

TOWN OF VIENNA, VIRGINIA

ON CALL ROADWAY MAINTENANCE
CONTRACT NUMBER: IFB 20-03

INVITATION FOR BID

IFB NUMBER: **IFB 20-03**

IFB SUBJECT: **ON CALL ROADWAY MAINTENANCE**

BID DUE DATE: **MAY 16, 2019 @ 11:00 AM**

PUBLIC OPENING: OFFICE OF THE PURCHASING AGENT
127 CENTER STREET, SOUTH
VIENNA, VIRGINIA 22180

All inquiries should be made, in writing, to Gina Gilpin at ggilpin@viennava.gov by **May 10, 2019 AT 2:00 PM**. Questions received after the deadline may not be answered.

PURPOSE:

The purpose of this Invitation For Bid is to award an annual contract for construction, removal or maintenance of a variety of items within the Town, including but not limited to curb and gutter, sidewalk, trails, storm and sanitary sewers, water lines, paving, pavement milling, silt removal, retaining walls, under drains, seeding, sodding, storm drainage channels, and other related miscellaneous items, on an as needed basis. The selected General Contractor shall be qualified to perform all of the tasks listed here.

On the above date and at the time specified, bids so received will be publicly opened and read aloud.

This IFB may be downloaded from the Town's website at: www.viennava.gov

The Town of Vienna reserves the right to reject any and all bids or to accept the bid(s) which, in its judgment, will be for its best interest.

NO BID MAY BE WITHDRAWN FOR A PERIOD OF SIXTY (60) DAYS SUBSEQUENT TO THE DATE OF THE BID OPENING.

Any bid may be withdrawn PRIOR to the scheduled time for bid opening or authorized postponement thereof.

Envelopes shall be clearly marked on the outside, "SEALED BID" and show the IFB number, IFB subject, opening time, opening date, and Contractor's Registration Number (if applicable).

TOWN OF VIENNA

IFB 20-03

ON CALL ROADWAY MAINTENANCE

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SECTION A

INFORMATION FOR BIDDERS

A-I. SUBMISSION OF BIDS AND BID OPENING

A. Bids will be received by the Town of Vienna, Virginia (Town) and will be opened and read at the times and places set forth in the Advertisement for Bid. Pre-qualified bidders, or their representative, and other interested persons may be present at the opening of proposals.

B. Bidders must use the attached Official Bid Form to submit their bid. All bids must show unit price, if applicable, and total price. **All bidders must return ONE (1) original and ONE (1) copy of the Official Bid Form as well as any issued addendums or any other documentation considered to be part of the Bid Package. Keep a copy of the IFB for your files and do not submit it with the Bid Package.** By signing the Official Bid Form, the bidder acknowledges they have read this solicitation, understand it, and agree to be bound by its terms and conditions. Bids may be submitted by mail or delivered in person.

C. The signed bids must be returned in a sealed envelope and identified as follows: "SEALED BID", show the IFB number, IFB subject, opening time, opening date, and bidder's name and address. The bids must be received at the following location before date and time specified:

Office of the Purchasing Agent
127 Center Street S
Vienna, VA 22180

D. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. **BIDS RECEIVED AFTER THE DATE OR TIME OF OPENING WILL NOT BE CONSIDERED FOR CONTRACT AWARD AND SHALL BE RETURNED TO THE BIDDER.**

Bidders are reminded that changes to the IFB, in the form of addenda, are often issued between the issue date and within three business (3) days before the closing of the IFB. Bidders are solely responsible for checking the Town website to insure that they have the most current information regarding the IFB.

A-2. BIDDING DOCUMENTS

A. Bidding Documents include the Advertisement for Bid, Information for Bidders, Form of Bid, the Bid Bond and the proposed Contract Documents, including any Addenda issued prior to receipt of bids. All requirements and obligations of the Bidding Documents are hereby incorporated by reference into the Contract Documents and are binding on the Successful Bidder upon Award of the Contract.

B. Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement for Bid in the number and for the price, if any, stated therein.

C. Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor the A/E shall assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

D. The Owner in making copies of the Bidding Documents available on the above terms does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

A-3. DEFINITIONS

A. THE BID: A Bid is a complete and properly signed proposal to do the Work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.

B. BASE BID: The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which work may be added or from which work may be deleted for sums stated in Alternate Bids, if any.

C. ALTERNATES: An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

A-4. QUALIFICATION OF BIDDER

A. The Successful Bidder shall perform at least that percentage of the Work specified in Article 7 of the Owner-Contractor Agreement, with forces that are in the direct employment of the Contractor's organization. If requested by the Owner, prior to the signing of the contract, the successful Bidder shall submit a statement of work to be performed by his own forces.

B. Prior to Contract award or within seven (7) days of the Owner's request to do so, the successful Bidder shall be prepared to demonstrate that his present organization, direct labor force and prior work experience is of adequate size and development to maintain responsible control of the project and to schedule, coordinate and perform the Work in an expeditious manner and in accordance with the Contract Documents.

C. Bidders, whether residents or nonresidents of Virginia, will be required to show evidence of a certificate of registration as required by Chapter 11 of Title 54.1 of the Code of Virginia before their bids will be considered. If a bid is $70,000 or more, or if the Contractor's annual volume is $500,000 or more, the Contractor must be licensed as a "Class A Contractor". If a bid is $7,500 or more but less than $70,000, the Contractor must be licensed as at least a "Class B Contractor". The Bidder shall place on the outside of the envelope containing the bid and shall place in the bid, at the place provided, whichever of the following three notations is appropriate:

1. "Licensed Class A Virginia Contractor No. _____"

2. "Licensed Class B Virginia Contractor No. _____".

3. "Contract is less than $7,500 therefore licensure is not required".

D. The Owner will consider, in determining the qualifications of a Bidder, his record in the performance of any contracts for the construction work into which he may have entered with the Town or with such public bodies or corporations. The Owner expressly reserves the right to reject the bid of any Bidder if such record discloses that such Bidder, in the opinion of the Owner, has not properly performed such contracts or has habitually and without just cause neglected the payment of bills, or has otherwise disregarded his obligations to subcontractors, material men, suppliers or employees.

E. The Owner may make such investigation as he deems necessary to determine the ability of the Bidder to perform the Work, and the Bidder shall furnish to the Owner all such information and data for his purpose as he may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder, fails to satisfy the Owner that such Bidder is a responsive and responsible Bidder in accordance with the criteria set forth herein. Conditional bids will not be accepted.

A-5. BIDDER'S REPRESENTATIONS

Each Bidder, by submitting his Bid, represents that:

A. He has read and understands the Bidding Documents and his Bid is made in accordance therewith; and Bidder agrees to be bound by the terms and requirements set forth in the Bidding and Contract Documents;

B. He has visited the site, has familiarized himself with the local conditions under which the Work is to be performed in accordance with Article A-8 and has correlated his observations with the requirements of the proposed Contract Documents;

C. His Bid is based upon the materials, systems and equipment required by the Bidding Documents without exception; and

D. He has the capability, in all respects, and the moral, ethical and business integrity, reliability, technical ability, financial resources, plant, management, superintendents, equipment and materials which will assure effective and efficient good faith performance in full compliance with the Contract Documents and with any and all schedules and Milestone and Completion dates required by the Owner. The Bidder acknowledges and represents that he has made allowances for normal inclement weather indigenous to the Project Site, in his estimating, planning and scheduling of the Work. The Bidder further acknowledges that the Contract Documents are, in his opinion, appropriate and adequate for completing this project and for the construction of sound and suitable Work. The Bidder hereby certifies that the Work shall be completed, in place, in full accordance with the Contract Documents, within the time limits specified.

A-6. BID SECURITY

A. Each bid must be accompanied by (1) cash; or (2) a Cashier's Check or a Certified Check of the Bidder made payable to the Town of Vienna; or (3) a bidder's bond on the Bid Bond Form provided herein or on a similar form which in every respect materially complies with said Bid Bond form. The amount of this bid security will be 2½% of the bid amount for bids of $100,000 or less, and 5% of the bid amount for bids greater than $100,000. For purposes of this provision, the amount of the bid shall be the Base Bid plus all positive amount alternates. The bidder's bond shall be issued by a surety company licensed to conduct business in Virginia and acceptable to the Owner.

B. Said bid security is given as a guarantee that the Bidder will enter into a contract if awarded the Work and, in the case of refusal or failure to so enter into said contract, the security shall be declared forfeited to the Owner. Such security shall be returned to all but the three lowest Bidders within three days after the opening of bids and the remaining security will be returned within 48 hours after the Owner and the successful Bidder have executed the Contract. If no Contract has been awarded or the Bidder has not been notified of the acceptance of his bid, within forty-five (45) days of the bid opening, the Bidder may withdraw his bid and request the return of his bid security. If, at the Owner's request, the Bidder agrees to extend and maintain his bid beyond the specified 45 days, his bid security will not be returned.

C. The Bidder's Cash, Certified or Cashier's Check or Bid Bond shall be accompanied by a written guarantee by a surety company licensed to do business in Virginia and acceptable to the Owner, that in the event a contract is awarded to the Bidder, said surety will furnish the required Performance, Labor and Material Payment and Guarantee Bonds, as required herein.

A-7. LIQUIDATED DAMAGES

The Successful Bidder, upon his failure or refusal to execute the Contract within fifteen (15) days after he has received notice of the acceptance of his bid, shall forfeit to the Owner the security deposited with his bid, as liquidated damages for such failure or refusal.

A-8. SITE CONDITIONS AND CONDITIONS OF WORK

A. Each Bidder must acquaint himself thoroughly as to the character and nature of the Work to be done. Each Bidder furthermore must make a careful examination of the site of the Work and inform himself fully as to the difficulties to be encountered in the performance of the Work, the facilities for delivering, storing and placing materials and equipment, and other conditions relating to construction and labor.

B. Except where subsurface and/or latent conditions at the site are determined in accordance with paragraph 11.9 of the General Conditions to be materially different than those shown on the drawings or indicated in the contract documents, the Successful Bidder, assumes all risk as to the nature and behavior of the soil or subsurface conditions which underlie the Work or is adjacent thereto, or difficulties that may be due to any unfavorable conditions that may be encountered in the Work, whether apparent on surface inspection or disclosed after construction begins.

C. No plea of ignorance of conditions that exist prior to submission of bids, or may hereafter exist on the site of the Work subsequent to the Notice to Proceed, or difficulties that may be encountered in the execution of the Work, as a result of failure to make necessary investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the successful Bidder to fulfill in every detail all the requirements of the Contract Documents and to complete the Work for the consideration set forth therein, or as a basis for any claim whatsoever.

D. Insofar as possible, the Successful Bidder, in carrying out his Work, must employ such methods or means as will not cause interruption of or interference with the Work of the Owner or any separate contractor.

A-9. BIDDER'S QUESTIONS, ADDENDA AND INTERPRETATIONS

A. Bidders and Sub-bidders shall promptly notify the Owner of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding and Contract Documents or of the site and local conditions. No interpretation of the meaning of the drawings, specifications or other contract documents will be made to any Bidder orally.

B. Every request for such interpretation should be in writing addressed to the Purchasing Agent, Vienna, Virginia, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of the bids.

C. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the Bidding Documents which, if issued, will be posted on the Town's website, www.viennava.gov, in the same location as the bid documents, no later than three (3) calendar days prior to the date fixed for the opening of bids. The Owner will not be responsible for any other explanations or interpretations of the proposed documents. Failure of any Bidder to receive any such addendum or interpretation shall not relieve any Bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

D. If the Bidder (or any person bidding to Bidder and/or subsequently in contract with the Bidder, relating to the subject project) knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the Bidding or Contract Documents, said Bidder (or sub-bidder) has an obligation to seek a clarification thereof from the Owner prior to bid. The Owner will welcome such a clarification request, and, if deemed necessary by the Owner, the Owner will issue a written addendum clarifying the matter in question. Should the Bidder fail to seek such a clarification prior to bid, Bidder thereby assumes the risk of loss related to such ambiguity, discrepancy, error, omission or conflicting statement which the Bidder (and any person bidding to Bidder and/or subsequently in contract with Bidder, relating to the subject project) knew or should have known existed at the time of bid.

E. Each Bidder shall ascertain prior to submitting his bid that he has received all Addenda issued, and he shall acknowledge receipt and inclusion in his proposal of all Addenda.

A-10. PERFORMANCE AND PAYMENT BOND

The following bonds or surety shall be delivered to the Purchasing Agent within ten (10) days of notification of award and PRIOR to the commencement of any work and shall become binding on the parties upon the execution of the Contract:

A performance bond satisfactory to the Town, executed by a surety company authorized to do business in Virginia or otherwise secured in a manner satisfactory to the Town, for the faithful performance of the Contract in strict conformity with the plans, specifications and conditions of the Contract Documents. The bond shall be in an amount equal to 100% of the price specified in the contract; and a payments bond satisfactory to the Town, executed by a surety company authorized to do business in Virginia or otherwise secured in a manner satisfactory to the Town, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Contract Documents. Labor and materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site. The bond shall be in an amount equal to 100% of the price specified in the contract.

A prime contractor shall not be precluded from requiring each subcontractor to furnish a payment bond with surety thereon in an amount equal to 100% of the contract with such subcontractor.

A-11. CONTRACT PERIOD

1. The period of this contract shall be from **July 1, 2019** and shall be in effect for one (1) full year from that date. At the sole discretion of the Town of Vienna, and upon mutual written agreement with the Contractor, this contract can be renewed for an additional four (4) years, in one (1) year increments, at the expiration of its terms by mutual written agreement of the Contractor and the Town of Vienna. Should the contract be renewed, the prices for the renewal contract shall be no greater than the percentage change of the CPI-U for the Washington-Arlington-Alexandria, DC-VA-MD-WV area, as listed for the most recent twelve (12) month period on the U.S. Department of Labor's Bureau of Labor Statistics website: http://www.bls.gov/eag/eag.dc_washington_md.htm#eag_dc_washington_md.f.4

   The contractor may request a price adjustment no more frequently than once per year. The renewal of the contract shall depend on the Contractor's performance and the ability to follow instructions of this solicitation.

2. Multiyear contracts may be continued each fiscal year **only** after funding appropriations have been granted by the Town Council. In the event that the Town Council does not grant

necessary funding, then the affected multiyear contract can, upon mutual agreement, be continued as specified until funding becomes available.

A-12. TIME FOR COMPLETION AND LIQUIDATED DAMAGES FOR NON-COMPLETION

The time for completion of this Contract and liquidated damages for non-completion within the stipulated time shall be as fixed in the Owner-Contractor Agreement.

A-13. LOCATION OF WORK

The site of the proposed Work may vary between public and private land or be situated on a combination of the two property types. Site locations may include public streets, easements and/or other right-of-ways, as shown on the drawings.

A-14. LIABILITY INSURANCE AND WORKMEN'S COMPENSATION

The Successful Bidder will be required to carry public liability and workmen's compensation and other insurance in the amounts and under the terms stipulated under Article II of the General Conditions.

A-15. BIDDERS REFERRED TO LAWS

A. The attention of Bidders is called to the provisions of all Municipal, County and State laws, regulations, ordinances and resolutions, including but not limited to, the Virginia Human Rights Act; the Equal Opportunity, Small and Minority Business Enterprises and the Construction Safety Resolutions; as well as laws, regulations, ordinances, resolutions and permits relating to obstructing streets, maintaining signals, storing and handling of explosives, or affecting the Bidder, or his employees or his Work hereunder in his relation to the Owner or any other person. The Bidder shall obey all such laws, regulations, ordinances, permits or resolutions controlling or limiting Contractors while engaged in the prosecution of Work under this Contract.

B. The provisions of this Contract shall be interpreted in accordance with the laws of Virginia and in accordance with the laws, ordinances, regulations, permits and resolutions of the Town of Vienna.

A-16. TAXES

All applicable Federal, State and Local Taxes shall be included in the Bidder's proposal.

A-17. RIGHT TO REJECT BIDS

The Owner expressly reserves the right to reject any or all bids, to waive any informalities or irregularities in the bids received, and to accept that bid which in its judgment, best serves the interest of the Owner.

A-18. EQUAL PRODUCTS AND SUBSTITUTIONS

A. Unless otherwise provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture, form or type construction by name,

make or catalog number, shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. Any Bidder, in such cases, may, with Owner approval, use any article, device, product, material, fixture, form or type of construction which in the judgment of the A/E and Owner is equal to that specified considering quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the project. Approval by the Owner prior to bid opening will be in the form of an Addendum to the Specifications issued to all prospective Bidders indicating that the additional makes or brands are equivalent to those specified.

B. Equal Products and Substitutions Prior to Bid Opening

1. To obtain such approval on makes or brands of material other than those specified in Contract Documents, the Bidder shall submit his requests with adequate supporting technical data, as required below, to the Owner (Town of Vienna, Department of Public Works) not less than ten (10) days before the bid opening;

2. The Bidder's request for approval of any equal product or substitution shall include:

a. Itemized comparison of proposed equal product or substitution with product or method specified;

b. Product identification, including manufacturer's name, street address, email address if applicable and phone number;

c. Manufacturer's literature showing complete product description, performance and test data, and all reference standards;

d. Samples and colors in the case of articles or products;

e. Name and address of similar projects on which the product was used and date of installation;

f. For construction methods, include a detailed description for proposed method and drawings illustrating same, and

g. A certification form, notarized prior to bid, entitled "Bidder's Request for Equal Product or Substitution and Bidder's Representations", contained in the Form of Bid. If approved by an Addendum, said form shall be resubmitted by the Bidder and all other Bidders that desire to use the same product or substitution in their Bid packages, at the time of bid.

C. The decision of the Owner regarding the approval of items as equal products or substitutions will be final.

D. No change in brand or make from the originally specified item or approved equal product or approved substitution will be permitted unless satisfactory written evidence is presented to the A/E and approved by the Owner that the manufacturer cannot make scheduled delivery of the approved item.

E. The Bidder may request approval for equal products or substitutions after award of the Contract in accordance with the provisions of Article 4 of the General Conditions.

F. Equal products or substitutions will not be considered for approval by the Owner prior to or after award of the Contract if acceptance of the proposed equal product or substitution will require substantial design revisions to the Contract Documents or is otherwise not acceptable to the Owner or A/E.

G. Equal products or substitutions will not be considered for approval by the Owner after award of the Contract if the proposed item is indicated or implied on shop drawings or product data

submittals and has not been formally submitted for approval by the Bidder in accordance with the above-stated requirements.

H. Bidders, other than the bidder who requested a particular equal product or substitution, that choose to utilize that equal product or substitution, as approved by addendum, shall comply with the submittal requirements of Article A-17 subparagraph B.2.g herein. All provisions herein and in the General Conditions regarding the use of said equal product or substitution shall apply to all Bidders who choose to utilize said equal product or substitution.

A-19. PREPARATION AND SUBMITTAL OF FORM OF BID

A. Bids shall be submitted utilizing the Form of Bid as found herein, or otherwise provided with the Contract Documents, and shall be complete in every respect. The total bid amount shall be entered in words and figures in the appropriate spaces provided. Where applicable, the unit price or lump sum items, and their extensions, shall be entered in figures in the respective columns provided for each bid item. All entries shall be typewritten or legibly printed in ink. The signatures of all persons shall be in longhand. Any entry of amount that appears on the face of the bid to have involved an erasure, deletion, white-out and/or substitution or other such change or alteration, shall show by them the initials of the person signing the bid and the date of the change or alteration. A failure to comply with this requirement may be cause for disqualification of the bid.

B. For Unit Price bids, in the event of any discrepancies between the unit prices and the extensions thereof or the total bid amount, the unit prices shall govern. For Lump Sum bids, in the event of a discrepancy between the bid amount in writing and that in figures, the written value shall govern. Quantities listed in the Bid Form are an estimation of work only and not a guarantee. Quantities may be greater or less than stated in any given year.

C. Bids shall not contain any restatement or qualifications of Work to be done. Alternate bids will not be considered unless specifically called for. No oral, telegraphic or telephonic bids or modifications will be considered.

D. Bids shall be delivered to the Owner on or before the day and until the beginning of the hour set for the receipt of bids, enclosed in a sealed envelope and bearing the title of the Work, name of Bidder and Bidder's registration number.

E. The Bidder will complete Section B - FORM OF BID in the following manner:

1. Sheet B-1

   a. At "From": Enter name and legal address of firm submitting bid,

   b. Item A: Enter the total amount of the bid in words and figures,

2. Sheet B-2

   Item D: Enter date of receipt of addenda and initial as indicated thereon,

3. Sheet B-3

   a. Item H.1: Enter full legal name of the firm. Indicate type of business entity in subparagraph a, b or c,

   b. Item H.2: Insert Bidder Virginia State Registration Number and Class of licensure, "A" or "B",

   c. Item H.3: Fill in signature, name (typewritten or legibly printed), title or position of principal signing the bid, and date of signature and affix Corporate Seal along the right hand margin,

   d. Item I: Fill in all names and addresses of individuals interested as principals in this proposal,

4. Sheet B-4 and B-5

   The enclosed Bid Bond Form is to be filled in completely, signed, sealed and notarized by both the Principal and the Surety and the appropriate Power(s) of Attorney attached,

5. Sheet B-6

   a. Enter the name and address of the Bidding Firm,

b. List all safety violations, as described in Article A-22 herein,

c. The Principal shall sign the Certification and affix the Corporate Seal,

d. The signature of the Principal shall be attested by an appropriate Notary,

6. Sheet B-7

The appropriate Acknowledgment of Principal of Bidder, must be fully completed and notarized with the notarial seal affixed,

7. Sheet B-8

The Small and Minority Business Data information form must be completed,

8. Sheet B-9

The Contract Bond Certification shall be filled out and signed by the Bidder's Surety,

9. Sheet B-10 and B-11 (if applicable)

All Bidders that desire to utilize an equal product or other substitution which has been approved in an Addendum shall submit this form for each separate substitution, notarized, at the time of bid submittal,

10. Sheet(s) B-12 (if applicable)

If applicable the form(s) attached for Alternate Bids and/or Unit Prices must be completed in full.

A-20. MODIFICATION OR WITHDRAWAL OF BID

A. A Bidder may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of Work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original Work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The Bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original Work papers with such notice.

Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information.

B. Prior to the time and date designated for receipt of bids, any bid submitted may be modified or withdrawn by notice to the party receiving bids at the place designated for receipt of bids. Such notice shall be in writing over the signature of the Bidder.

C. Withdrawn bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with this Information for Bidders.

D. Bid security, if any is required, shall be in an amount sufficient for the bid as modified or resubmitted.

E. A decision denying withdrawal of bid pursuant to Article A-19A herein shall be final and conclusive unless the Bidder institutes legal court action within ten (10) days after receipt of the decision.

F. If it is determined by the Courts that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid and return of his bid security.

A-21. NONCONFORMING TERMS AND CONDITIONS

If the bidder submits alternate terms and conditions with the bid that do not conform to the terms and conditions in this solicitation, the bid is subject to rejection as non-responsive. The Town reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to a determination by the Town of non-responsiveness as a result of the submission of nonconforming terms and conditions.

A-22. EXCEPTIONS

Bidders taking exception to any part or section of this solicitation, including, by way of illustration and limitation, the Specifications, General Terms and Conditions, the Special Conditions, and any attachments or references hereto, shall indicate such exceptions on the Bid Forms. Failure to indicate any exceptions shall be interpreted as the bidder's intent to fully comply with the solicitation as written. However, conditional or qualified bids with such exceptions, unless specifically allowed in the solicitation, are subject to rejection in whole or in part as non-responsive.

A-23. CONSTRUCTION SAFETY

A. It shall be required that each bid submitted to the Town for a contract for construction, alteration, and/or repairs, including painting or decorating of a building, highway, street, bridge, sidewalk, culvert, sewer, excavation, grading, or any other construction, include a list of all the following actions which have become final in the three years prior to the bid submission:

1. Willful violations, violations for failure to abate, or repeated violations, for which the bidder was cited by (a) the United States Occupational Safety and Health Administration; (b) the Virginia Department of Labor and Industry; or (c) the occupational safety and health plan for any other state; or

2. Three (3) or more serious construction safety violations for which the bidder was cited by the (a) United States Occupational Safety and Health Administration; or (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan from any other state.

3. Termination of a contract between the Contractor and the Town by the purchasing agent or his designee for safety violations.

If the bidder has not received or been the subject of any such violations in the three (3) years prior to the bid submission, then the bidder shall so indicate by certification on the bid form entitled Certification of Safety Violations. The bidder will also indicate on this form each state in which Work was performed in the three (3) years prior to the bid submission.

B. No Town construction contract, as discussed above, may be bid on by any bidder or contractor who has been the subject of any citations for the type and number of violations listed in aforementioned paragraph A, which have become final within the three (3) years prior to the bid submission.

1. Notwithstanding the language of paragraph B, above, any bidder or contractor who has been the subject of a violation, as described heretofore in paragraph A, which has become final in the three (3) years prior to the bid submission, may bid, after a mandatory twelve

(12) months from the date the violation became final, if the bidder or contractor meets the eligibility criteria set forth in paragraph D, below.

2. Notwithstanding the language of paragraph B, above, any bidder or contractor who has been the subject of the type and number of violations as described in paragraph A(2), which have become final within three (3) years prior to bid submission, may bid, after a mandatory waiting period of twelve (12) months from the date the last such violation became final, if the bidder or contractor meets the eligibility criteria in paragraph D, below.

3. Notwithstanding the language of paragraph B, above, any bidder or contractor who has previously been terminated from a Town contract, as described in paragraph A(3), within three (3) years prior to the bid submission, may bid, after a mandatory waiting period of twelve (12) months from the date of termination, if the bidder or contractor meets the eligibility criteria in paragraph D, below.

C. Prior to bidding on a project, under the provisions of paragraph B, above, a Contractor may request that a determination be made by the Town, regarding its eligibility to submit a bid on a contract under the terms of this resolution. However, this request for determination and any subsequent adjudication process must be completed prior to submitting a bid on any project and the request for determination must be received no later than twenty-one (21) days before bids are due unless otherwise stated in the Advertisement for Bid.

D. The criteria used by the Town in reviewing the corrective action taken by a bidder or Contractor to prevent the recurrence of safety violations shall include but not be limited to the following:

- Does the firm have an established safety program? If so, how long has it been in existence?
- Does the firm incorporate safety and health related issues into their new employee orientation programs?
- Does the firm include work safety as a part of an employee's performance evaluation?
- To what degree does senior/corporate management support safety related matters? Does the firm have a safety policy statement signed by a member of senior/corporate management?
- Does the firm have a full time Safety Manager? Does this person report to a high level, authoritative position within the Company?
- Are safety inspections conducted at work sites? If so, how often & by whom?
- Are safety training programs conducted for employees? If so, how often and by whom?
- Are safety meetings conducted on site by the firm? If so, how frequently?
- Does the firm have a visibly active safety committee? If so, how often does it meet? Who serves on the committee?
- Is the firm an active member of a recognized construction safety organization in the Washington Metropolitan area, or in the state of contractor's domicile?
- What is the firm's Workers Compensation Experience Modification Factor? Are there any evident trends?

The determination rendered by the Town shall be final unless it is appealed in accordance with the provisions of the solicitation.

E. It shall be a condition of each Town construction contract, as discussed above, that no Contractor or Subcontractor contracting for any part of the contract Work shall require any laborer, mechanic, or other person employed in the performance of the contract to work in

surroundings or under working conditions which are hazardous or unnecessarily dangerous to his safety as determined under construction safety standards promulgated by the U.S. Department of Labor or the Virginia Department of Labor and Industry.

F. No contractor awarded a Town construction contract shall knowingly employ or contract with any person, company, or corporation for services pursuant to that contract if such person, company or corporation could not have been awarded such contract due to the restrictions in paragraph B, above.

A-24. AWARD OF CONTRACT

Award may be made in the aggregate or separately for each PART identified in the Pricing Schedule. The Town reserves the right to award the contract in the aggregate, or by PART, and/or to make a Primary and Secondary and Tertiary award in the aggregate, or separately per PART, depending upon what the Town determines to be in its best interest.

A. The Purchasing Agent or her designee, shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more goods or services included in a solicitation when in his judgment the public interest may be served thereby. If separate bids are received for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the Purchasing Agent or her designee, is authorized to award that is deemed to be in the best interest of the Town of Vienna.

B. The Lowest Bidders are determined by the aggregate amount of the unit prices set forth in the Form of Bid or the aggregate amount of the Base Bid, plus any Alternates selected by the Owner.

C. A Responsive Bidder shall mean a Bidder who has submitted a Bid which conforms, in all material respects, to the Bidding Documents.

D. A Responsible Bidder shall mean a Bidder who has the capability, in all respects, to perform fully the Contract requirements and the moral, ethical and business integrity and reliability which will assure good faith performance. In determining responsibility, the following criteria will be considered:

1. The ability, capacity and skill of the Bidder to perform the contract or provide the service required;

2. Whether the Bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

3. The character, integrity, reputation, judgment, experience and efficiency of the Bidder;

4. The quality of performance during previous contracts or services. For example the following information will be considered:

   a. The administrative and consultant cost overruns incurred by Owners on previous contracts with Bidder,

   b. The Bidder’s compliance record with Contract General Conditions on other projects,

   c. The submittal by the Bidder of excessive and/or unsubstantiated extra cost proposals and claims on other projects,

   d. The Bidder’s record for completion of the Work within the Contract Time or within Contract Milestones and Bidder’s compliance with scheduling and coordination requirements on other projects,

e. The Bidder's demonstrated cooperation with the Owner, A/E and other contractors on previous contracts,

f. Whether the work performed and materials provided on previous contracts was in accordance with the Contract Documents;

5. The previous and existing compliance by the Bidder with laws and ordinances relating to contracts or services;

6. The sufficiency of the financial resources and ability of the Bidder to perform the contract or provide the service;

7. The quality, availability and adaptability of the goods or services to the particular use required;

8. The ability of the Bidder to provide future maintenance and service for the warranty period of the contract;

9. Whether the Bidder is in arrears to the Town on debt or contract or is a defaulter on surety to the Town or whether the Bidder's taxes or assessments are delinquent;

10. Such other information as may be secured by the Director of Public Works or his designee, having a bearing on the decision to award the contract, to include, but not limited to:

a. The ability, experience and commitment of the Bidder to properly and reasonably plan, schedule, coordinate and execute the Work,

b. Whether the Bidder has ever been debarred from bidding or found ineligible for bidding on any other projects.

E. The purpose of the above is to enable the Town of Vienna, in its opinion, to select the bid which is in the best interests of the Town. The ability of the low Bidder to provide the required bonds will not of itself demonstrate responsibility of the Bidder.

F. The Owner reserves the right to require from the Bidder: (1) submissions of references, within seven (7) days of bid opening, to include a listing of previous and current projects and (2) financial statements indicating current financial status, prepared in accordance with generally accepted accounting principles, by a CPA licensed to do business in Virginia.

G. The Owner reserves the right to defer award of this contract for a period of sixty (60) days after the due date of bids. During this period of time, the Bidder shall guarantee the prices quoted in his bid.

A-25. APPEAL OF DETERMINATION OF NONRESPONSIBILITY

A. Any Bidder who, despite being the apparent low bidder, is determined not to be a responsible Bidder for a particular Town contract shall be notified in writing by the Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the Bidder institutes legal court action within ten (10) days of receipt of the notice.

B. If it is determined by the Courts that the decision of the Purchasing Agent, was arbitrary or capricious, or otherwise in error and the award for the particular Town contract in question has not been made, the sole relief available to the Bidder shall be a finding that the Bidder is a responsive or responsible Bidder for the Town contract in question. Where the award has been made and performance has begun, the Town may declare the contract void upon a finding that this action is in its' best interest. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

A-26. PROTEST OF AWARD OR DECISION TO AWARD

A. Any Bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the Purchasing Agent or her designee, or other official designated by the Town of Vienna, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first; provided, however, that no protest shall lie for a claim that the selected Bidder or offeror is not a responsible Bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Purchasing Agent, shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the Bidder or offeror institutes legal court action in the Town of Vienna within ten (10) days of receipt of the written decision.

B. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Purchasing Agent or his designee, shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the Town. Where the award has been made and performance has begun, the Purchasing Agent or his designee may declare the contract void upon a finding that this action is in the best interest of the Town. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Pending final determination of a protest, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

D. An award need not be delayed for the period allowed a Bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

A-27. NEGOTIATION WITH LOWEST RESPONSIBLE BIDDER

A. The Owner reserves the right to negotiate any bid which exceeds the funds available to perform the Work as follows:

If, upon review of the lowest responsible bid, it is determined, in writing, by the Director of Public Works or his designee that sufficient funds are not currently budgeted in the project to award this contract and it is in the Town's best interest to proceed with the construction of the project without delay, the Director of Public Works or his designee may review the plans and contract documents to determine, in writing, possible areas of modification or reduction which can be made without significantly affecting the scope of the project. Upon determination that such areas may exist, the Director of Public Works or his designee shall notify the lowest responsive and responsible bidder of the Town's decision to exercise its option under this provision and request an interview with the contractor or his designee. If a satisfactory bid price is obtained, the Town shall then enter into a contract as modified during the negotiation session(s).

B. If a satisfactory price cannot be agreed to, then negotiations shall be terminated, all bids rejected and, if the requirement is still valid, the project shall be re-advertised.

A-28. SUBCONTRACTING

If one or more subcontractors are required, the Contractor is encouraged to utilize small, minority-owned, and women-owned business enterprises. Upon contract award, the prime contractor agrees to make maximum effort to provide the names and addresses of each subcontractor, that subcontractor's status as defined by the Town of Vienna as a small, minority-owned and/or woman-owned business, and the type and dollar value of the subcontracted goods/services provided.

A-29. INTEREST IN MORE THAN ONE BID AND COLLUSION

Multiple bids received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for a solicitation both as a bidder and as a subcontractor for another bidder, will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

A-30. EXPENSES INCURRED IN PREPARING PROPOSAL

The Town accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid, such expenses to be borne exclusively by the bidder.

A-31. NONAPPROPRIATION

All funds for payments by the Town under this Contract are subject to the availability of an annual appropriation for this purpose by the Town Council. In the event of nonappropriation of funds by the Town Council for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the Town will terminate the Contract, without termination charge or other liability to the Town, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the Town shall not be obligated under this Contract beyond the date of termination.

A-32. CONTRACT RENEWAL WITH PRICE ADJUSTMENTS NEGOTIATED UP TO CPI-U

The resulting contract will cover a period of one (1) year from the date of award. After that period the contractor may request a price adjustment at the time of the contract renewal. This contract can be renewed for an additional four (4) years, at one year increments at the expiration of its terms by mutual written agreement of the Contractor and the Town of Vienna. Should the contract be renewed, the prices for the renewal contract shall be no greater than the percentage change of the CPI-U for the Washington-Arlington-Alexandria, DC-VA-MD-WV area, as listed for the most recent twelve (12) month period on the U.S. Department of Labor's Bureau of Labor Statistics website. The renewal of the contract shall depend on the Contractor's performance and the ability to follow instructions of this solicitation.

If the Contractor and the Town do not agree on a price using the procedure set forth above by the thirtieth (30th) day prior to the end of the initial Contract Term or the end of ensuing renewal term or terms, the Town will terminate the Contract whether or not the Town has previously elected to extend the term. The Contract unit price(s) changed as a result of this procedure shall become effective on the anniversary date of the Contract and shall be binding on the Contractor for the ensuing renewal term or terms.

A-33. COOPERATIVE PROCUREMENT

As authorized in Section 2.2-4304 of the Code of Virginia, this procurement is being conducted on behalf of and may be used by public bodies, agencies, institutions and localities of the several states, territories of the United States, and the District of Columbia with the consent of the Contractor.

A-34. MODIFICATION OF CONTRACT:

The Town may, upon mutual agreement with the contractor, issue written modifications to the scope of work of this contract, and within the general scope thereof, except that no modifications can be made which will result in an increase of the original contract price by a cumulative amount of more than $50,000.00 or 25% whichever is greater, without the advance written approval of the Mayor and Council. (Section 2.2-4309 of Virginia Public Procurement Act).

Should it become necessary for the best interest of the Town to make modifications, the same shall be covered by change order. The Contractor shall not begin work on any alteration requiring a change order until the written agreement, setting forth the changes/modifications, has been executed by the Town and the Contractor.

If a satisfactory agreement cannot be mutually agreed to for any item requiring a change order, the Town reserves the right to terminate the contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the work.

The Town may, in writing, omit from the work any item, other than major items, found unnecessary to the project and such omission shall not be a waiver of any condition of the contract nor invalidate any of the provisions thereof. Major items may be omitted by change order.

The Contractor shall be paid for all work done toward the completion of the item prior to such cancellation, alteration or suspension of the work by the Town.

A major item shall be construed to be any item, the total cost of which is equal to or greater than ten percent (10%) of the total; contract amount for each separate alternate, computed on the basis of the proposed quantity and the contract unit price.

A-35. INSURANCE

The Contractor shall provide the Purchasing Agent with a Certificate of Insurance PRIOR to the start of any work under the contract and agrees to maintain such insurance until the completion of the contract. The minimum limits of liability shall be:

Workers' Compensation -- Standard Virginia Workers' Compensation Policy

Broad Form Comprehensive General Liability--$1,000,000.00.

Combined Single Limit coverage to include:

Premises - Operations; Products/Completed Operations;

Contractual; Independent Contractors; Owners and Contractors

Protective; Personal Injury (Libel, Slander, Defamation of Character, etc.)

Automobile Liability--$500,000.00 Combined Single Limit.

The Town of Vienna, Virginia is to be named as an additional insured and this is to be so noted on Certificate of Insurance.

The policy shall be delivered to the Town of Vienna PRIOR to the commencement of any work.

A thirty (30) day written notice of cancellation or non-renewal shall be furnished by certified mail to the purchasing office at the address indicated on the solicitation.

My signature on this solicitation constitutes certification that, if I am awarded the contract, I shall obtain the required coverage as specified herein within ten (10) days of notification of award.

A-36. HOLD HARMLESS CLAUSE

Bids shall provide for the contractor holding harmless the Town of Vienna and representatives thereof from all suits, actions, or claims of any kind brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding contact work, or on account of any act or omission by the contractor or its employees, or from any claim or amounts arising or recovered under any law, bylaw, ordinance, regulation or decree.

A-37. LAWS AND REGULATIONS

The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.

The Contractors and Subcontractors shall comply with the Virginia Contractor's Registration Law, Title 54.1, Chapter 11, Code of Virginia (1950), as amended.

All non-resident Contractors and Subcontractors submitting bids on the work described herein shall register with the Department of Labor and Industry under the provisions of Subsection 40.1-30 of the Code of Virginia (1950), as amended.

This contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, Code of Virginia (1950), as amended, relating to labor unions and the "right to work", and all Contractors and Subcontractors, whether residents or non-residents of the Commonwealth, who perform work related to the project shall comply with all of said provisions.

The Contractor shall furnish the Owner copies of affidavits upon request giving original dates, renewal dates and expiration dates of all labor contracts related to any phase of the work to be performed on the job site under this contract.

The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia (1950), as amended, shall apply to all work under this contract.

A-38. CONTRACT RATES

1. Rates specified by bidder shall be F.O.B. Destination and shall include all direct and indirect overhead costs such as transportation, supervision, general and administrative costs, etc. Labor and equipment rates will be paid on the basis of productive time at the job site. Regular hours are 8:00 a.m. through 4:30 p.m., Monday through Friday. Overtime hours are defined as Monday through Friday, 4:30 p.m. – 8:00 a.m., weekends and holidays.

2. A minimum service charge, not to exceed $300.00, may apply when the total cost of the actual work performed is less than the service charge. This charge does not apply to requests for estimates or work site evaluations. The minimum service charge will not apply when the cost of actual work performed is greater than the minimum service charge. The greater amount will apply.

3. The Contractors may be required to provide materials, rental equipment and subcontractors to fulfill the service requirements of the contract. If the Contractor provides materials, rental equipment or subcontractors, the compensation will be based on the actual cost of the materials, equipment or subcontractors with a markup equal to the percentages shown below.

No additional costs of any kind will be allowed.

Materials markup: 15%

Rental Equipment and Subcontracting markup: 10%

Note: Invoices which include material ($25.00 or more), equipment rental or subcontractor charges shall be accompanied by supplier's/subcontractor's invoices to substantiate costs to Contractor. The Contractor shall make every attempt to obtain the lowest price for the materials and rental equipment.

SECTION B
MANDATORY TERMS, CONDITIONS AND SPECIFICATIONS

I. PURPOSE

The purpose of this Invitation For Bid is to award an annual contract for construction, removal or maintenance of a variety of items within the Town, including but not limited to curb and gutter, sidewalk, trails, storm and sanitary sewers, water lines, paving, pavement milling, silt removal, retaining walls, underdrains, seeding, sodding, storm drainage channels, and other related miscellaneous items. The selected General Contractor shall be qualified to perform all of the tasks listed here. The Town of Vienna shall be able to verify that the contractor has previously completed projects with similar tasks. Work will be done on an as needed basis. Quantities in the Bid Form are estimates, there is no guarantee to the amount of work that will be done in any fiscal year.

II. EASEMENT AGREEMENTS:

Standard easement agreements and temporary construction easements have been obtained on all properties as necessary. The Contractor will be held responsible for all special conditions as listed.

III. EXISTING UTILITY AND TEST PITS:

When crossing under and working adjacent to existing utilities, the Contractor will support these utilities by an approved method. The cost of supporting these utilities will be paid by the Contractor at his expense. The Contractor will also be responsible for digging test pits to locate all underground utilities prior to beginning any construction. The Contractor will also be responsible for coordination with all utility companies.

IV. STANDARDS:

Current Town of Vienna Standards and sections of the Virginia Department of Transportation (VDOT) Road and Bridge Specifications relating to construction and materials will be used. All references relating to “Method of Measurement” and “Basis of Payment” contained in the VDOT references are hereby excluded. Payment will be made in accordance with the items contained in the “Form of Bid” and no other payment will be made. On certain projects performed under this contract, special contract specifications may be available. If there are discrepancies between various specifications or standards, the most stringent standard will apply.

V. ALLAYING DUST:

The Contractor will take whatever steps that are necessary to ensure that mud is not tracked onto the streets and to allay dust at all times during the construction period and to maintain traffic in an approved manner, for which no additional payment will be made.

VI. LINE AND GRADE:

A. The Contractor shall employ an individual of appropriate qualifications to survey, stake-out or check other construction. Work by the Surveyor will be at the Contractor’s expense and included as part of the contractor’s Unit Prices.
B. The Survey will establish the property corners, the limits of clearing and the wetlands boundaries.
C. The Contractor shall be responsible for detail stakeout of lines and grades as necessary to establish templates, batter boards and the datum points to perform the work.

D. The Contractor will be responsible for preservation of all corners, stakes, and benchmark established. Stakes, benchmark, control points, corners and grade markings damaged or disturbed during construction shall be replaced at no cost to the Owner.
E. Both the Owner's and Contractor's representatives shall review all layout work related to pavements, sidewalks, curb and gutter, sanitary, storm, water or site improvements before actual construction proceeds.

VII. UTILITY RELOCATION AND TIMING:

Efforts will be made to complete the utility work prior to the issuance of the Notice to Proceed. The Contractor is advised that some relocation of the utilities may not be completed by the Notice to Proceed date. The Contractor is advised that in the event the relocation is not completed that any claims by the Contractor for additional monies due to hold-ups, delays, etc., will not be allowed any only a Time Extension will be granted during the relocation period.

VIII. MISCELLANEOUS REQUIREMENTS:

A. Positive drainage is to be maintained at all times.
B. Siltation controls will be installed and maintained for the duration of the task order and remove prior to completion of work.
C. The Contractor is to provide adequate means to clean trucks and equipment of mud. The Contractor will insure that all adjacent streets are maintained in a clean, mud and dust free condition at all times.
D. Care will be taken to minimize impact on adjacent properties during construction.
E. Good "Housekeeping" practices for construction will be required at all times to maintain the project in a safe working condition for the public and project personnel.
F. Access for local and emergency traffic will be maintained on all streets at all times.
G. Traffic is to be properly maintained with certified flagman and/or signs at all times.

IX. PROJECT REQUIREMENTS:

A. The duration of this contract is one year from Notice-to-Proceed. One year extensions of the Contract may be issued at the Town's discretion.
B. The work will be divided into several Purchase Orders. Each Purchase Order will have its own estimate and time of completion.
C. The Contractor will receive a Request for Quote, (RFQ), from the Town. After the Contractor's quote is accepted, the Town will issue a Purchase Order for that specific job and a completion date. Work must begin at the time agreed to between the Town and the contractor for each project, and be completed by the date specified. Liquidated damages as stated in Article 4.4 of Owner/Contractor Agreement, Page C-2 may be assessed for delays on each Purchase Order.
D. RESPONSE TIME FAILURE: When the Primary contractor cannot meet the response time requirements according to the awarded contract, the Town may use the services of the Secondary contractor, if necessary to fulfill needs. Documentation from the Primary contractor stating they cannot meet the response time requirement must be provided to the Town within ten (10) working days so the Town can contract with the Secondary source listed on the contract.
E. Completion of certain Purchase Orders may require construction pay items not included in the original bid. These items will be negotiated individually.
F. Items in the Form of Bid that are for "removal and disposal" shall include the dump fees and filling of the holes when applicable.
G. One year warranty provision will apply to each Purchase Order. One year maintenance bond is required in the amount of 5%. The one year warranty will start after the completion of the work and passing final inspection.

X. STRUCTURE INVERTS, THROATS AND APRONS:

Inverts, throats, and aprons will be constructed in all storm sewer structures in accordance with Town of Vienna Standards or as directed by the Project Engineer.

Requirements for Open Trenches: Regular and classified backfill shall be placed in uniform layers not more than 8 inches in thickness, loose measurement, before compaction. Class I backfill material shall be crusher run aggregate, No. 25 or 26; aggregate base material, Size 21A or 21B; or flowable fill. Class I backfill material shall be placed and compacted at a moisture content of optimum to plus 2 percentage points of optimum. Class I backfill material shall be thoroughly compacted under the haunches of pipe culverts. Each layer of Class I and regular backfill material shall be compacted by rolling, tamping with mechanical rammers, or hand tamping with heavy metal tampers with a face of at least 25 square inches. If vibratory rollers are used in the backfill operations, vibratory motors shall not be activated until at least 3 feet of backfill has been placed and compacted over the pipe. Backfill and compaction shall be advanced simultaneously on both sides of the pipe. The fill above the top of the regular backfill shall be installed and completed as specified for embankment construction.

XI. MAINTENANCE OF TRAFFIC:

The Contractor shall be required to maintain traffic in a manner satisfactory to the Owner and Virginia Department of Transportation (VDOT) at all times.
The warning signs shall be such that they fulfill the requirements of the VDOT permit, the Virginia Work Area Protection Manual and the Manual of Uniform Traffic Control Devices (M.U.T.C.D). The Contractor is responsible to always protect the safety, health and welfare of the public.

XII. PERMITTING:

Required federal, state, local, plumbing and Town permits are the responsibility of the Contractor. Permits, including special exceptions, are to be approved prior to commencing with the related portion of the Work.

XIII. WATER METER RELOCATION:

Water meter relocations includes the labor required to install copper tubing, connect to existing town and private service lines, provide new gate valves, relocate meter housing and meter, backfill and excavation.

XIV. TEMPORARY PAVEMENT MARKING:

The contractor shall provide temporary paint as pavement marking as needed as part of the contract.

XV. STORM WATER:

All work on drainage items shall be constructed per Section 100 of the VDOT Road and Bridge Standards unless otherwise specified by the Project Engineer. All work shall comply with the Virginia Erosion and Sediment Control Law and Regulations.

SECTION C.

OWNER-CONTRACTOR AGREEMENT

CONTRACT NUMBER: IFB 20-03

THIS AGREEMENT, in three (3) copies, is made this _____ day of _____ 20___, by and between The Town of Vienna, Virginia (herein referred to as the "Owner"), whose mailing address is c/o Department of Public Works, 127 Center Street South, Vienna, Virginia 22180, and _____ (herein referred to as the "Contractor"), whose mailing address is as follows, _____. All correspondence, submittals and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS it is the intention of the Owner to obtain the services of the Contractor in connection with the construction activities of ON CALL ROADWAY MAINTENANCE, hereinafter referred to as the "Project" or the "Work"; and WHEREAS the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable considerations, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1

DEFINITIONS

1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.

1.2 The Contract Documents are as defined in the General Conditions. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein.

Article 2

STATEMENT OF THE WORK

2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the

Contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

Article 3

ARCHITECT/ENGINEER

3.1 The Architect/Engineer (hereinafter referred to as the "A/E" and as defined in the General Conditions) shall be the Director of Public Works or his designee, whose address is 127 Center Street South, Vienna, Virginia 22180; provided, however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating different persons or organizations to act as it's A/E and so advising the Contractor in writing, at which time the person(s) or organization(s) so designated shall be the A/E for purposes of this Contract.

Article 4

TIME OF COMMENCEMENT AND COMPLETION

4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed for each task assigned under this contract. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.

4.2 Time is of the essence. The Contractor shall complete each task assigned, as defined in the General Conditions within the limits established in the Notice to Proceed or the date otherwise established for the commencement of Work.

4.3 The liquidated damages incurred by the Owner due to the Contractor's failure to complete the Work within the Contract Time, including any extensions thereof, shall be $500.00 per day for each consecutive calendar day beyond the Contract Time (Sundays and all holidays included) for which the Contractor shall fail to complete the Work.

4.4 The liquidated damages incurred by the Owner due to the Contractor's failure to complete each activity of Work designated in Article 4.3, above within the applicable interim Milestone date, as applicable, shall be as hereinafter stated for each Milestone, for each consecutive day beyond the Milestone date (Sundays and all holidays included) for which the Contractor shall fail to complete the activity of Work.

4.5 The amount of liquidated damages set forth in Articles 4.4 and 4.5 hereinabove shall be assessed cumulatively. The items of cost included in the assessment of liquidated damages are as defined in the General Conditions. This provision for liquidated damages does not bar Owner's right to enforce other rights and remedies against Contractor, including but not limited to, specific performance or injunctive relief.

Article 5

CONTRACT SUM

5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the times and in the installments hereinafter specified. The amount of each task assigned under this contract will be established prior to issuance of a Notice to Proceed for that task. The total amount of the contract shall not exceed:

_____Dollars (**$_____.00**), herein referred to as the "Contract Sum".

Article 6

PROGRESS PAYMENTS

6.1 The Contractor hereby agrees that on or about the first day of the month for every month during the performance of the Work he will deliver to the A/E a Pay Request Application in accordance with the provisions of Article 9 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions.

Article 7

OTHER REQUIREMENTS

7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.

7.2 The Owner shall furnish to the Contractor, a CD of the drawings and specifications, at no extra cost, for use in the Construction of the Work. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.

7.3 The Contractor shall perform at least sixty-five percent (65%) of the total Work with forces that are in the direct employment of the Contractor's organization unless a written waiver is obtained by the Owner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written.

TOWN OF VIENNA, VA (Owner)

Attest:

By:_____
Melanie J. Clark, Town Clerk

By: _____
Laurie DiRocco, Mayor

CONTRACTOR:

Witness:

By: _____

By: _____
Contractor (SEAL)

By: _____
_____
_____

State of _____

County of _____, to-wit:

The foregoing instrument was acknowledged before me on this ____ day of _____

20___, by _____ (Name and title of agent or officer) on behalf of (Name of Corporation/Partnership)

_____
Notary Public

My Commission Expires: _____

SECTION D. **TOWN OF VIENNA PUBLIC WORKS DEPARTMENT CONSTRUCTION CONTRACT GENERAL CONDITIONS**

A. INTRODUCTION TO TERMS

1. DEFINITIONS

a. The terms "Town" and "Contractor" shall mean the respective parties to the Contract. They shall be treated throughout the Contract Documents as though each were of the singular number and masculine gender. Only one Contractor is recognized as a party to this Contract.

b. The term "Engineer" means the Director, Department of Public Works, Town of Vienna, or designee. The designee may be identified in the Contract Documents as either the Town's appointed Project Officer or a contractor employed by the Town to perform construction services or project oversight.

c. The term "Town" means the Town Council of Vienna, Virginia.

d. The term "Subcontractor", as employed herein, shall include only those having a direct contract with the Contractor, and it shall include those who furnish material worked to a special design according to the plans and specifications for this Work but shall not include those who merely furnish material not so worked.

e. The term "Contract Documents" means and shall include the Agreement and all the documents identified therein which shall include the Drawings and the Specifications and all modifications thereto properly incorporated in the Contract

(1) The term "Agreement" means the completed and signed Form of Contract agreement.

(2) The term "Drawings" means all drawings pertaining to the Contract, including the Contract Drawings and the Standard Details.

(a) The term "Contract Drawings" means the drawings and construction notes which show the locations, character, dimensions, and details of the Work to be performed under the Contract.

(b) The term "Standard Details" means the applicable drawings contained in the current edition of the Department of Public Works, Construction Standards and Specifications.

(3) The term "Specifications" means and shall include the Standard Specifications, Technical Specifications, the Special Provisions and all written agreements and instructions pertaining to the performance of the Work and to the quality of the materials to be furnished under the Contract.

(a) The term "Standard Specifications" means the applicable technical specifications contained in the current edition of the

Department of Public Works, Construction Standards and Specifications.

(b) The term “Technical Specifications” means that part of the Contract Documents that describe the quality of materials, method of installation, standard of workmanship, and the administrative and procedural requirements for the performance of the Work under the contract.

(c) The term "Special Provisions" means the written statements modifying or supplementing the Standard Specifications or General Conditions for requirements or conditions peculiar to the Contract.

f. The term "Work" shall mean the services performed under this Contract including, but not limited to, furnishing labor, and furnishing and installing materials and equipment required to complete the Work specified in the Contract Documents. Where "as shown", "as indicated" "as detailed", or words or similar import are used, it shall be understood that the direction, requirements, permission, approval or acceptance of the Engineer is intended unless stated otherwise. As used herein, "provide" shall be understood to mean "provide complete in place", that is, "furnish and install".

g. “Notice to Proceed” shall mean a written notice issued by the Town to the Contractor stating the Commencement Date, the date on which the contract time will commence, and on which the Contractor is to begin the prosecution of the Work required under the Contract. The Notice to Proceed will specify the Time for Completion of the Contract.

h. “Time for Completion” shall mean the number of consecutive calendar days after the Commencement Date stated in the Notice to Proceed which the Contractor has to complete all the Work under the Contract.

i. The term "Force Majeure" means an earthquake, flood, cyclone or other cataclysmic phenomenon of nature. Rain, wind, or other natural phenomenon of normal intensity for the locality shall not be construed as a Force Majeure under this definition.

j. "Written notice" shall be deemed to have been duly served if delivered in person to the individual or to the member of the firm or to an officer of the corporation for whom it is intended, or enclosed in a postage prepaid envelope addressed to the last known address of such other party and deposited in a U. S. Postal Service mail receptacle.

B. DRAWINGS, SPECIFICATIONS AND RELATED DATA

1. INTENT OF THE DRAWINGS AND SPECIFICATIONS

a. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, unsuitable or excess material haulage and disposal, water, water haulage, light power, transportation, superintendence, temporary construction

of all kinds, and other services and facilities of every nature whatsoever that are necessary to execute and deliver the Work, complete and usable within the scope of the Contract with all parts in working order, and all connections properly made.

b. The general character and scope of the Work are illustrated by the Drawings and listed in the Specifications. Any additional drawings and other instructions deemed necessary by the Engineer will be furnished to the Contractor when required for the Work.

c. Unless otherwise specifically noted, the word "similar" where it occurs in the Drawings, shall be interpreted in its general sense and not as meaning identical, and all details shall be worked out in relation to their locations and their connection with other parts of the Work.

d. Materials or work described in words which, so applied, have a well-known technical or trade meaning, shall be held to refer to the recognized technical or trade meaning.

e. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In case of conflicting variance between the Contract Documents, the Specifications shall take precedence over the Drawings, the Special Provisions shall take precedence over the Specifications and the Drawings, and the Agreement shall take precedence over the Special Provisions, the Specifications and the Drawings. Figured dimensions on the plans shall be used in preference to scaling the Drawings. In case of conflict between small and large scale drawings, the large scale drawings shall govern.

2. DISCREPANCIES AND ERRORS

If the Contractor discovers any discrepancies between the Drawings and Specifications and the site conditions or any errors or omissions in the Drawings or Specifications, the Contractor shall at once report them in writing to the Engineer. If the Contractor proceeds with any work that may be affected by such discrepancies, errors, or omissions, after their discovery, but before their correction, such work shall be at the Contractor's risk.

3. COPIES FURNISHED

Except as provided for otherwise, copies of the Drawings and Specifications reasonably necessary for the execution of the Work will be furnished to the Contractor. A limit of five (5) copies each of the Contract Drawings and Specifications will be provided to the Contractor without charge.

4. DOCUMENTS OF THE JOB

The Contractor shall keep on the site of the project a copy of the Drawings and Specifications including all authorized revisions, and shall at all times give the Town and its authorized representatives access thereto.

5. OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

All Drawings and Specifications and copies thereof furnished by the Town are the property of the Town and shall not be used on other projects. Upon completion of the project, all copies of the Drawings and Specifications except the signed Contract sets shall be returned to the Engineer.

6. SUBMITTALS

a. The term "submittals", as used herein, shall include fabrications, erection and setting drawings, manufacturers' standard drawings, schedules, descriptive literature, catalogs, brochures, performance and test data, wiring and control diagrams, and other descriptive data pertaining to the materials and equipment as required to demonstrate compliance with the Contract requirements.

b. The Contractor shall submit for the approval of the Engineer all submittals required by the specifications or requested by the Engineer. All such submissions shall be made so as to cause no delay in the project, allowing reasonable time for review and checking by the Engineer.

c. Submittals shall be submitted in such number of copies that three copies may be retained by the Engineer after approval. 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 submittals shall be clearly labeled with the name of the project and such information as may be necessary to enable their complete review by the Engineer. Catalog plates and other similar material that cannot be so labeled conveniently shall be bound in suitable covers bearing the identifying data.

d. Submittals 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 checked together. When submittals cannot be checked because a submission is not complete, or because shop drawings on related items have not been received by the Engineer, then such submittals will be returned without action or will be held, not checked, until the missing material is received. Incomplete or defective submittals shall not be considered to have been submitted.

e. Submittals shall have been reviewed by the Contractor and coordinated with all other related or affected work before they are submitted for approval and shall bear the Contractor's certification that the Contractor has checked and approved them as complying with all relevant information in the Contract Documents. Submittals submitted without such certification and coordination will be returned to the Contractor without action and will be considered not a formal submission.

f. If shop drawings show variations from the Drawings and Specifications because of standard shop practice or other reasons, the Contractor shall make specific mention of such variation in the Contractor's letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment; otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Drawings and Specifications even though shop drawings

have been approved.

g. The Engineer shall review the shop drawings with reasonable promptness. Review 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, detailed dimensions, nor adjustments of dimensions to actual field conditions. Approval shall not be construed as permitting any departure from Contract requirements, as authorization of any increase in price nor as relieving the Contractor of the responsibility for any error in details, dimensions or otherwise that may exist.

7. SAMPLES

The Contractor shall submit, for the approval of the Engineer, all samples required by the specifications or requested by the Engineer. Samples shall be submitted in single units only, unless the Contractor desires additional units for the Contractor's own use. Each sample shall bear a label indicating the material represented the name of the producer and the title of the Project. Approval of a sample shall be only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents, and only for the characteristics or use named in such approval. Such approval shall not be construed to change or modify any Contract requirements or the Contract Price. Materials and equipment incorporated in the Work shall match the approved samples.

8. TESTS

Any specified laboratory tests of materials and finished articles shall be made by bureaus, laboratories or agencies approved by the Engineer and the certified reports of such tests shall be submitted to the Engineer. All costs in connection with the testing shall be borne by the Contractor. Failure of any material to pass the specified tests or any test performed by the Engineer, will be sufficient cause for refusal to consider, under this Contract, any further materials of the same brand or make of that material. Samples of various materials delivered on the site or in place may be taken by the Engineer for testing. Samples failing to meet the Contract requirements will automatically void previous approvals of the items tested.

9. MATERIALS AND EQUIPMENT LIST

a. At least ten (10) working days before the start of construction the Contractor shall submit to the Engineer for approval a complete list of materials and equipment proposed for use in connection with the project. Partial lists submitted from time to time will not be considered.

b. After any material or piece of equipment has been approved, no change in brand or make will be permitted unless satisfactory written evidence is presented to prove that the manufacturer cannot make scheduled delivery of the approved material, or that material delivered has been rejected and the substitution of a suitable material is an urgent necessity, or that other conditions have become apparent which indicate that approval of such other material is in the best interest of the Town.

10. STANDARDS, SUBSTITUTIONS

a. Any material specified by reference to the number, symbol or title of a specific standard, such as a Commercial Standard, a Federal Specification, a Trade Association Standard, or other similar standard, shall comply with the requirements in the latest revision of the standards or specification and any amendment or supplement, except as limited to type, class or grade, or as modified in such reference. The standard referred to, except as modified in the Specifications, shall have full force and effect as though printed in the Specifications. The Engineer will furnish, upon request, information as to how copies of the standards referred to may be obtained.

b. Reference in the Specifications or on the Drawings to any article, device, product, material, fixture, form or type of construction by name, make or catalog number shall be interpreted as establishing a standard of quality and shall not be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable, as approved by the Engineer. Applications for approval of substitutions for the specified items will be considered only upon request of the Contractor, not of individuals, trades or suppliers, and only for a specific purpose; no blanket approvals will be granted. No approval of a substitution shall be valid unless it is in written form and signed by the Engineer.

c. If any proposed substitution will affect a correlated function, adjacent construction or the work of other contractors, then the necessary changes and modifications to the affected work shall be considered as an essential part of the proposed substitution, to be accomplished by the Contractor without additional expense to the Town, if and when approved. Detail drawings and other information necessary to show and explain the proposed modifications shall be submitted with the request for approval of the substitution.

11. SURVEYS AND CONTROLS

Unless otherwise specified, the Contractor shall establish all baselines for the location of the principal component parts of the Work, establish a suitable number of bench marks adjacent to the Work, and develop all detail surveys necessary for construction. The Contractor shall carefully preserve bench marks, reference points and stakes, and in the case of destruction thereof by the Contractor or due to the Contractor's negligence or the negligence of any subcontractor, the Contractor shall be responsible for expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the loss or disturbance of such bench marks, reference points and stakes.

12. AS-BUILT DRAWINGS

As-built drawings shall be the normal function of the Engineer, unless specified in the Contract Documents to be the responsibility of the Contractor. If so, the Contractor shall mark up one set of prints of the applicable Contract drawings to portray as-built construction. The prints shall be neatly and clearly marked to show all variations between the Work actually provided and that indicated on the Contract Drawings, and all utilities encountered in the Work. All drafting shall conform to good drafting practice and shall include such supplementary notes, legends and details as may be necessary for legibility and clear portrayal of the as-built construction. These drawings shall be marked promptly at the completion of the project and shall be turned over to the

Engineer within thirty (30) days of completion of the project.

C. TOWN, ENGINEER, AND CONTRACTOR RELATIONS

1. STATUS OF ENGINEER

The Engineer shall be the Town's representative during the construction period. The Engineer shall have authority to suspend the Work whenever such suspension may be necessary in the responsible opinion of the Engineer to ensure the proper execution of the Contract. The Engineer shall also have authority to reject all work and materials that do not conform to the Contract and to decide questions that arise in the execution of the Work.

2. ENGINEER'S DECISIONS

The Engineer will, within a reasonable time, make decisions on all matters relating to the execution and progress of the Work.

3. DISPUTES

a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of Contract shall be submitted in writing to the Engineer for decision prior to beginning the work on which the claim is based. Such claims must set forth in detail the amount of the claim, and shall state the facts surrounding it in sufficient detail to identify it together with its character and scope.

b. In any case where the Contractor deems extra compensation is due him for work or materials not clearly covered in the Contract, or not ordered by the Engineer as additional work not specifically included in the Contract Documents, the Contractor shall notify the Engineer in writing of the Contractor's intention to make claim for such extra compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given, or the Engineer is not afforded proper facilities by the Contractor for keeping strict account of actual cost, then the Contractor hereby agrees to waive the claim for such extra compensation.

c. Contractual disputes shall be evaluated and decided by the Director of Public Works within 30 days of receipt of the claim or dispute. His decision shall be final unless the Contractor files a claim with the Town Council pursuant to state law. Following the decision of Council on the claim, the Contractor may institute legal action in the Circuit Court.

d. The Contractor shall not cause a delay in the work pending a decision of the Engineer, Town Manager, Town Council, or court, except by prior written approval of the Engineer.

4. INSPECTION OF WORK

The Engineer and representatives of any public authority having jurisdiction shall, at all times, have access to the Work while in progress. The Contractor shall provide suitable facilities for such access and for proper observation of the Work and shall conduct all

special tests required by the specifications, the Engineer's instructions, and any laws, ordinances or the regulations of any public authority applicable to the Work.

5. INSPECTION OF MATERIALS

All articles, materials, and supplies purchased by the Contractor for the Work are subject to inspection by the Engineer upon delivery to the site. The Town reserves the right to return for full credit, at the risk and expense of the Contractor, all or part of the articles, materials, or supplies furnished contrary to specifications and instructions.

6. EXAMINATION OF COMPLETED WORK

If the Engineer requests it, the Contractor, at any time before acceptance of the Work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, then the uncovering or removing, and the replacing of the covering or making good of the parts removed shall be paid for as extra work, but should the work so exposed or examined prove unacceptable, then the uncovering, removing and replacing shall be at the Contractor's expense.

7. SUPERINTENDENCE BY CONTRACTOR

The Contractor shall keep a competent superintendent and any necessary assistants on the Work at all times during its progress and such persons shall be satisfactory to the Engineer. The superintendent shall not be changed except on the Engineer's determination the superintendent is no longer satisfactory or except with the consent of the Engineer where the superintendent proves to be unsatisfactory to the Contractor and ceases to be in the Contractor's employment. The superintendent shall represent the Contractor in the Contractor's absence and all directions given to him shall be as binding as if given to the Contractor. In general, instructions by the Engineer shall be confirmed in writing, and always upon written request from the Contractor. The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall not employ on the Work any person not reasonably proficient in the Work assigned.

8. LANDS BY TOWN

The Town shall provide the lands shown on the Drawings upon which the Work under the Contract is to be performed and to be used for rights of way and for access. In case all of the lands, rights-of-way or easements have not been obtained as herein contemplated before construction begins, the Contractor shall begin its work on such lands and rights-of-way as the Town may have previously acquired.

9. LANDS BY CONTRACTOR

If the Contractor requires additional land for temporary construction facilities and for storage of materials and equipment other than the areas available on the site or right-of-way, or as otherwise furnished by the Town, the Contractor shall provide such other lands and access thereto entirely at the Contractor's own expense and without liability to the Town. The Contractor shall not enter upon private property for any purpose without written permission.

10. PROTECTION OF WORK AND PROPERTY

a. The Contractor shall continuously maintain protection of all its work from damage and shall protect the Town's property from damage or loss arising in connection with this Contract. The Contractor shall make good any such damage, or loss, except such as may be caused by agents or employees of the Town.

b. The Contractor shall not place upon the Work, or any part thereof, any loads which are not consistent with the design strength of that portion of the Work.

c. The Contractor shall be responsible for the preservation of all public and private property, trees, monuments, etc., along and adjacent to the street and/or right-of-way, and shall use every precaution to prevent damage to pipes, conduits and other underground structures, curbs, pavements, etc., except those to be removed or abandoned in place and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. Any damage which occurs by reason of the operations under this Contract shall be completely repaired by the Contractor at the Contractor's expense.

d. The Contractor shall shore, brace, underpin, secure, and protect, as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site that may be affected in any way by excavations or other operations connected with the work embraced in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owned or other party before commencement of any work. The Contractor shall indemnify and save the Town harmless from any damages on account of settlements or loss of all damages for which the Town may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

e. In an emergency affecting the safety of life or of the Work, or of adjoining property, the Contractor, without special instruction or authorization from the Engineer or Town, is hereby permitted to act, at the Contractor's discretion, to prevent such threatened loss or injury, and the Contractor shall so act without appeal, if so instructed or authorized.

11. SEPARATE CONTRACTS

a. The Town reserves the right to let other contracts in connection with this project. The Contractor shall afford other contractors reasonable opportunity for the delivery and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with the work of other such contractors.

b. If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that renders it unsuitable for such proper execution and results. The Contractor's failure to so

inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's work, except as to defects which may develop in other contractor's work after its execution.

c. If the Contractor or any of the Contractor's subcontractors or employees cause loss or damage to any separate contractor on the Work, the Contractor agrees to settle or make every effort to settle or compromise with such separate contractor. If such separate contractor sues the Town on account of any loss so sustained, the Town shall notify the Contractor, who shall indemnify and save the Town harmless against any expense, claim or judgment arising therefrom, including reasonable attorney's fees.

12. SUBCONTRACTS

a. The Contractor shall, within fifteen (15) days after execution of the Contract by the Town provide the Engineer, in writing, the names of all subcontractors proposed for the principal parts of the Work and for such others as the Engineer may direct and shall not employ any that the Engineer may, within a reasonable time, object to as incompetent or unfit after an appropriate determination of the subcontractor's ability. No proposed subcontractor will be disapproved except for cause.

b. The Contractor shall be as fully responsible to the Town for the acts and omissions of the Contractor's subcontractors as the Contractor is for the acts and omissions of persons directly employed by him.

c. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind subcontractors to the Contractor by the terms of the General Conditions of the Contract, Special provisions and other documents comprising the Contract insofar as such documents are applicable to the work of subcontractors.

d. Nothing contained in the Contract shall be construed to create any contractual relation between any subcontractor and the Town, nor shall it establish any obligation on the part of the Town to pay to, or see to the payment of any sums to any subcontractor.

13. ELIMINATED ITEMS

Should any item(s) in the Contract be determined unnecessary for the proper completion of the Work contracted, the Engineer may, upon written notice to the Contractor, eliminate such item(s) from the Contract. Payment will not be made for such item(s) so eliminated; except that the Contractor will be compensated for the actual cost of any work performed for the installation of such item(s) and the net cost of materials purchased before the item(s) was eliminated from the Contract, including freight and tax costs, as evidenced by invoice. No additional compensation will be made for overhead or anticipated profit.

D. MATERIALS AND WORKMANSHIP

1. MATERIALS FURNISHED BY THE CONTRACTOR

Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. All workmanship shall be accomplished by persons qualified in the respective trades.

2. MANUFACTURER'S DIRECTIONS

Manufactured articles, material, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturer's directions as approved by the Engineer, unless herein specified to the contrary.

3. CUTTING, PATCHING, AND DIGGING

The Contractor shall do all cutting, fitting, or patching of the Contractor's work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors as shown upon or reasonably implied by the Drawings and Specifications for the completed project and shall make good after them as the Engineer may direct. The Contractor shall not endanger any work by cutting, digging, or otherwise, and shall not cut or alter the work of any other contract except with the consent of the Engineer.

4. REJECTED WORK AND MATERIALS

a. All materials which do not conform to the requirements of the Contract Documents, are not equal to samples approved by the Engineer, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall be rejected. Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause shall be removed and the work shall be re-executed by the Contractor. The fact that the Engineer may have previously overlooked such defective work shall not constitute acceptance of any part of it.

b. If the Contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship, when notified to do so by the Engineer, the Town may, by contract or otherwise, replace such material or correct such workmanship and charge the cost to the Contractor. This clause applies during the Contract Term and during any warranty or guarantee period.

c. If the Engineer deems it expedient not to require correction of work which has been damaged or not done in accordance with the Contract, an appropriate adjustment to the Contract Price may be made therefor.

E. LEGAL RESPONSIBILITY AND PUBLIC SAFETY

1. DIFFERING SITE CONDITIONS

The Contractor shall, within twenty-four hours after becoming aware of differing site conditions, and before the conditions are disturbed, give a written notice to the Engineer of subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or previously unknown physical conditions discovered at the site of an unusual nature and which differ materially from those ordinarily expected to be encountered at the site.

The Engineer will investigate the site conditions within twenty-four hours after receiving the notice. If the conditions do materially differ to the extent that an increase or decrease would result in the Contractor's cost of the work, or the time required for performing any part of the work under the contract, an equitable adjustment may be made under this clause and the Contract modified in writing accordingly.

No request by the Contractor for an adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required.

No request by the Contractor for an adjustment to the contract for differing site conditions shall be allowed if made after final payment under the contract.

2. PUBLIC CONVENIENCE

The Contractor shall at all times so conduct its Work as to ensure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the Work. Traffic shall be maintained by use of barricades and flagmen as directed by the Engineer and in accordance with the most current version of the Virginia Work Area Protection Manual. No road or street shall be closed to the public except with the permission of the Engineer and proper governmental authority. Fire hydrants on or adjacent to the Work shall be kept accessible to firefighting equipment at all times. Temporary provisions shall be made by the Contractor to ensure the use of sidewalks and the proper functioning of all gutters, drainage inlets, drainage ditches, and irrigation ditches, which shall not be obstructed except as approved by the Engineer.

3. SAFETY AND ACCIDENT PREVENTION

The Contractor shall comply with, and ensure that the Contractor's personnel and subcontracted personnel comply with, all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry, the Federal Environmental Protection Agency Standards and the applicable standards of the Virginia Department of Environmental Quality.

The Contractor shall provide, or cause to be provided, all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the work specified to be performed by the Contractor and subcontractor(s).

The Contractor shall identify to the Engineer at least one on-site person who is the Contractor's competent, qualified, and authorized person on the worksite and who is, by training or experience, familiar with policies, regulations and standards applicable to the work being performed. The competent, qualified and authorized person must be capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, shall be capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Contractor's personnel from the work site.

The Contractor shall provide to the Engineer, at the Engineer's request, a copy of the Contractor's written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within seven (7) days of the Engineer's request may result in cancellation of the award.

The Contractor shall exercise proper precaution at all times for the protection of

persons and property and shall be responsible for all injury to persons and damage to property either on or off the site, which occur as a result of the Contractor's prosecution of the Work.

The Contractor shall take or cause to be taken such additional safety and health measures as the Engineer may determine to be reasonably necessary. Machinery, equipment, and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws. The Contractor is directed to the "Rules and Regulations Governing Construction, Demolition and All Excavation" and adopted by the Safety Codes Commission of Virginia, 1966, or latest edition, covering requirements for shoring, bracing, and sheet piling of trench excavations.

4. CROSSING UTILITIES

When construction crosses highways, railroads, streets, or utilities under the jurisdiction of State, County, or other public agency, public utility, or private entity, the Contractor shall secure written permission where necessary from the proper authority before executing such new construction. A copy of such written permission must be filed with the Engineer before any work is started. The Contractor shall be required to furnish a release from the proper authority before final acceptance of the Work.

5. SANITARY PROVISIONS

The Contractor shall provide and maintain such sanitary accommodations for the use of the Contractor's employees and those of its subcontractors as may be necessary to comply with the requirements and regulations of the local and State departments of health and where additional accommodations are necessary to maintain a reasonably sanitary environment, then such additional accommodations shall be made as determined by the Engineer.

6. WARRANTY

All material provided to the Town shall be fully guaranteed by the Contractor against manufacturing defects within the period of the manufacturer's standard warranty. The Contractor shall make available copies of warranties on demand. Such defects shall be corrected by the Contractor at no expense to the Town. All work is guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one year from the date of final acceptance of the work by the Engineer in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of final acceptance may be established to govern the effective date of the Guaranty, unless that date is agreed upon by the Engineer and the Contractor in a signed writing.

7. INSPECTION, ACCEPTANCE AND TITLE OF MATERIALS

Inspection and acceptance by the Town will be at the work site in Vienna, Virginia and within ten (10) days of delivery unless otherwise provided for in the Contract. The Town will not inspect, accept, or pay for any materials stored off-site by the Contractor. Title and risk of loss or damage to all items shall be the responsibility of the Contractor until acceptance by the Town. The Town's right of inspection shall not be deemed to relieve the Contractor of its obligation to ensure that all articles, materials and supplies are consistent with specifications and instructions and are fit for their intended use. The Town reserves the right to conduct any tests or inspections it may deem advisable to

assure that goods or services conform to the specification. The Contractor shall be responsible for maintaining all materials and supplies in the condition in which they were accepted until they are used in the work.

8. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all materials and supplies for which the Contractor invoices for payment.

9. WORK SITE DAMAGES

Any damage to finished surfaces resulting from work performed under this Contract shall be repaired to the Engineer's satisfaction at the Contractor's expense.

10. CLEANING UP

The Contractor shall remove and legally dispose of, as frequently as necessary, all refuse, rubbish, scrap materials and debris from the site to the extent they are the result of the Contractor's operations to the end that the site of the work shall present a neat, orderly, and workmanlike appearance at all times. At completion of the work, but before final acceptance, the Contractor shall remove and legally dispose of all surplus material, falsework, temporary structures including foundations thereof, and debris of every nature resulting from the Contractor's operations or resulting from any activity on the site related to the Contractor's operations and put the site in a neat, orderly condition; if the Contractor fails to do so, the Town shall have the right to remove and legally dispose of the surplus material, falsework, temporary structures including foundations thereof, and debris, put the site in a neat, orderly condition, and charge the cost to the Contractor.

F. PROGRESS AND COMPLETION OF THE WORK

1. NOTICE TO PROCEED

Within thirty (30) days of execution of the Contract by the Town, the Contractor shall be given written Notice to Proceed with the Work. Such Notice to Proceed shall state the date on which the Work is to be commenced, and every calendar day thereafter shall be counted in computing the actual Time for Completion.

2. TIME FOR COMPLETION

It is hereby understood and mutually agreed by and between the Contractor and the Town that the Commencement Date, the rate of progress, and the Time for Completion of the Work to be done hereunder are essential conditions of the Contract. The Contractor agrees that the Work shall be started promptly upon receipt of a written Notice to Proceed and shall be prosecuted regularly, diligently, and uninterruptedly at a rate of progress that will ensure full completion thereof in the shortest length of time consistent with good workmanship.

3. USE OF COMPLETED PORTIONS

The Town 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 taking such possession and use shall not be deemed an acceptance of any work not done in accordance with the Contract Documents. If such prior use increases the cost or delays, the completion of remaining work, or causes refinishing of completed work, the Contractor shall be entitled to such compensation or extension of time or both as the Engineer may determine.

G. MEASUREMENT AND PAYMENT

1. PAYMENTS TO CONTRACTOR

The Town will make partial payments to the Contractor on the basis of a written estimate of the work performed during the preceding calendar month as approved by the Engineer.

a. Lump Sum Contract: The schedule of total prices of lump sum items in the accepted bid shall be used as a basis for preparing the estimates, and each partial payment shall represent the value, proportionate to the total amount of each lump sum item, of completed work and materials on the site to be incorporated in the work, less the aggregate of previous payments.

b. Unit Price Contract: The schedule of unit prices in the accepted bid shall be used as the basis for preparing the estimates and each partial payment shall represent the total value of all units of work completed, computed at the unit prices stated in the Contract, less the aggregate of previous payments.

2. PAYMENTS WITHHELD

The Engineer may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate for payment to the extent necessary to protect the Town from loss on account of defective work not remedied. Any such withholding shall not result in any liability to the Contractor for damages.

3. CHANGES IN WORK

a. Lump Sum Contract

The Town, without invalidating the Contract, may order extra work or make changes by altering, adding to, or deducting from the Work, the Contract Sum being adjusted accordingly. All such work shall be executed under the conditions of the original Contract, except that any claim for modification of the Contract Time caused thereby shall be adjusted at the time of ordering such change.

(1) The Engineer shall have authority to make minor changes in the Work by verbal order when such changes do not involve extra cost and are not inconsistent with the purpose of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order from the Town signed or countersigned by the Engineer, or a written order from the Engineer, and no claim for an addition to the Contract Sum shall be valid unless so ordered.

(2) The value of any such extra work or change shall be determined in one or more of the following ways: (a) by estimate and acceptance in a lump sum or (b) by actual cost and fixed fee.

(3) If none of the aforementioned methods is agreed upon the Contractor shall proceed with the work provided the Contractor receives an order as above. In such case, the Contractor shall keep and present in such from as the Engineer may direct, a correct account of the cost, together with vouchers. The Engineer shall certify to the amount due to the Contractor, including a reasonable lump sum allowance for overhead and profit. Pending final determination of value, payments on account of changes shall be made on the Engineer's certificate. A complete accounting of the extra cost shall be made within fifteen (15) days after completion of the work involved in the claim.

b. Unit Price Contract

The estimated quantities of work to be done and materials to be furnished under this Contract, shown in any of the documents, including the Proposal, are given only for use in evaluation of bids, and to indicate approximately the total amount of the Contract. The right is expressly reserved, except as may be otherwise specifically limited, to increase or decrease such quantities as may be deemed reasonably necessary or desirable by the Engineer to complete the Work covered by this Contract, and such increase or decrease shall in no way invalidate claims or liability for damages, except as provided for adjustment of the time for performance. The further right is reserved, except as may be otherwise specifically limited, to add work that is not covered by unit prices in the Contract Documents and that may be deemed reasonably necessary or desirable by the Town to complete the Work covered by this Contract. The value of such added work shall be established by one of the methods provided hereinbefore for Lump Sum Contract. The adjustment or time for performance shall be adjusted at the time of ordering the changes.

4. CLAIMS FOR EXTRA COST

If the Contractor claims that any instructions, by drawings or otherwise, involve extra cost under this Contract, the Contractor shall give the Engineer written notice thereof within fifteen (15) days after the receipt of such instruction, and in any event before proceeding to execute the work (except in emergency endangering life or property), and the procedure shall then be as provided for Changes in Work. No such claim shall be valid unless so made.

5. RELEASE OF LIENS

The Town, before making any payment including the final payment, if the Town deems such procedure necessary to protect the Contractor's interests, may require the Contractor to furnish 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 the Contractor has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed. The Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Town, to

indemnify him against any lien. If any lien remains unsatisfied after all payments have been made, the Contractor shall refund to the Town all money that the latter may be compelled to pay in discharging such lien. However, the Town may make payments in part or in full to the Contractor without requiring the releases or receipts, and the payments so made shall not impair the obligations of any Surety or Sureties on any bond or bonds furnished under this Contract.

6. STIPULATED PRICES

The term "STIPULATED PRICE ITEM" means and includes an item of Work, unanticipated at the time of issuance of the solicitation for a Bid and determined to be executed, based on the actual field conditions during the progress of Work under the contract, mutually by the Engineer and the Contractor. The Unit Price for the "STIPULATED PRICE ITEM", as identified in the "Stipulated Price Items" section of the Bid Form, is predetermined by the Town as the current reasonably workable rate for the Item inclusive of all necessary labor, equipment, materials, overheads (provision and installation), and the contractor's profit. Work on the "STIPULATED PRICE ITEM" shall be carried out either at the written request of the Contractor followed by a written approval by the Engineer or at the written order by the Engineer to the Contractor. The payment for a "STIPULATED PRICE ITEM" shall be made by the Town to the Contractor at the related Unit Price specified in the 'Stipulated Price Items' section of the Bid Form on the same basis as the payment for any other regular Bid Item.

SECTION E

TOWN OF VIENNA GENERAL TERMS AND CONDITIONS

VENDOR: THE GENERAL TERMS AND CONDITIONS WHICH FOLLOW APPLY TO ALL PURCHASES AND BECOME A DEFINITE PART OF EACH FORMAL INVITATION FOR BID, REQUEST FOR PROPOSALS, PURCHASE ORDER AND/OR OTHER AWARD ISSUED BY THE TOWN OF VIENNA, VIRGINIA, UNLESS OTHERWISE SPECIFIED IN THE SOLICITATION DOCUMENTS. BIDDERS/OFFERORS OR THEIR AUTHORIZED REPRESENTATIVES ARE EXPECTED TO FULLY INFORM THEMSELVES AS TO THE CONDITIONS, REQUIREMENTS, AND SPECIFICATIONS BEFORE SUBMITTING BIDS/PROPOSALS; FAILURE TO DO SO WILL BE AT THE BIDDERS'/OFFERORS' OWN RISK AND HE CANNOT SECURE RELIEF ON THE PLEA OF ERROR.

SUBJECT TO STATE, COUNTY AND LOCAL LAWS AND ALL RULES, REGULATIONS AND LIMITATIONS IMPOSED BY LEGISLATION OF THE FEDERAL GOVERNMENT, BIDS/PROPOSALS ON ALL SOLICITATIONS ISSUED BY THE PURCHASING OFFICE WILL BIND BIDDERS/OFFERORS TO APPLICABLE CONDITIONS AND REQUIREMENTS HEREIN SET FORTH UNLESS OTHERWISE SPECIFIED IN THE SOLICITATION.

1. **CLARIFICATION OF TERMS:** If any prospective bidder/offeror has questions about the specifications or other solicitation documents, the prospective bidder/offeror should contact the Purchasing Agent or the person whose name appears on the face of solicitation NO LATER THAN SEVEN (7) WORKING DAYS BEFORE opening/closing date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent.

2. **PREPARATION & SUBMISSION:** In order to be considered for selection, the bidder/offeror must submit a complete response to the Invitation For Bid/Request For Proposals. One (1) original and one (1) copy of each bid/proposal must be submitted on the Town of Vienna Bid/Proposal Forms provided. The bid/proposal shall be signed by an authorized representative of the bidders'/offerors' firm and delivered to the proper location by the time and date specified on the cover page.

3 **ENVELOPE IDENTIFICATION:** The signed bids must be returned in a sealed envelope and identified as follows: "SEALED BID", show the IFB number, IFB subject, opening time, opening date, and bidder's name and address. In the case of proposals, the signed proposal cover page and proposal must be returned in a sealed envelope, marked clearly on the outside "SEALED COMPETITIVE NEGOTIATION", show the RFP number, RFP subject, closing time, closing date, and offeror's name and address.

   If a bid/proposal is mailed in an envelope, not identified as specified, the bidder/offeror takes the risk that the envelope may be inadvertently opened and the information compromised which may cause the bid/proposal to be disqualified. The Town reserves the right to declare such a bid/proposal as non-responsive. Bids/proposals may be hand delivered to the designated location.

4. **LATE BIDS/PROPOSALS:** LATE bids/proposals will be returned to bidder/offeror UNOPENED, if the IFB/RFP number and return address is shown on the envelope.

5. **QUOTATIONS TO BE F.O.B. DESTINATION:** Quote F.O.B. DESTINATION for all competitive sealed bids. If otherwise, show exact cost to deliver.

6. **PRICING ERRORS:** In case of an error in price extension, the firm fixed unit price shall govern.

7. **BID/PROPOSAL ACCEPTANCE PERIOD:** Bids shall be binding upon the bidder for sixty (60) days following the bid opening date. Proposals shall be binding upon the offeror for ninety (90) days following the proposal due date. Any bid/proposal on which the bidder/offeror shortens the acceptance period may be rejected.

8. **CORRECTION OR WITHDRAWAL OF BIDS AND CANCELLATION OF AWARDS UNDER COMPETITIVE SEALED BIDDING:** Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent. No bid may be withdrawn when the result would be to award the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent (5%). If a bid is withdrawn, the lowest remaining bid shall be deemed to be the low bid. If the Purchasing Agent, the Using Department, or a designee of such, denies the withdrawal of a bid, he shall notify the bidder in writing stating his decision.

9. **TAXES:** The Town of Vienna is exempt from the payment of federal excise or state sales taxes on all tangible, personal property for its use or consumption <u>except taxes paid on materials that will be installed by the bidder and become a part of real property</u>.

   If a bidder is bidding on materials that require installation by the bidder and become a part of real property, the applicable taxes shall be included in the lump sum bid price for the installation of the material and not as a separate charge for taxes.

The taxes shall be an obligation of the successful bidder and not of the Town, and the Town shall be held harmless for same by the successful bidder.

The Purchasing Office will furnish a Tax Exemption Certificate (Form ST-12) upon request and if applicable to this contract.

When a bidder lists a separate tax charge on the Bid Form and the tax is not applicable to the purchase by the Town, the bidder will be allowed to delete the tax from its bid.

10. **USE OF BRAND NAME OR EQUAL:**
    a) Unless otherwise provided in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders/offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the Town of Vienna, in its sole discretion, determines to be equal to that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.
    b) The bidder/offeror is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalogs and technical details to enable the Town of Vienna to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid non-responsive. Unless the bidder/offeror clearly indicates in its bid/proposal that the product offered is an "EQUAL" product, such bid/proposal will be considered to offer the brand name product referenced in the solicitation.
    c) It shall be understood that the burden of proof for an “equal” product shall be and remain the sole responsibility of the bidder. The Town’s decision of approval or disapproval of a proposed alternate shall be final. Nothing herein is intended to exclude any responsible bidder, its product or service or in any way restrain or restrict competition.

11. **SAMPLES:** Samples, if required, must be furnished free of expense to the Town of Vienna on or before date specified; if not destroyed in examination, they will be returned to bidder, if requested, at his expense. Each sample must be marked with the bidder's name and address, Town's request number and opening date. DO NOT ENCLOSE IN OR ATTACH BID TO SAMPLE.

12. **TRADE SECRETS/PROPRIETARY INFORMATION:** Trade secrets or proprietary information submitted by an Offeror in response to this Request for Proposal shall not be subject to public disclosure under the Virginia Freedom of Information Act (FOIA); however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials to be protected and state the reasons why protection is necessary (Section 2.2-4342F of the Code of Virginia).

13. **DELIVERY:** Bids must show number of days required to place material in using agency's receiving area under normal conditions. Proposal must show the number of days required to provide the services/reports as specified.

    Failure to state delivery time obligates bidder/offeror to complete delivery in fourteen (14) calendar days or as specified. A five (5) day difference in delivery promise may break a tie bid. An unrealistically short or long delivery promise may cause a bid/offer to be disregarded. Consistent failure to meet delivery promise without valid reason may cause removal from bid list. Delivery shall be made during normal working hours, 8:00 am to 4:30 pm Monday through Friday, unless prior approval for another time period has been obtained from Consignee.

14. **DEFAULT:** In case of failure to deliver goods/services in accordance with the contractual terms and conditions, the Town of Vienna, Virginia, after due oral or written notice, may procure them from other sources and hold the defaulting Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town of Vienna may have.

15. **TOWN’S RIGHT TO TERMINATE THE CONTRACT:** The Contract may be terminated by the Town for any one of the following reasons:

    a) If the successful bidder should be adjudged bankrupt, or make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of the successful bidder’s insolvency, or if the successful bidder should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to deliver the goods or services within the time specified, or if the bidder otherwise defaults, then the Town may without prejudice to any other right or remedy, and after giving the successful bidder seven (7) calendar days written notice, terminate the employment of the successful bidder and procure such goods or services from other sources. In such event, the successful bidder shall be liable to the Town for any additional cost occasioned by such failure or other default.
    b) In such cases, the successful bidder shall not be entitled to receive any further payment if the expense of finishing the contract requirements, including compensation for additional; managerial and administrative services shall exceed the unpaid balance of the contract price, the successful bidder shall pay the difference to the Town.
    c) If the successful bidder should fail to make prompt payment to Subcontractor(s) for material or labor, persistently disregards laws, ordinances or the instruction of the Town, or otherwise be in substantial violation of any provisions of the Contract;
    d) Failure of the Contractor to promptly make

good any defects in materials or work or any defects of any other nature, the correction of which has been directed in writing by the Town;

e) Substantial evidence of collusion for the purpose of illegally procuring a contract or perpetrating fraud on the Town in the construction of work under contract.

f) Prior to termination of the Contract, the successful bidder and his Surety shall be notified in writing by the Town of the condition which makes termination of contract imminent. Ten (10) days after this notice is given, if a satisfactory effort has not been made by the successful bidder or his Surety to correct the conditions, the Town may declare the Contract terminated and notify the successful bidder and his Surety accordingly.

g) Upon receipt of notice of contract termination, the successful bidder shall immediately discontinue all operations. The Town may then proceed with the work in any lawful manner that they may elect until the project is final and complete.

h) The Town reserves the right to take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method is deemed expedient. In such case, the successful bidder shall not be entitled to receive any further payment. If the expense of finishing the work, including compensation for additional managerial and administrative services, shall exceed the unpaid balance of the contract price, the successful bidder shall pay the difference to the Town. The expense incurred by the Town as herein provided, and the damaged incurred through the Contractor's default, shall be certified by the Town.

i) Termination of the contract under this section is without prejudice to any rights or remedies of the Town.

j) The Town reserves the right to cancel and terminate any resulting contract, in whole or in part, without penalty, upon 60 days written notice to the Contractor/ Consultant. Any contract cancellation notice shall not relieve the Contractor/Consultant of the obligation to delivery and/or perform on all outstanding services performed prior to the effective date of cancellation.

k) Notwithstanding anything to the contrary contained in the contract between the Town and the successful bidder, the Town may, without prejudice to any other rights it may have, terminate the contract for convenience and with cause, by giving thirty (30) days written notice to the successful bidder.

1) In the event the Contract is terminated for cause related to the Contractor/Consultant's (or its Subcontractor's) hiring of unauthorized aliens, Contractor/Consultant, Contractor/Consultant hereby waives any claim to lost profits and the Town will proceed in accordance with subsections f) et seq. above.

16. **CONDITION OF ITEMS:** All items bid/proposed shall be new and in first class condition, including containers suitable for shipments and storage, unless otherwise indicated in bid invitation/proposal request. Verbal agreements to the contrary will not be recognized.

17. **SUBSTITUTIONS:** No substitutions or cancellations permitted without prior written approval by the Purchasing Agent.

18. **RIGHTS OF THE TOWN OF VIENNA:** The Town reserves the right to accept or reject all or any part of bids/proposals, waive minor technicalities/informalities and award the contract to the lowest responsive and responsible bidder or most qualified and best suited offeror to best serve the interest of the Town.

19. **NEGOTIATION WITH THE LOWEST BIDDER:**
    a) If all bids received exceed the available funds for the proposed purchase, the Town, pursuant to Town Code provisions, may meet with the lowest responsive and responsible bidder to discuss a reduction in the scope for the proposed purchase and negotiate a contract price within the available funds.
    b) After bid negotiations, the lowest responsible bidder shall submit an addendum to its bid, which addendum shall include the change in scope for the proposed purchase, the reduction in price and the new contract value.
    c) If the proposed addendum is acceptable to the Town, the Town may award a contract within funds available to the lowest responsible bidder based upon the bid as amended by the addendum.
    d) If the Town and the lowest responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected.

20. **CONTRACTOR'S PERFORMANCE:**
    a) Goods and services must be delivered and rendered strictly in accordance with this bid and shall not deviate in any way from the terms, conditions, prices, quality, quantity, delivery instructions, and specifications of this bid.
    b) All goods and/or services delivered and/or rendered shall comply with all applicable federal, state, and local laws, and shall not infringe any valid patent or trademark. The successful bidder shall indemnify, keep, save, and hold the Town, its officers and employees, harmless from any liability for infringement and from any and all claims or allegations of infringement by the bidder or the Town, its officers and employees, arising from, growing out of, or in any way involved with the goods delivered or services rendered pursuant to this purchase.
    c) In the event that suit is brought against the Town, its officers and/or its employees, either independently or jointly with the bidder, the bidder shall defend the Town, its officers and employees, in any such suit at no cost to them. In the event that final judgment is obtained against the Town, its officers, and/or

its employees, either independently or jointly with the bidder, then the bidder shall pay such judgment, including costs and attorneys fees, if any, and hold the Town, its officers and employees, harmless there from.

d) The successful bidder shall ensure that its employees shall observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.

e) The successful bidder shall not, in its product literature or advertising, refer to this purchase or the use of the bidder's goods or services by the Town of Vienna, Virginia.

f) The successful bidder shall cooperate with Town officials in performing the specified work so that interference with the Town's activities will be held to a minimum.

21. **DRUG-FREE WORKPLACE TO BE MAINTAINED BY THE CONTRACTOR** (Code of Virginia Section 2.2-4312)**:** 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 prohibitions, (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

    For the purposes of this section, "*drug-free workplace"* means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Virginia Public Procurement Act, 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.

22. **NO DISCRIMINATION AGAINST FAITH-BASED ORGANIZATIONS:**
    The Town of Vienna does not discriminate against faith-based organizations as that term is defined in Virginia Code Section 2.2-4343.1.

23. **ANTI-TRUST:** By entering into a contract, the bidder/offeror conveys, sells, assigns, and transfers to the Town of Vienna all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Town of Vienna under said contract. Consistent and continued tie bidding could cause rejection of bids by the Purchasing Agent and/or investigation for Anti-Trust violations.

24. **INDEMNIFICATION:** The Contractor agrees to indemnify, defend and hold harmless the Town of Vienna, Virginia, its officers, agents, and employees from any claim, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the contractor or any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the using department or to failure of the using department to use the materials, goods or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered. The vendor agrees to protect the Town from claims involving infringement of patent or copyrights.

25. **TIE BIDS:** If there is a tie for low bid and all other considerations are equal, and if the public interest will not permit the delay of re-advertising for bids, the award shall be determined by drawing lots in public.

26. **PROHIBITION AS SUBCONTRACTORS UNDER COMPETITIVE SEALED BIDDING:** No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

27. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor, in whole or in part, without the prior written consent of the Town of Vienna, Virginia.

28. **CONTRACT DOCUMENTS:** The contract entered into by the parties shall consist of the Invitation For Bid/Request For Proposal, the signed bid/proposal submitted by the Contractor, the Town of Vienna's standard Purchase Order, the Mandatory/Special Specifications, Terms and Conditions, and the General Terms and Conditions, all of which shall be referred to collectively as the Contract Documents.

    If the contractor has a standard contract form, this form shall be submitted with the bid/proposal submittal for the Town's review of its terms and conditions.

29. **LICENSE REQUIREMENT:** All firms doing business in the Town of Vienna are required to be organized or authorized to transact business in the Commonwealth of Virginia or include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Additionally all firms doing business in the Town of Vienna are required to be licensed in accordance with the Town's "Business, Professional and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in the Town are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Finance Department, Business License Office, Telephone number (703) 255-6321. The BPOL License number must be indicated on the submitted bid form.

30. **AWARD:** The contract shall be awarded to the

lowest responsive and responsible bidder or the most qualified and best suited offeror.

The Town Council will award all contracts in the amount of thirty-thousand dollars ($30,000.00) or more.

The Purchasing Agent will award all contracts less than thirty-thousand dollars ($30,000.00).

The Purchasing Agent shall sign all contract documents, with the exception of "Construction" contracts, and issue a purchase order to the successful bidder/offeror.

31. **COMPENSATION:**
    a) It is the Town's policy not to pay for any goods or services until the same have been actually received.
    b) Individual contractors shall provide the Purchasing Office their social security numbers and proprietorships, partnerships and corporations shall provide the federal employer identification numbers (Code of Virginia, Section 2.2-4354.2). This information shall be provided in the space indicated on the Bid Form.
    c) The successful bidder shall submit a complete itemized invoice on each item or service, which is delivered under the contract. The successful bidder shall indicate the purchase order number on the front of each invoice and on the outside of each package or shipping container.
    d) Cash discounts shall be deducted in accordance with the terms of the bid.
    e) Payment shall be rendered to the successful bidder for satisfactory compliance with the general terms, conditions and specifications of this bid. The required payment date shall be either: (i) the date on which payment is due under the terms of the contract for the provision of such goods or services; or (ii) if such date is not established by contract, not more than forty-five (45) days after goods or services are received or not more than forty-five (45) days after the invoice is rendered, whichever is later (Code of Virginia, Section 2.2-4352).
    f) Unless otherwise provided under the terms of the contract for the provisions of goods and services, if the Town fails to pay by the payment date, the Town agrees to pay the financial charge assessed by the successful bidder, which does not exceed one percent per month (Code of Virginia, Section 2.2-4354.4).

32. **METHOD OF PAYMENT:** Upon satisfactory delivery of the merchandise and/or satisfactory completion of the services, all invoices and statements shall reference the purchase order number and be submitted to:

    Town of Vienna
    ATTN: ACCOUNTS PAYABLE
    127 Center St., S.
    Vienna, VA 22180.

    The prices and payments shall be full compensation for the labor, tools, equipment, transportation and all other incidentals necessary to complete the specified terms and conditions.

33. **SUCCESSFUL BIDDER'S OBLIGATION TO PAY SUBCONTRACTOR:**
    a) The successful bidder awarded the contract for this project shall take one of the two following actions within seven (7) days after the receipt of amounts paid to the successful bidder by the Town for work performed by the successful bidder's subcontractor(s) under the contract (Code of Virginia, Section 2.2-4354):

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

    b) The successful bidder shall pay interest to the subcontractor(s) on all amounts owed by the successful bidder that remain unpaid after seven (7) days following receipt by the successful bidder of payment from the Town for work performed by the subcontractor(s) under the contract, except for amounts withheld as allowed in subparagraph a (2) of this section. Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent (1%) per month.
    c) The successful bidder shall include in each of its subcontractors a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor(s).
    d) The successful bidder's obligation to pay an interest charge to a subcontractor(s) pursuant to the payment clause in this section may not be construed to be an obligation of the Town. A contract modification may not be made for the purpose of providing reimbursement for such interest charge and a cost reimbursement claim may not include any amount for reimbursement for such interest charge.

34. **ANTI-DISCRIMINATION:** By submitting their bids/proposals all bidders/offerors certify to the Town of Vienna that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, where applicable, and Section 2.2-4311 of the Virginia Public Procurement Act which provides:

    In every contract over $10,000.00 the provisions in A and B below apply:

    a) During the performance of this contract, the contractor agrees as follows:

        The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin

except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

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.

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.

b) The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over $10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

35. **ETHICS IN PUBLIC CONTRACTING:** The provisions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act as set forth in the Code of Virginia (1950), as amended, shall be applicable to all contracts solicited or entered into by the Town of Vienna. A copy of these provisions may be obtained from the Purchasing Agent upon written request.

By submitting their bids/proposals, all bidders/offerors certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder/offeror, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

36. **CRIMINAL SANCTIONS:** The provisions referenced in Item 27 supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§§ 18.2-498.1 et seq.), and Articles 2 (§§ 18.2-438 et seq.) and 3 (§§ 18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

37. **APPLICABLE LAW AND COURTS:** Any contract resulting from this solicitation shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with applicable federal, state and local laws and regulations.

38. **LAWS AND REGULATIONS**: The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.

The Contractors and Subcontractors shall comply with the Virginia Contractor's Registration Law, Title 54.1, Chapter 11, Code of Virginia (1950), as amended.

All non-resident Contractors and Subcontractors submitting bids on the work described herein shall register with the Department of Labor and Industry under the provisions of Subsection 40.1-30 of the Code of Virginia (1950), as amended.

This contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, Code of Virginia (1950), as amended, relating to labor unions and the "right to work", and all Contractors and Subcontractors, whether residents or non-residents of the Commonwealth, who perform work related to the project shall comply with all of said provisions.

The Contractor shall furnish the Owner copies of affidavits upon request giving original dates, renewal dates and expiration dates of all labor contracts related to any phase of the work to be performed on the job site under this contract.

The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia (1950), as amended, shall apply to all work under this contract.

The Contractor/Consultant shall comply with all laws and regulations of the Commonwealth of Virginia and the United States with respect to the employment of unauthorized aliens. Contractor/Consultant shall not hire or subcontract any portion of the work under this Contract to any individual the Contractor knows or reasonably should know to be an unauthorized alien as defined by 8 U.S.C. §1324a(h)(3). A violation of this provision shall constitute a material breach of the Contract and the Town may, in its sole discretion, terminate the contract.

39. **LABELING OF HAZARDOUS SUBSTANCES:** If the items or products requested by this solicitation are "Hazardous Substances" as defined by 3.1-250 of the Code of Virginia (1950), as amended, 42 U.S.C. § 11001 et seq., or 42 U.S.C. § 9601 et seq., then the bidder/offeror, by submitting his bid/proposal, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products that the bidder/offer does not violate any of the prohibitions of Sec. 3.1-252 or the Code of Virginia or Title 15 U.S.C. Sec. 1263.

40. **MATERIAL SAFETY DATA SHEETS:** Material Safety Data Sheets (MSDS) and descriptive literature shall be provided with the bid/proposal or delivered materials for each chemical and/or compound offered. Failure of the bidder/offeror to

submit such data sheets may be cause for declaring the bid/proposal as non-responsive.

41. **DEBARMENT STATUS:** By submitting their bids, Bidders certify that they are not currently debarred by the Commonwealth of Virginia or any Political Subdivision from submitting bids on contracts for the type of services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

42. **COOPERATIVE PROCUREMENT:** As authorized in Section 2.2-4304 of the Code of Virginia this procurement is being conducted on behalf of and may be used by public bodies, agencies, institutions and localities of the several states, territories of the United States, and the District of Columbia with the consent of the Contractor.

43. **RECORD RETENTION/TOWN AUDITS:**
    a) The successful bidder shall retain, during the performance of the contract and for a period of three (3) years from the completion of the contract, all records pertaining to the successful bidder's bid and any contract awarded pursuant to this Invitation for Bid. Such records shall include but not be limited to all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices, including successful bidder's copies of periodic estimates for partial payments; ledgers; cancelled checks; deposit slips; bank statements; journals; contract amendments and change orders; insurance documents; payroll documents; timesheets; memoranda; and correspondence. Such records shall be available to the Town on demand and without advance notice during the successful bidder's normal working hours.
    b) Town personnel may perform in-progress and post-audits of the successful bidder's records as a result of a contract awarded pursuant to this Invitation for Bid. Files would be available on demand and without notice during normal working hours.

44. **MODIFICATION OF CONTRACT:** The Town may, upon mutual agreement with the Contractor, issue written modifications to the scope of work of this contract, and within the general scope thereof, except that no modifications can be made which will result in an increase of the original contract price by a cumulative amount of more than $50,000.00 or twenty-five percent (25%) of the amount of the original contract, whichever is greater, without the advance written approval of the Mayor and the Town Council. (Section 2.2-4309 of Virginia Public Procurement Act).

    Should it become necessary, for the best interest of the Town, to make modifications, the same shall be covered by change order. The Contractor shall not begin work on any alteration requiring a change order until the agreement, setting forth the changes/modifications, has been executed in writing by the Town and the Contractor.

    If a satisfactory agreement cannot be mutually agreed to for any item requiring a change order, the Town reserves the right to terminate the contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the work.

    The Town may, in writing, omit from the work any item, other than major items, found unnecessary to the project and such omission shall not be a waiver of any condition of the contract nor invalidate any of the provisions thereof. Major items may be omitted by change order.

    The Contractor shall be paid for all work done toward the completion of the item prior to such cancellation, alteration or suspension of the work by the Town.

    A major item shall be construed to be any item, the total cost of which is equal to or greater than ten percent (10%) of the total; contract amount for each separate alternate, computed on the basis of the proposed quantity and the contract unit price.

45. **SPECIFICATION FAMILIARITY:**
    a) It is the Bidder's responsibility to examine this entire IFB carefully. If a question arises as to the meaning or intent of these documents, inquiry must be made in writing to the Purchasing Agent.
    b) The submission of a bid shall indicate that the Bidder thoroughly understands the terms and conditions of the IFB.

46. **CONTRACT AND FORMS**:
    a) Bidders are advised that the Town does not sign standard contract forms that may be used by the bidder. The selected Bidder will be expected to enter into a contract with the Town for the commodities outlined in this IFB. The form of contract will be the Town's Purchase Order and/or Agreement.
    b) The bid form contains a signature line for the bidder that must be signed when submitting a bid. The signature certifies the bidder is an agent of officer authorized to bind the Contractor to the terms and conditions of the IFB.

47. **ADDENDA AND INTERPRETATIONS:** No interpretation of the meaning of these documents will be made to any bidder orally. Any request for an interpretation must be in writing addressed to Town of Vienna, 127 Center Street, South, Vienna, VA 22180, Attention: Purchasing Agent. Faxed inquiries to the Purchasing Department fax number will also be accepted. To be given consideration, requests must be received at least five days prior to the date fixed for the submission of Bids. Any and all such interpretations and any supplemental instructions will be returned in writing to the prospective bidder requesting such interpretations, or will be in the form of written addenda which, if issued, will be sent to all prospective bidders, at the respective addresses furnished for such purpose, not later than three days prior to the date fixed for the submission of Bids. Failure of any bidder to receive any such addenda or interpretations shall not relieve said bidder from any obligation under his Bid as submitted. All addenda so issued shall become part of the Contract Documents.

48. **INSURANCE:** The Contractor shall provide the Purchasing Agent with a Certificate of Insurance PRIOR to the start of any work under the contract and agrees to maintain such insurance until the completion of the contract. The minimum limits of liability shall be:

    Workers' Compensation -- Standard Virginia Workers' Compensation Policy

    Broad Form Comprehensive General Liability--$1,000,000.00.

    Combined Single Limit coverage to include:
    Premises - Operations;
    Products/Completed Operations;
    Contractual; Independent Contractors;
    Owners and Contractors
    Protective; Personal Injury (Libel, Slander, Defamation of Character, etc.)

    Automobile Liability--$500,000.00 Combined Single Limit.

    The Town of Vienna, Virginia is to be named as an additional insured and this is to be so noted on Certificate of Insurance.

    The policy shall be delivered to the Town of Vienna PRIOR to the commencement of any work.

    A thirty (30) day written notice of cancellation or non-renewal shall be furnished by certified mail to the purchasing office at the address indicated on the solicitation.

    Contractor's signature on this solicitation constitutes certification that, if awarded the contract, Contractor shall obtain the required coverage as specified herein within ten (10) days of notification of award.

49. **WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY:**
    a) The successful Bidder's/Offeror's insurance shall cover the bidder/offeror and its subcontractors of every tier of those sources of liability which would be covered by the latest edition of the standard Worker's Compensation Policy, as filed for use in the Commonwealth of Virginia by the National Council on Compensation Insurance, without restrictive endorsements, but including Broad Form All States Endorsement. In addition to coverage for the Virginia Worker's Compensation Act, where appropriate, coverage is to be included for the United States Longshore and Harbor Worker's Compensation Act, Maritime including Jones Act, Federal Liability Act and any other applicable federal or state law.
    b) Subject to the restrictions of coverage found in the standard Worker's Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Virginia Worker's Compensation Act, the United States Longshore and Harbor Worker's Compensation Act, or any other coverage customarily insured under Part One of the standard Worker's Compensation Policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standards Worker's Compensation (inclusive of any amounts provided by an umbrella or excess policy) shall be $1,000,000 bodily injury by accident each accident, $1,000,000 bodily injury by disease each employee, and $1,000,000 bodily injury by disease policy limit or aggregate where such aggregate is applicable under the terms of the standard Worker's Compensation Policy.

50. **PROFESSIONAL LIABILITY:**
    a) The successful bidder/offeror shall provide the Town of Vienna with an Errors and Omissions Liability Policy (E&O Policy). The policy shall cover the Town of Vienna for all sources of liability which would be covered by the latest edition of the standard Errors and Omissions Liability Coverage Form, as filed for use in the Commonwealth of Virginia by the Insurance Services Office without the attachment of restrictive endorsements.
    b) The policy shall be endorsed to include the Town of Vienna's officials, officers, agents and employees as insured. The E&O Policy shall include the successful Offeror and the offeror's subcontractors of every tier as the designated in the declarations.
    c) The minimum E&O Policy limits to be provided by the successful Offeror (inclusive of any amounts provided by an umbrella or excess policy) shall be $1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability. The limits afforded by the E&O Policy (or umbrella or excess policy with respect to it) shall apply only to the Town of Vienna officials, officers, agents and employees and only to claims arising out of or in connection with the work under this contract.

    The insurance provided by the successful Offeror pursuant to the resulting contract shall apply on a primary basis and any other insurance or self-insurance maintained by the Town of Vienna or the Town of Vienna official, officer, agent or employee shall be excess of and not contributing with the insurance provided by or on behalf of the Offeror.

    The coverages other than Worker's Compensation may be either on an occurrence or a claims-made basis. Provided, however, that claims-made coverage for other than the Products/Completed Operations shall respond to claims arising out of accidents, occurrences, incidents and offenses happening after the commencement of the resulting contract but before the end of the contract completion date provided that the claim is made within five years after the contract completion date.

    Prior to commencing work under a resulting contract, the successful Offeror shall furnish the Town of Vienna with a Certificate(s) of

Insurance naming the Town of Vienna, its officers, employees and agents, as additional insureds, giving a forty-five (45) day notice of cancellation, non-renewal, or change in the insurance coverage, and/or restrictions.

51. **SAFETY:** All contractors and subcontractors performing services for the Town of Vienna are required to comply with OSHA standards and accepted safety rules and regulations.

52. **OWNERSHIP OF PRODUCTS/SERVICES:** All control work, compilation of notes, work sheets, and any and all interim and final products and materials shall be the sole property of the Town of Vienna.

53. **COLLUSION:** By submitting a bid/proposal in response to this solicitation, the Bidder/Offeror represents that in the preparation and submission of this bid/proposal, said Bidder/Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, Bidder/Offeror 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) or 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.

SECTION F

SUPPLEMENTAL/SPECIAL CONDITIONS

I. PAYMENT FOR MATERIAL STORED OFF-SITE

INTENTIONALLY OMITTED

II. CONSTRUCTION SCHEDULE - BAR CHART

A. SCOPE

1. Pursuant to Paragraph 4.11 of the General Conditions of this Contract, the following additional scheduling requirements are a part of this Contract.

2. Work under this Section shall consist of furnishing a Construction Schedule showing in detail how the Contractor plans to execute and coordinate the Work. The Contract Schedule shall be based on and incorporate the Contract Milestones and Completion Dates specified in the Owner-Contractor Agreement and shall show the order in which Contractor shall perform the Work, projected dates for the start and completion of separable portions of the Work, and any other information concerning Contractor's Work scheduling as the Owner may request.

3. The Construction Schedule shall be in the form of a bar chart and shall consist of horizontal lines, or bars, plotted along a daily time scale. Each pay item designated in the unit price shall be denominated as a separate activity and represented by a horizontal bar or bars on the chart. The time scale shall indicate all required Milestone and Completion Dates as set forth in the Owner-Contractor Agreement. The horizontal bar(s) shall indicate the start and finish dates as well as the total time period of performance for each pay item activity. The Contractor shall arrange the chart so as to show the pay item activities which are necessary to fulfill each and every Milestone and Completion Date requirement.

4. Each Work item on the bar chart shall be broken into reasonable work segments/activities (where practicable) with individual starting and stopping dates. As a minimum, work shall be segmented to demonstrate its relationship to the various Milestone Dates, if any. The segmented Work activities shall be cost loaded to show its dollar value as a part of the entire pay item. Activity titles shall be self-explanatory; abbreviations shall be shown in the legend.

B. UPDATES AND REVISIONS

1. The chart shall be updated to show actual progress and the effect of modifications, delays and other events. A second bar for each work item, in a contrasting color or pattern, shall be drawn parallel to the proposed schedule to show actual progress and to forecast future progress. The actual start and stop dates shall be entered, as well as the actual dates of the Milestone events. Updates are to be submitted monthly, with and as a part of, the payment requests.

2. The updated Construction Schedule submitted by Contractor shall not show a completion date later than the Contract Time, subject to any time extensions approved by Owner; provided, however, that if Contractor believes he is entitled to an extension of the Contract under the Contract Documents, Contractor shall submit to Owner, with each update, a separate schedule analysis (entitled "Requested Time Adjustment Schedule") indicating suggested adjustments in the Contract Time which should, in the opinion of the Contractor, be made by time extension, due to changes, delays or conditions occurring during the past month or previously, or which are expected or contemplated by Contractor (whether such conditions are excusable under the Contract or are due to Contractor fault); this separate schedule, if submitted, shall be accompanied or preceded by a formal time extension request as required by the Contract and a detailed narrative justifying the time extension requested. To the extent any time extension requests are pending at the time of any update in the Construction Schedule, the "Requested Time Adjustment Schedule" shall be updated also each month, to reflect any adjustments made by Contractor in the Construction Schedule, or any time extensions previously granted by Owner, and to reflect actual or expected progress. Owner shall not have any obligation to consider any time extension request unless the requirements of the Contract Documents, and specifically, but not limited to these requirements, are complied with; and Owner shall not be responsible or liable to Contractor for any constructive acceleration due to failure of Owner to grant time extensions under the Contract Documents should Contractor fail to substantially comply with the submission requirements and the justification requirements of this Contract for time extension requests. Contractor's failure to perform in accordance with the Construction Schedule shall not be excused, nor be chargeable to Owner, because Contractor has submitted time extension requests or the "Requested Time Adjustment Schedule".

3. Neither the updating of Contractor's work schedule nor the submission, updating, change or revision of any other report or schedule submitted to Owner by Contractor under this Contract nor Owner's review or absence of objection regarding any such report or schedule shall have the effect of amending or modifying, in any way, the Contract Completion Date, Milestone Dates or of modifying or limiting in any way Contractor's obligations under this Contract.

4. All of Contractor's detailed calculations and documents supporting all schedules, reports, and forecasts shall be available to Owner on request.

5. Each updated Construction Schedule submitted by the Contractor shall be accompanied by a narrative report which reflects the following:

    a. Description of Work accomplished since submission of previous progress schedule;

    b. Comparison of the actual status of the Work with Contractor's project schedule;

    c. Status of equipment and material deliveries;

    d. Personnel staffing schedule;

    e. Causes of any delays;

    f. Revision of schedules; and

    g. Action proposed to restore schedule.

C. SCHEDULE OF OFF-SITE ACTIVITIES

INTENTIONALLY OMITTED

SECTION G

FORM OF BID

PROJECT NAME: **ON CALL ROADWAY MAINTENANCE**

TO: Town of Vienna
Purchasing Agent
127 Center Street South
Vienna, Virginia 22180

CONTRACT NUMBER: IFB 20-03

FROM:

_____

_____

_____

A. Having carefully examined the Contract Documents entitled ON-CALL ROADWAY MAINTENANCE and having visited the site and examined all conditions affecting the work, the undersigned agrees to furnish all labor and material, equipment and services necessary for the proper and timely completion of the work as required by said documents.

This bid is subject to all terms and conditions set forth in the Bidding Documents, defined in Paragraph A-2 of the Information for Bidders.

The undersigned agrees, if awarded the Contract, to execute and totally complete the work for the stipulated sum of:

BID: _____

_____ Dollars ($ _____)

(The above total price shall be listed using both words and numbers. In the event the base bid and the extension of unit prices do not agree, the unit prices shall govern. For discrepancies in Lump Sum bids, the written number shall govern over that in figures.)

The Bid Form is in an Excel Document, posted separately.

B. All formal and written informal bids or proposals shall include the following provisions:

1. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Town of Vienna official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be

disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

2. Whenever there is reason to believe that a financial benefit of the sort described in Paragraph 1 has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the Town of Vienna, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

C. If notified of acceptance of this proposal and contract award within forty-five (45) calendar days after receipt of bids, the undersigned agrees to execute a contract for the above-named project Work and the above-stated consideration on the form required, within fifteen (15) calendar days of such notification. The undersigned hereby designates the office address stated on the first page of this proposal as the address to which a Notice to Award of this construction contract may be delivered and to which all office correspondence and notices may be mailed, or delivered by any means, unless the Owner is otherwise notified in writing.

D. The undersigned acknowledges receipt of the following addenda, and that the cost, if any, of such revisions has been included in the bid sum:

ADDENDUM RECEIVED (Initial and Date)

Addendum No. 1. _____	Addendum No. 4. _____
Addendum No. 2. _____	Addendum No. 5. _____
Addendum No. 3. _____	Addendum No. 6. _____

E. Included herein is the required written guarantee, “Contract Bond Certification” form, issued by a surety company licensed to conduct business in Virginia and acceptable to the Owner. This guarantee states that in the event a Contract is awarded to the bidder, the said surety will furnish a Performance Bond and a Labor and Material Payment Bond in an amount required by the Contract Documents in Section A, Information to Bidders, Paragraph A-10.

F. Included as a part of this Bid are the following documents which are to be submitted on the forms required, pages G-3 through G-12, as applicable.

1. The required Bid Security provided as Cash, Cashier’s Check, Certified Bidder’s Check, or an acceptable Bid Bond.

   The Bidder will ensure that the Bid Bond form contained herein is properly executed by an approved Surety and submitted with the Proposal Form at the time and the place on which bids are scheduled to be received. The failure on the part of a Bidder to enclose an executed copy of the Town of Vienna approved Bid Bond with the Proposal Form or a Certified or Cashier’s check or cash may result in the disqualification of the Bid.

2. A Certified Listing of Safety Violations, in accordance with Paragraph A-23 of the Information for Bidders. Said certification is made on the “Certification of Safety Violations” form and all other forms found in this section (B);

3. “Acknowledgement of Principal of Bidder...” form;

4. The statistical “Small and Minority Business Data” form;

5. The required "Contract Bond Certification" form;

6. If applicable, the "Bidder's Request for Equal Product or Substitution and Bidder's Representations" form;

7. If applicable, the Firm Fixed Price Bid and/or Alternate Bid forms provided at the end of this Section (B).

G. The undersigned hereby acknowledges that he has read and understands the varied nature of the work, the Drawings and Specifications, Addenda and all other Contract Documents pertaining to this project. The undersigned certifies that the Contract Documents are, in his opinion, adequate, feasible and complete for performing the Work and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned further certifies that he has, or has available, the equipment, personnel, materials, facilities and technical and financial ability necessary to complete the Work in accordance with the Contract Documents and within the time specified therein. The Bidder certifies that he has made allowances for normal inclement weather indigenous to the Project site.

H. The following information is provided pursuant to the Contract Documents:

1. Legal Name of Firm:

_____

a. If Firm is a corporation, State that corporation is organized under the laws of the State of _____. Please affix corporate seal to this Form of Bid.

b. If Firm is a partnership, state names of partners:

c. If Firm is an individual using a trade name, state name of individual:

2. Virginia Contractor Registration Number: _____; Class: _____

3. Signature of Person or Persons legally authorized to bind Bidder to a Contract. A Bid submitted by an agent shall have a current Power of Attorney attached certifying the agent's authority to bind the Bidder.

a. Signature: _____ Date: _____

b. Name (Type): _____

c. Title: _____

(CORPORATE SEAL)

d. Address: _____

_____

I. The names and addresses of other persons interested as principals in this proposal are as follows:

_____

_____

BID BOND

KNOW ALL MEN BY THESE PRESENTS, That we, _____.
(Bidder's Name)

_____,of _____
(Street Address) (City, State, Zip)

hereinafter called the Principal, and _____
(Surety's Name)

a corporation organized and existing under the Laws of the State of _____, and authorized to transact business in the State of Virginia, as Surety, hereinafter called Surety, are held and firmly bound unto the Town of Vienna, Virginia hereinafter called Obligee, in the Penal sum of _____ of the amount bid, good and lawful money of the United States of America, for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The Condition of this Obligation is such that, WHEREAS the Principal has submitted a proposal to the Obligee on a contract for **IFB 20-03 ON CALL ROADWAY MAINTENANCE.**

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 the terms of such bid, and give such bond or bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such construction for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void; otherwise to remain in full force and effect.

BID BOND-CONTINUED

In witness whereof, we have hereunto set our signatures and seal this _____ day of _____, _____, all pursuant to due authorization.

_____
Principal (SEAL)

By: _____
Surety

By: _____
Attorney-in-Fact in accordance
with the attached Power of Attorney

STATE OF _____)

) ss:

TOWN OF _____)

I, _____, a Notary Public in and for the State and Town aforesaid, do hereby certify that _____, and _____, whose names are signed to the foregoing bond, this day personally appeared before me in my aforesaid State and Town and acknowledged the same.

Given under my hand seal this _____ day of _____, 20 .

_____
Notary Public (SEAL)

My Commission expires:

_____

CERTIFICATION OF SAFETY VIOLATIONS

(Described in Article A-23)

I hereby certify that _____
(Name of Bidding Firm)

Located at; _____,
(Address of Bidding Firm)

has had the following safety violations described in Article A-23, paragraph A of the Information for Bidders, (if none so state):

_____

_____

_____

_____

_____

By: _____
Principal (SEAL)

State of: _____)

) ss:

Town of: _____)

On this _____ day of _____ , before personally came and appeared _____ , to me known, who by me duly sworn, did depose and say that he is the _____ of the _____
_____
_____;

that he has the authority to bind the above named firm; and he represents and certifies the foregoing statements are, to the best of his knowledge, true and complete.

_____

Notary (SEAL)

My Commission Expires: _____

ACKNOWLEDGMENT OF PRINCIPAL OF BIDDER, IF A CORPORATION

State of _____)
) ss:
County of _____)

On this _____ day of _____, _____, before me personally came and appeared _____, to me known, who, being by me duly sworn, did depose and say that he resides at:

_____,

that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the impressions affixed to said instrument is an impression of such seal; that it was so affixed by order of the directors of said corporation; and that he signed his name thereto by like order.

_____
(SEAL)

My Commission Expires: _____

ACKNOWLEDGMENT OF PRINCIPAL OF BIDDER, IF A PARTNERSHIP

State of _____)
) ss:
County of _____)

On this _____ day of _____ , _____, before me personally came and appeared, to me known, and known to me to be one of the members of the firm of _____, described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

_____
(SEAL)

My Commission Expires: _____

ACKNOWLEDGMENT OF PRINCIPAL OF BIDDER, IF A SOLE PROPRIETORSHIP

State of _____)
) ss:
County of _____)

On this _____ day of _____, _____, before me personally came and appeared , to me known, and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed same.

_____
(SEAL)

My Commission Expires: __

SMALL AND MINORITY BUSINESS DATA

We hereby provide the following information to the Town of Vienna regarding our firm. We understand that it is provided for statistical purposes only and all firms tendering bids will receive equal consideration for award.

Minority Business Firm: Yes_____; No _____.

Small Business Firm: Yes_____; No _____.

Contractor Subcategory: _____

Federal, State and Town Laws, orders and regulations, require the Town of Vienna to ensure that its procurement practices are non-discriminatory and promote equality of opportunity for Small and Minority Business Enterprises.

DEFINITIONS

The following definitions are to be used to identify Small Businesses, Minority Businesses and Contractor Subcategories:

Small Business: A corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than $1-Million in annual gross receipts.

Minority Business: A business enterprise that is at least 51-percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such impairment, or who are regarded as having such an impairment.

Contractor Subcategories:

A = Woman-Owned
B = Small (Non-Minority)
C = Small, Woman-Owned
D = Sheltered Workshop
E = African American Owned
F = African American Woman-Owned
G = Small, African American Owned
H = Small, African American Woman-Owned
I = Hispanic American Owned
J = Hispanic American Woman-Owned
K = Small, Hispanic American Owned
L = Small, Hispanic American Woman - Owned
M= Asian American Owned
N = Asian American Woman-Owned
0 = Small, Asian American Owned
P = Small, Asian American Woman-Owned
Q = American Indian Owned
R = American Indian Woman-Owned
S = Small, American Indian Owned
T = Small, American Indian Woman-Owned
U = Eskimo/Aleut Owned
V = Eskimo/Aleut Woman-Owned
W= Small, Eskimo/Aleut Owned
X = Small, Eskimo/Aleut Woman-Owned
Y = Large, Non-Minority
-- = Non-BML Firms

CONTRACT BOND CERTIFICATION

TO: Town of Vienna
c/c Purchasing Agent
127 Center Street South
Vienna, Virginia 22180

DATE: _____

FROM: (Surety) _____

_____

_____

REFERENCE: Project

_____

_____

Contract No. _____ Project No. _____

Bidder: _____

As surety for the above-named Bidder, the _____
(Surety Name)

_____

hereby certifies that we will promptly furnish the required Performance, Labor and Materials Payment and Guarantee Bonds, in separate instruments, as required by the General Conditions, on behalf of the above named Bidder, in the event that the said firm is determined to be the Successful Bidder and a construction contract is subsequently awarded for this project.

By: _____
Attorney-in-Fact,
in accordance with the attached Power of Attorney

BIDDER'S REQUEST FOR EQUAL PRODUCT OR SUBSTITUTION AND BIDDER'S REPRESENTATIONS

FROM:

_____

_____

_____

In submitting this Bid, the Bidder declares its intention to provide the following equal product or substitution in accordance with Addendum No. ____ and warrants that he has complied with the requirements of Paragraph A-17 of the Information for Bidders.

Description of Product:

_____

_____

_____

The undersigned Bidder hereby represents and certifies the following:

1. He has investigated the proposed equal product or method and determined that it is equal or better in all respects to that specified and that it fully complies with all requirements of the Contract Documents,
2. He has investigated the proposed substitution and has determined that it will satisfy all operational requirements as indicated in Contract Documents,
3. He will meet all contract obligations with regard to this equal products or substitution;
4. He will coordinate installation of accepted equal products or substitutions into the work, making all such changes and any required schedule adjustments, at no additional cost to the Owner, as may be required for the work to be complete in all respects;
5. He waives all claims for additional costs and additional time related to equal products or substitutions which consequently become apparent. He also agrees to hold the Owner harmless from claims for extra costs and time incurred by other subcontractors and suppliers, or additional services which may have to be performed by the A/E, for changes or extra work that may, at some later date, be determined to be necessary in order for the Work to function in the manner intended in the Contract Documents;
6. He will provide the same warranty and guarantee, and perform any work required in accordance therewith, for the equal product or substitution that is applicable to the specified item for which the equal product or substitution is requested;
7. Material will be installed, handled, stored, adjusted, tested, and operated in accordance with the manufacturer's recommendation and as specified in the Contract Documents;
8. In all cases new materials shall be used unless this provision is waived by notice from the Owner or his A/E, or unless otherwise specified in the Contract Documents; and

9. All material and workmanship shall in every respect be in accordance with what, in the opinion of the Owner or A/E, is in conformity with approved modern practice.

Bidder _____

By: _____

Title: _____

State of _____)

) to wit:

Town of _____)

On the _____ day of _____, _____ before me personally came and appeared, to me known, who by me duly sworn, did depose and say that he is the _____

_____ of the _____ ;

that he has the authority to bind the above named firm; and he represents and certifies the foregoing statements are, to the best of his knowledge, true and complete.

_____

(SEAL)

My Commission expires: _____