCHEDULED BY THE CITY TO DISCUSS AND SELECT THE NOTICE TO PROCEED DATE. THE CITY RETAINS FINAL AUTHORITY TO SELECT THE NOTICE TO PROCEED DATE.
58. **LIQUIDATED DAMAGES:** TIME IS OF THE ESSENCE ON THIS CONTRACT. FAILURE OF THE BIDDER TO COMPLETE THE WORK WITHIN THE TIME ALLOWED WILL RESULT IN DAMAGES BEING SUSTAINED BY THE CITY. SUCH DAMAGES ARE, AND WILL CONTINUE TO BE, IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE. FOR EACH CONSECUTIVE CALENDAR DAY IN EXCESS OF THE TIME SPECIFIED FOR COMPLETION OF THE WORK, THE BIDDER SHALL PAY TO THE CITY, OR HAVE WITHHELD FROM MONIES DUE IT, THE SUM PER CALENDAR DAY AS STIPULATED IN THE CONTRACT.

EXECUTION OF THE CONTRACT UNDER THESE SPECIFICATIONS SHALL CONSTITUTE AGREEMENT BY THE CITY AND BIDDER THAT THIS AMOUNT PER DAY IS THE MINIMUM VALUE OF THE COSTS AND ACTUAL DAMAGE CAUSED BY FAILURE OF THE BIDDER TO COMPLETE THE WORK WITHIN THE ALLOTTED TIME, THAT SUCH SUM IS LIQUIDATED DAMAGES AND SHALL NOT BE CONSTRUED AS A PENALTY, AND THAT SUCH SUM MAY BE DEDUCTED FROM PAYMENTS DUE THE BIDDER IF SUCH DELAY OCCURS.

PERMITTING THE BIDDER TO CONTINUE AND FINISH THE WORK OR ANY PART THEREOF AFTER THE CONTRACT TIME OR ADJUSTED CONTRACT TIME, AS PERTINENT, HAS EXPIRED SHALL IN NO WAY OPERATE AS A WAIVER ON THE PART OF THE CITY OR ANY OF ITS RIGHTS UNDER THE CONTRACT.

PAYMENT OF LIQUIDATED DAMAGES SHALL NOT RELEASE THE BIDDER FROM

OBLIGATIONS IN RESPECT TO THE FULFILLMENT OF THE ENTIRE CONTRACT, NOR SHALL THE PAYMENT OF SUCH LIQUIDATED DAMAGES CONSTITUTE A WAIVER OF THE CITY'S RIGHT TO COLLECT ANY ADDITIONAL DAMAGES WHICH MAY BE SUSTAINED BY FAILURE OF THE BIDDER TO CARRY OUT THE TERMS OF THE CONTRACT, IT BEING THE INTENT OF THE PARTIES THAT SAID LIQUIDATED DAMAGES BE FULL AND COMPLETE PAYMENT ONLY FOR FAILURE OF THE BIDDER TO COMPLETE THE WORK ON TIME.

Appendices