



**City of Newport News  
Department of Public Utilities (Waterworks)**

**COPELAND PARK TANK REHABILITATION PROJECT  
CONTRACT NO. 80**

**March 2009**

**City of Newport News  
Department of Purchasing  
Invitation for Bids #2009-4300-0911**

**Date: March 2, 2009**

**DESIGNED BY:**

**Tank Industry Consultants  
7740 West New York Street  
Indianapolis, Indiana 46214**

# INVITATION FOR BIDS



**IFB #2009-4300-0911**

**Date: March 2, 2009**

City of Newport News, Dept. of Purchasing  
2400 Washington Avenue, 4<sup>th</sup> Floor, City Hall  
Newport News, VA 23607

Phone: (757) 926-8721/ Fax: (757) 926-8038

[www.nngov.com/purchasing](http://www.nngov.com/purchasing)

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## COPELAND PARK TANK REHABILITATION PROJECT

Sealed bids, subject to the conditions and instructions contained herein, will be received at the above office of the Purchasing Agent, 4th Floor, City Hall, 2400 Washington Avenue, Newport News, Virginia, through the due date and hour shown below (local prevailing time), and then publicly opened, for furnishing the following described equipment, materials, and/or services, for delivery and/or performance F.O.B. NEWPORT NEWS, VIRGINIA.

**SCOPE:** The Contractor, at his own sole cost and expense, shall furnish all labor, tools, materials, equipment and services required to completely clean (with containment) and repaint the exterior and interior of the Copeland Park Tank and to provide other repair and modification work as detailed in the Technical Specifications.

**BID DUE:** **March 31, 2009 at 2:00 p.m.**

**PRE-BID:** **11:00 AM, March 20, 2009 at the Copeland Park Tank and Pump Station Facility at the intersection of Chestnut Avenue and Mercedes Drive in Newport News, Virginia. Bidders are responsible for their own transportation. Attendance is Optional.**

Contract Officer: \_\_\_\_\_  
Ayana Fields, Buyer II, [afields@nngov.com](mailto:afields@nngov.com)

**\*\*\*AN ORIGINAL AND ONE (1) COPY OF YOUR SUBMITTAL IS REQUESTED\*\*\***

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

**This public body does not discriminate against faith based organizations**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Fed. Tax ID (or Social Security #): \_\_\_\_\_

Commonwealth of Virginia State Corporation Commission Corporate ID#: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

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# **SECTION “A”**

**All Bidders to Complete and Submit this Section**

## CONDITIONS AND INSTRUCTIONS

Rev: 09/09/08

1. All bids shall be submitted on and in accordance with this form. If more space is required to furnish a description of the commodities and/or services bid, or delivery terms, the bidder may attach a letter hereto that will be made a part of the bid. All bids shall be submitted sealed, plainly marked showing the bid number, date and time. The entire solicitation document is to be returned when submitting a bid, unless otherwise directed by the bid document. Failure to return all pages may result in a determination that the submittal is non-responsive.
2. Bids and amendments thereto, if received by the Purchasing Department after the date and time specified for bid opening, will not be considered. It will be the responsibility of the bidder to see that their bid is received by the Purchasing Department as specified. There will be no exceptions. Date of postmark will not be considered. Telephone, facsimile, electronic and verbal bids will not be accepted. Prices or changes shown on the outside of an envelope will not be considered in determination of low bid.
3. If City Hall is closed for business at the time scheduled for bid opening, for whatever reasons, sealed bids will be accepted and opened on the next business day of the City, at the originally scheduled hour.
4. Receipt of your bid by the City is not to be construed as an award or an order to ship.
5. Each bid is received with the understanding that the acceptance in writing by the City of the bidder to furnish any or all of the commodities and/or services described therein, shall constitute a contract between the bidder and the City, which shall bind the bidder on his part to furnish and deliver the articles quoted on at the prices stated and in accordance with the conditions of said accepted bid; and the City on its part to order from such bidder, except for causes beyond reasonable control; and pay for, at the agreed prices, all articles specified and delivered.
6. Bidders have the right to request withdrawal of their bids from consideration due to error by giving notice not later than two days after bids are publicly opened. Work papers showing evidence of error(s) may be required. Upon request Administrative withdrawal procedures will be provided that shall be used for that purpose.
7. If issued, addenda to this solicitation will be posted on the Purchasing Department's website ([www.nngov.com/purchasing](http://www.nngov.com/purchasing)). It is the bidder's responsibility to check the website or contact the Purchasing Department prior to the submittal deadline to ensure that the bidder has a complete, up-to-date package.
8. The solicitation document maintained by the Purchasing Department, in the bid file folder, shall be considered the official copy. In the case of any inconsistency between bid documents submitted to the City, but not clearly listed on the exception page of the document as an exception by the bidder, the language of the official copy shall prevail. Furthermore, any

exception or changes to the specifications made by the bidder may be cause to disqualify your bid.

9. Award will be made to the lowest responsive and responsible bidder. The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements, the delivery terms, qualifications and references will be taken into consideration in making an award. Length of time for delivery as well as price may be considered in awarding the bid.

**AWARD OF CONTRACT SHALL BE BASED ON THE TOTAL AMOUNT BID  
[ITEMS 1 THROUGH 13 INCLUSIVE]**

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted; except that if the bid from the lowest responsible bidder exceeds available funds, the purchasing director may negotiate with the apparent low bidder to obtain a contract price within available funds.

Upon making an award, or giving notice of intent to award, the City will place appropriate notice on the public bulletin board located outside of the Purchasing Department at City Hall. Notice of award may also appear on the Purchasing Website: [www.nngov.com/purchasing](http://www.nngov.com/purchasing) or [www.demandstar.com](http://www.demandstar.com).

10. The City reserves the right to reject any and all bids, and to waive any informality if it is determined to be in the best interest of the City.
11. If authorized by the Bidder(s), the resultant contract(s) may be extended to any jurisdiction within the Commonwealth of Virginia to purchase at contract prices in accordance with contract terms. Any jurisdiction using such contracts shall place its own order(s) directly with the successful Contractor(s). The City of Newport News acts only as the Contracting Agent and is not responsible for placement of orders, payment or discrepancies of the participating jurisdictions. It is the Contractor's responsibility to notify the jurisdictions of the availability of contract(s). Bidder not desiring to sell to other jurisdictions under this clause shall so indicate in their response.
12. Prices shall be stated in units of quantity specified. No additional charges shall be passed to the City, including any applicable taxes, delivery or surcharges. Prices quoted shall be the final cost to the City.
13. All prices and notations should be in ink or typewritten. Mistakes may be crossed out and corrections made in ink and must be initialed and dated in ink by the person signing the bid.
14. In case of error in the extension of prices, the unit price shall govern.
15. The time of proposed delivery must be stated in definite terms. If time of delivery for different commodities varies, the bidder shall so state.

16. Samples, when requested, must be furnished free of expense, and upon request, if not destroyed, will be returned at the bidder's risk and expense.
17. Unless qualified by the provision "NO SUBSTITUTE", the use of the name of the manufacturer, brand make or catalog designation in specifying an item does not restrict bidders to the manufacturer, brand, make or catalog designation identification. This is used simply to indicate the character, quality and/or performance equivalence of the commodity desired. The commodity on which bids are submitted must be of such character, quality and/or performance equivalence that it will serve as that specified. In submitting bids on a commodity other than as specified, bidder shall furnish complete data and identification with respect to the alternate commodity they propose to furnish.

Consideration will be given to bids submitted on alternate commodities to the extent that such action is deemed to serve the best interests of the City. If the bidder does not indicate that the commodity he proposes to furnish is other than specified, it will be construed to mean that the bidder proposes to furnish the exact commodity described.

18. Any equipment delivered must be standard new and unused equipment, latest model, except as otherwise specifically stated in the bid. Where any part or the normal accessories of equipment is not described, it shall be understood that all the equipment and accessories that are usually provided in the manufacturer's stock model shall be furnished.
19. The apparent silence of these specifications and any supplemental specifications as to any detail or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and correct type, size and design are to be used. All interpretations of these specifications shall be made on the basis of this statement.
20. All bids must be signed by an authorized, responsible officer or employee having the capacity to enter contracts. Obligations assumed by such signature must be fulfilled.
21. By signing this bid, the bidder assigns to the City any and all rights that he may have under the antitrust laws of the United States and the Commonwealth of Virginia in any way arising from or pertaining to this bid. This provision is remedial in nature and is to be liberally construed by any court in favor of the City.
22. The bidder certifies by signing this Invitation for Bid that this bid is made without prior understanding, agreement, or accord with any other person submitting a bid for the same product or service and that this bid is in all respects bona fide, fair and not the result of any act of fraud or collusion with another person engaged in the same line of business or commerce. Any false statement hereunder constitutes a felony and can result in a fine and imprisonment, as well as civil damages.
23. The contractor guarantees to defend and save the City, its agents and employees, harmless from liability of any nature or kind, for use of any copyright, composition, secret process,

patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, or which the contractor is not the patentee, assignee, or licensee.

24. The contractor shall keep himself fully informed of all Federal, State and local laws, ordinances and regulations that in any manner affect the conduct of the work. The contractor shall at all times observe and comply with all such laws, ordinances and regulations and he shall protect and indemnify the City, and its representatives against any claim or liability arising from or based on any violation of the same, whether by the contractor, his subcontractors, suppliers of materials or services, or others engaged by the contractor or the employees of any of them. The contractor certifies that he does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986, as amended.

Every business must register with the Virginia State Corporation Commission before transacting business in Virginia.

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

Seventy thousand dollars (\$70,000) or more, or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is five hundred thousand dollars (\$500,000) or more shall show evidence of being licensed as a Class A Contractor.

Seventy-five hundred dollars (\$7,500.00) or more, but less than seventy thousand dollars (\$70,000) or the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is one hundred and fifty thousand dollars (\$150,000) or more, but less than five hundred thousand dollars (\$500,000) shall show evidence of being licensed as a Class B Contractor.

Over one thousand dollars (\$1,000) but no more than seventy-five hundred dollars (\$7,500) or the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is no more than one hundred and fifty thousand dollars shall show evidence of being licensed as a Class C Contractor.

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

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

"Licensed Class A Virginia Contractor No. \_\_\_\_\_."

"Licensed Class B Virginia Contractor No. \_\_\_\_\_."

"Licensed Class C Virginia Contractor No. \_\_\_\_\_."

26. Payment Terms:

- a) Payment terms shall be "2%-20, Net 30 days" unless otherwise stated by the bidder on this submittal form. Alternate terms may be offered by bidder for prompt payment of bills.
- b) Payment terms shall be considered in determining the low bidder.
- c) Discount period shall be computed from the date of proper receipt of the vendor's correct invoice, or from the date of acceptable receipt of the goods/services, whichever is latest.
- d) The payment terms stated herein must appear on the vendor's invoice. Failure to comply with this requirement shall result in the invoice being returned to the vendor for correction.
- e) Late payment charges shall not exceed the allowable rate specified by the Commonwealth of Virginia Prompt Payment Act. (1% per month)

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

28. In event of default by the contractor, the City reserves the right to procure the commodities and/or services from other sources, and hold the contractor liable for any excess cost occasioned thereby.

29. Appeals Procedure: Upon your request, administrative appeals information will be provided that shall be used for hearing protests of a decision to award or an award, appeals from refusal to allow withdrawal of bids, appeals from disqualification, appeals for debarment or suspension, or determinations of non-responsibility and appeals from decision or disputes arising during the performance of a contract. To be timely, all appeals, except contract disputes, shall be made within ten days of either public notice of award, or the actual award, whichever is first.

30. It is the policy of the City of Newport News to facilitate the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in the City's procurement activities. Toward that end, the City of Newport News encourages these firms to compete and encourages non-minority firms to provide for the participation of small businesses and businesses owned by women and

minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Bidder is requested to complete the SMB, MBE and WBE Business Objectives form within this document.

31. The City has a directory of Newport News Minority and Women-owned businesses. The directory is distributed, at request, at no additional cost.
32. This public body does not discriminate against faith based organizations.
33. Non-Discrimination: During the performance of this contract, the contractor agrees as follows:
  1. He will not discriminate against any employees or applicants for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where one or more of these are a bona fide occupational qualification reasonably necessary to the normal operations of the contractor. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
  2. The contractor will be and state that he is an equal opportunity employer in all solicitations or advertisements for employees.
  3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The contractor will include the provisions of the foregoing paragraphs (a), (b) and (c) in every subcontract or purchase order of over ten thousand dollars so that the provisions will be binding upon each subcontractor or vendor.

34. 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 prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this subsection, "A drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this subsection, 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.

35. **Assignment of Contract:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.
36. **Applicable Law and Courts:** Any purchase order/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.
37. **Severability:** If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected hereby, and each provision of this Agreement shall be valid and enforced to the full extent permitted by law.
38. **Cancellation:** The City may cancel the contract at its convenience, without penalty, at any time by giving thirty (30) days written notice or may cancel the contract immediately for violations of safety or rules of ethics. The City may cancel a contract thirty (30) days after the City has given a written request for a cure for vendor non-performance if such cure has not occurred. Cancellation shall not release the vendor from legal remedies available to the City. If the contract is an extended term contract, after completion of the first contract period, either party may cancel the contract without penalty. Written notice of such termination shall be made a minimum of sixty (60) days prior to its effective date.
39. **Direct contact with City departments other than Purchasing,** on the subject of this bid is expressly forbidden except with the foreknowledge and permission of the Director of Purchasing or their representative. Violation may result in a determination that your firm is ineligible for award.
40. **Questions or comments related to this solicitation** should be directed to the Contract Officer, whose name and contact information appears on the front of this document. All questions must be submitted in writing (facsimile or email); telephonic inquiries will not be considered.
41. **Pre-Bid Meeting:** A Pre-Bid Meeting will be held at the time and location specified on Page IB-1. Attendance is **Optional**.

## SMALL, MINORITY, WOMEN-OWNED BUSINESS OBJECTIVES

It is an important business objective of the City to promote the economic enhancement of small businesses (SBE), minority businesses (MBE), and women-owned businesses (WBE). The success of the City to track the amount of business received by SBE, MBE and WBE FIRMS (whether as a prime contractor or a subcontractor) is dependent upon the business community partnering with us in this important endeavor.

If you anticipate **sub-contracting** to any of these businesses in the performance of this contract, you are requested to individually report the total dollars for each business classification. Failure to report the dollars in the categories below may result in the application of stronger requirements being placed on bidders to assure that SBE, MBE and WBE firms receive benefits from City contracts.

**Complete the following information and return the form with your package.**

1. If you are a SBE, MBE or WBE, please check one of the following boxes:

SBE

MBE

WBE

2. In the spaces below, report the anticipated dollars that you intend to subcontract to each business type if a contract is awarded to your firm. (If you do not intend to sub-contract any work to others, even if you are an S/M/WBE, put zeros in the spaces below).

Total **SBE** Dollars to be Sub-contracted \$ \_\_\_\_\_

Total **MBE** Dollars to be Sub-contracted \$ \_\_\_\_\_

Total **WBE** Dollars to be Sub-contracted \$ \_\_\_\_\_

3. If you are not a SBE, MBE, or WBE and you do not plan to utilize such firms in this contract, please state your reasons:

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**EXCEPTION PAGE**

**EXCEPTIONS:**

Bidder must sign the appropriate statement below, as applicable:

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

Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Payment terms shall be considered in determining the low bidder.

**BID RESULTS**

Bid results of the apparent three lowest qualified responsive and responsible bidders will be made available on recorded message the following two business days after the bid opening, by visiting our web site:

[www.nngov.com/purchasing](http://www.nngov.com/purchasing)

For a complete written tally sheet, please send a stamped, self-addressed envelope to our office, indicating the bid number, date opened, and a note requesting a tally sheet. Include \$0.25 per page for handling. Vendor may contact Purchasing to determine the number of pages.

**ANTI-COLLUSION CERTIFICATION**

The bidder certifies that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same product and that this bid is in all respects bona fide, fair and not the result of any act of fraud or collusion with another person or firm engaged in the same line of business or commerce. The bidder understands collusive bidding is a violation of Federal law and that any false statement hereunder constitutes a felony and can result in fines, imprisonment, as well as civil damages. The bidder also understands that failure to sign this statement will make the bid non-responsive and unqualified for award.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Company: \_\_\_\_\_

## **NOTICE TO CONTRACTORS**

Sealed bids will be received by the Department of Purchasing of the City of Newport News, Virginia on the 4<sup>th</sup> Floor, City Hall Building, 2400 Washington Avenue, no later than **2:00 PM, March 31, 2009, for COPELAND PARK TANK REHABILITATION PROJECT, Contract No. 80 (the “contract”)**.

Please be advised that all questions in reference to this project should be directed to the Department of Purchasing, Ayana Fields, Buyer II, telephone (757) 926-3783, fax (757) 926-8038, afields@nngov.com. **All bid questions must be received five working days prior to the bid due date.**

### **SCOPE OF WORK:**

Without intending to limit or restrict the extent of work required under this Contract, the Work to be performed comprises the following:

The Contractor, at his own sole cost and expense, shall furnish all labor, tools, materials, equipment and services required to completely clean (with containment) and repaint the exterior and interior of the Copeland Park Tank and to provide other repair and modification Work as detailed in the Technical Specifications.

The Work required by this Contract shall be in strict accordance with the Contract Documents contained in the IFB project manual.

Each bid greater than \$100,000 shall be accompanied by a bidder's bond or a certified check of five percent (5%) of the amount of the bid. Regardless of bid amount, Performance and Labor & Material Payment Bond amounting to one hundred percent (100%) of the contract price shall be required of the successful bidder.

The attention of the bidder is invited to the provisions of Chapter 11 of Title 54.1 of the Code of Virginia regulating the practice of general contracting under which it will be necessary for the bidder to show evidence of certificate of registration as provided by said code.

The City of Newport News reserves the right to reject any or all bids.

**NOTICE OF ESCROW OPTION**

IF THIS IS A BID FOR CONSTRUCTION AS DEFINED IN VIRGINIA CODE SECTION 11.56.1  
IN THE AMOUNT OF \$200,000.00, OR MORE, I/WE ELECT TO UTILIZE THE ESCROW ACCOUNT  
PROCEDURE DESCRIBED IN THE PROVISIONS OF THIS BID IF DETERMINED TO BE THE  
SUCCESSFUL LOW BIDDER(S) \_\_\_\_\_

(WRITE "YES" OR "NO")

## **INTEREST ON RETAINAGE**

At the time the Contractor submits a bid, the Contractor shall have the option to use the escrow account procedure for utilization of City retained funds by so indicating in the space provided in the bid documents. In the event the Contractor elects to use the escrow account procedure, the "Escrow Agreement" form included in the Bid and Contract shall be executed and submitted to the City within 15 calendar days after notification of award of the bid. If the "Escrow Agreement" form is not submitted as noted herein before, the Contractor shall forfeit such rights to the use of the escrow account procedure. In order to have retained funds paid to an escrow agent, the Contractor, the escrow agent and the surety shall execute an "Escrow Agreement" form and submit same to the City for approval. The Contractor's escrow agent shall be a trust company, bank or savings and loan institution with its principal office located in the Commonwealth of Virginia. The "Escrow Agreement" form shall contain the complete address of the escrow agent and surety, and the executed "Escrow Agreement" will be authority for the City to make payment of retained funds to the escrow agent. After approving the agreement, the City will pay to the escrow agent the funds retained as provided herein except that funds retained for lack of progress or other deficiencies on the part of the Contractor will not be paid to the escrow agent. The escrow agent may, in accordance with the stipulations contained in the "Escrow Agreement", invest the funds paid into the escrow account and pay earnings on such investments to the Contractor or release the funds to the Contractor provided such funds are fully secured by approved securities.

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

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

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

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

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

**CITY OF NEWPORT NEWS, VIRGINIA  
DEPARTMENT OF PUBLIC UTILITIES (WATERWORKS)**

**COPELAND PARK TANK REHABILITATION PROJECT**

**CONTRACT NO. 80**

**BID FORM**

This bid form, if removed from Contract Documents for bid preparation, should be reinserted in the Contract Documents and all of Section "A" of the booklet shall be included with each signed bid. Failure to comply with this paragraph may, at the exclusive option of the Owner, be grounds for rejection of this bid.

In submitting this bid, the undersigned declares that he is, or they are, the only person, or persons, interested in said bid, that it is made without any connection with any person making another bid for the same contract; that the bid is in all respects fair and without collusion, fraud or mental reservation; and that no official of the City, or any person in the employ of the City, is directly or indirectly interested in said bid, or in the supplies or work to which it relates, or in any portion of the profits thereof.

The undersigned also declares that he has, or they have, examined the plans and specifications, form of contract, and that he has, or they have, personally inspected the actual location of the work together with the local sources of supply and understands that in signing this bid, he, or they, waive all right to plead a misunderstanding regarding the same.

The undersigned further understands and agrees that he is, or they are, to furnish and provide for the lump sum bid, all necessary materials, machinery, implements, tools, labor, service, and supervision to do, and perform all the work necessary to complete the improvements in accordance with the plans and specifications for said improvements which plans and specifications, it is agreed, are a part of this bid, and to accept in full compensation therefore, the amount of the lump sum bid.

The undersigned, as bidder, agrees, if this bid is accepted, to execute a contract with the City to provide all necessary equipment, tools and other means of construction and to do all work and furnish all the materials shown and specified in the Contract Documents, and according to the requirements of the Engineer as therein set forth and that he will take in full payment therefore, the following lump sum noted below:

Bidder will complete the Work for the following listed Work items for the prices listed on the BIDDER'S PROPOSAL:

Bid Item 1: (Base Bid for 5,000,000 Gallon Ground Storage Tank)  
(Lump Sum)

The complete cleaning and repainting of the tank on the interior surfaces, and the complete cleaning and repainting of the exterior surfaces with containment. Additional Work items include: repair of concrete and grout; grinding of bottom plate edge; furnishing and installation of two new roof manholes, roof safety railings, clog-resistant roof vent, and new cathodic protection system; modification of the platform safety railing; including other miscellaneous repairs and incidental items such as coordination with the OWNER, first anniversary evaluation, disposal of debris, site restoration, etc. All of this Work shall be in accordance with the **Detailed Technical Specifications**.

Bid Item 2: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Rehabilitation Welding: After the initial abrasive blast cleaning, any pits defined for pit welding by the FIELD OBSERVER shall be repaired by welding. All areas of apparent seam deterioration shall be initially abrasive blast cleaned, and any seam corrosion or undercut defined by the FIELD OBSERVER shall be repaired by arc-gouging or grinding the deteriorated weld seam (if determined necessary by the FIELD OBSERVER) and welding. Any areas identified by the CONTRACTOR and agreed to by the FIELD OBSERVER shall be repaired by welding 1/4 in. thick patch plates over the area. Edges of holes shall be ground smooth prior to installation of the patch plate. No patch plate shall be smaller than 6 in. in diameter. Edges of the patch plate shall lap no less than 1 in. from the edge of a hole. Corners on the patch plate shall be rounded to 1 in. radius minimum or the plates shall be circular. All exposed edges of the patch plates shall be ground to 1/16 in. radius minimum. The plates shall be installed in accordance with API 653, specifically Figure 9-5. The patch plates shall be welded all around with continuous fillet welds. All welds shall be multi-pass welds. Note the bottom is likely to be thin in the areas of the patch plates, and as such attachment welds and the weld procedures (e.g., electrode size and heat input) should account for this likelihood. **The cost of grinding holes, furnishing and installing patch plates, including material cost, and welding shall be paid for by the unit price per man-hour listed on the BIDDER'S PROPOSAL.**

Bid Item 3: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Pit Filling and Surfacing: After the specified surface preparation, any pits, rough areas or seams defined for pit filling or surfacing by the FIELD OBSERVER shall be filled with solventless polyamide epoxy seam sealer of the type recommended by the supplier of the interior paint system. Costs for all labor, equipment, supplies, rigging, and other associated costs for application of the solventless polyamide epoxy seam sealer shall be included in the unit price per gallon. **The number of gallons of pit filling shall be paid for by the unit price per gallon listed on the BIDDER'S PROPOSAL.**

Bid Item 4: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Interior Chipping and/or Grinding: Any irregular surfaces, including but not limited to surface protrusions, burrs, fitting scars, sharp edges or corners, weld spatter, weld overlap and rough weld beads shall be removed from all interior surfaces of the tank in accordance with the **Detailed Technical Specifications**. **The number of chipping and/or grinding man-hours on the tank interior shall be paid for by the unit price per man-hour listed on the BIDDER'S PROPOSAL.**

Bid Item 5: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Inner Roof Rafter Replacement: After the initial abrasive blast cleaning of the interior, the roof rafters shall be evaluated, and any deteriorated rafters identified by the CONTRACTOR and agreed to by the FIELD OBSERVER shall be replaced in kind. The CONTRACTOR shall remove and legally dispose of the existing rafter and furnish and install a new channel rafter. The existing inner radial roof rafters are approximately 7 in. x 2 in. channels. The CONTRACTOR shall field measure and confirm rafter size prior to fabrication of any new rafters. The new rafter edges shall be ground to a 1/16 in. minimum radius to remove any sharp edges. Any new roof rafters fabricated shall be cleaned and primed prior to installation. The sequence and performance of the roof rafter replacement shall be such that the structural integrity of the roof and tank are not compromised. The CONTRACTOR shall submit a detailed plan for the sequence of the roof rafter replacement to the ENGINEER prior to performance of the work. **The cost for inner roof rafter replacement shall be paid for by the unit price per rafter listed on the BIDDER'S PROPOSAL.**

Bid Item 6: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Outer Roof Rafter Replacement: After the initial abrasive blast cleaning of the interior, the roof rafters shall be evaluated, and any deteriorated rafters identified by the CONTRACTOR and agreed to by the FIELD OBSERVER shall be replaced in kind. The CONTRACTOR shall remove and legally dispose of the existing rafter and furnish and install a new channel rafter. The existing outer radial roof rafters are approximately 10 in. x 2-1/2 in. channels. The CONTRACTOR shall field measure and confirm rafter size prior to fabrication of any new rafters. The new rafter edges shall be ground to a 1/16 in. minimum radius to remove any sharp edges. Any new roof rafters fabricated shall be cleaned and primed prior to installation. The sequence and performance of the roof rafter replacement shall be such that the structural integrity of the roof and tank are not compromised. The CONTRACTOR shall submit a detailed plan for the sequence of the roof rafter replacement to the ENGINEER prior to performance of the work. The cost of the rafter replacement shall include the cost of replacing clips and accessories at the attachment ends. **The cost for outer roof rafter replacement shall be paid for by the unit price per rafter listed on the BIDDER'S PROPOSAL.**

Bid Item 7: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Rafter End Clips: After the initial abrasive blast cleaning of the interior, the roof rafter end clips shall be evaluated, and any deteriorated clips identified by the CONTRACTOR and agreed to by the FIELD OBSERVER shall be replaced in kind. The existing rafter end clips are approximately 4 in. x 4 in. x 3/8 in. plates. The CONTRACTOR shall field measure and confirm rafter clip size prior to fabrication of any new rafter clips. The clip connections shall be seal welded all around with continuous 1/4 in. fillet welds. The sequence and performance of the roof rafter clip replacement shall be such that the structural integrity of the roof and tank are not compromised. The CONTRACTOR shall submit a detailed plan for the sequence of the roof rafter clip replacement to the ENGINEER prior to performance of the work. This clip replacement is for rafters to remain and is separate from the clip replacement included with the rafter replacement. **The cost for roof rafter end clip replacement shall be paid for by the unit price per rafter clip listed on the BIDDER'S PROPOSAL.**

Bid Item 8: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Roof Knuckle Angle Replacement: After the initial abrasive blast cleaning of the interior, the roof knuckle angle knee braces shall be evaluated, and any

deteriorated angles identified by the CONTRACTOR and agreed to by the FIELD OBSERVER shall be replaced in kind. The CONTRACTOR shall remove and legally dispose of the existing roof knuckle angles and furnish and install new angles. The existing roof knuckle angle knee braces are approximately 4 in. x 3 in. x 1/4 in. angles. The CONTRACTOR shall field measure and confirm angle size prior to fabrication of any new roof knuckle angle knee braces. The new angle edges shall be ground to a 1/16 in. minimum radius to remove any sharp edges. The sequence and performance of the roof knuckle angle knee braces replacement shall be such that the structural integrity of the roof and tank are not compromised. The CONTRACTOR shall submit a detailed plan for the sequence of the roof knuckle angle knee braces replacement to the ENGINEER prior to performance of the work. **The cost for roof knuckle angle knee brace replacement shall be paid for by the unit price per angle listed on the BIDDER'S PROPOSAL.**

Bid Item 9: (Lump Sum)  
(Add or Deduct from the **Total Amount Bid**)

Overflow Pipe Discharge Elastomeric Check Valve: If **Bid Item 9** is selected by the OWNER, the CONTRACTOR shall remove and legally dispose of the existing flap gate at the discharge end of the overflow pipe. A new flange and elastomeric check valve shall be furnished and installed and the termination of the overflow pipe modified as shown in Drawing OF and in accordance with the Detailed Technical Specifications. **The modification of the discharge end of the overflow pipe and the furnishing and installation of a new elastomeric check valve shall be paid for by the lump sum price listed on the BIDDER'S PROPOSAL.**

Bid Item 10: (Lump Sum)  
(Add or Deduct from the **Total Amount Bid**)

Flexible Sealant: If **Bid Item 10** is selected by the OWNER, after the curing of the finish coat of paint, Sikaflex-1a flexible polyurethane sealant (or equal allowed in writing by the ENGINEER) shall be applied to the unwelded lapped container roof seams, the roof knuckle circumferential stiffener, and weir box intersections. It shall be applied in a workmanlike manner, being beveled at approximately 45°. The color of the sealant shall be white. The sealant shall have the approval for use in potable water from the US EPA, ANSI/NSF, and any applicable local health regulatory agency. **The furnishing and application of the flexible sealant shall be paid for by the lump sum price listed on the BIDDER'S PROPOSAL.**

Bid Item 11: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Additional Work: It is felt that the **Detailed Technical Specifications** adequately describe the work to be performed; however, in the event that during the course of the work it is found that additional work is required and it is authorized in writing by the ENGINEER and the OWNER, this work shall be paid for at the following price per single man-hour, including all welding, equipment, normal rigging, labor, supplies, overhead, insurance, and profit. **The number of unanticipated additional work man-hours shall be paid for by the unit price per man-hour listed on the BIDDER'S PROPOSAL.**

Bid Item 12: (Unit Price)  
(Add or Deduct from the **Total Amount Bid**)

Bolted Shell Manholes: If **Bid Item 12** is selected by the OWNER, the CONTRACTOR shall furnish and install two new 30 in. diameter shell manholes in compliance with AWWA D100-05, Drawings SM1 and SM2, and the Detailed Technical Specifications at approximately 90° from the existing shell manholes and approximately 180° from each other. **The cost of furnishing and installing the new shell manholes shall be paid for by the unit price per shell manhole listed on the BIDDER'S PROPOSAL.**

Bid Item 13: (Lump Sum)  
(Add or Deduct from the **Total Amount Bid**)

Second Aluminum Roof Vent and Steel Exhaust Fan Flange: If **Bid Item 13** is selected by the OWNER, a second 24 in. diameter combination aluminum clog-resistant screened vent assembly and 24 in. diameter steel exhaust flange shall be installed in a new 24 in. diameter opening near the center of the roof between roof structure members in accordance with Drawing CRV, Sheets 1-4 and the Detailed Technical Specifications. **The cost of furnishing and installing the second 24 in. diameter combination aluminum clog-resistant screened vent assembly and 24 in. diameter steel exhaust flange shall be paid for by the lump sum price listed on the BIDDER'S PROPOSAL.**

Note: The BIDDER shall use either black or blue ink or typewriter (black ribbon) in completing the Proposal Form. Each line item amount must be given. Failure to do so will result in disqualification of BIDDER.

BIDDERS are reminded that they must bid on the issued plans and specifications, as amended. Any deviation, conditions or attachments made by the BIDDER himself thereto may render the Bid nonresponsive and be cause for its rejection.

Bid Security to be based on the **TOTAL AMOUNT BID.**

## BIDDER'S PROPOSAL

### Repairing and Repainting the Interior and Exterior of One 5,000,000 Gallon Steel Water Tank "Copeland Park Tank"

#### Statement of Estimated Quantities and Proposal Prices

Item No.	Item Description	Est. Qty.	Unit	Unit Price	Bid Amount
1	Base Bid with containment	1	lump sum	N.A.	\$ _____
2	Rehabilitation Welding <u>If Required</u>	40	man-hour	\$ _____	\$ _____
3	Pit Filling and Surfacing <u>If Required</u>	4	gallon	\$ _____	\$ _____
4	Interior Chipping and Grinding <u>If Required</u>	70	man-hour	\$ _____	\$ _____
5	Inner Roof Rafter Replacement <u>If Required</u>	5	rafter	\$ _____	\$ _____
6	Outer Roof Rafter Replacement <u>If Required</u>	5	rafter	\$ _____	\$ _____
7	Rafter End Clips <u>If Required</u>	30	rafter clip	\$ _____	\$ _____
8	Roof Knuckle Angle Replacement <u>If Required</u>	30	angle	\$ _____	\$ _____
9	Overflow Pipe Discharge Elastomeric Check Valve <u>If Selected</u>	1	lump sum	N.A.	\$ _____
10	Flexible Sealant <u>If Selected</u>	1	lump sum	N.A.	\$ _____
11	Additional Work <u>If Required</u>	60	man-hour	\$ _____	\$ _____
12	Bolted Shell Manholes <u>If Selected</u>	2	manhole	\$ _____	\$ _____
13	Second Aluminum Roof Vent and Steel Exhaust Fan Flange <u>If Selected</u>	1	lump sum	N.A.	\$ _____

**TOTAL AMOUNT BID**

\$ \_\_\_\_\_

(Items 1 through 13 inclusive)

**TOTAL AMOUNT BID**

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(written in words)

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

Bidder agrees that the Work will be substantially completed, and completed and ready for final payment on or before the dates and within the number of calendar days indicated in the Contract Documents.

Bidder accepts the provisions of the Contract Documents as to liquidated damages in the event of failure to complete the Work within the time specified in the Contract Documents.

The following documents are attached and made part of this Bid:

1. Required Bid security. Bid security shall list Virginia Agent for Service of Process;
2. A tabulation of Subcontractors, Suppliers and other individuals and entities required to be identified in this Bid;
3. Required BIDDER'S most recent twelve-month financial statement;
4. Proposed cleaning and painting methods;
5. Proposed method of containing all cleaning and painting debris on the tank site;
6. Certification to document the CONTRACTOR'S compliance with the medical surveillance program requirement;
7. Name(s) of the CONTRACTOR'S COMPETENT PERSON(S);

All items and questions in this Bid Form shall be answered completely and accurately prior to submitting this Bid. Failure to provide the information requested in this Bid Form may entitle the OWNER to reject the Bid.

The bidder acknowledges receipt of the following addenda:

<u>Addendum No.</u>	<u>Date</u>	<u>Addendum No.</u>	<u>Date</u>
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**Time is of the essence.** Bidder agrees that the work will be substantially completed and completed within the number of days indicated in the Contract and Agreement. Bidder accepts the provisions of the Contract and Agreement as to liquidated damages in the event of failure to complete the work on time.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, the bidder will execute the formal contract attached within ten (10) calendar days and deliver the Surety Bonds and Certificate of Insurance as required by the Contract Documents.

The bidder agrees to submit in writing within ten (10) calendar days after date of the contract a construction schedule showing dates of starting and completion of major portions of the work, and to carry out the work accordingly, unless the City or the Engineer authorizes or orders a delay.

The undersigned acknowledges that an authorized representative of the bidder has visited the site of the work and is aware of the intent and the scope of the work to be performed under the contract.

The bidder understands that the City reserves the right to reject any or all bids and to waive any informalities in the bidding.

Licensed Class: \_\_\_\_\_

Virginia Contractor No: \_\_\_\_\_

Firm Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

P.O. Address: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone: (\_\_\_\_)\_\_\_\_\_ Facsimile: (\_\_\_\_)\_\_\_\_\_

(If bid is by a Corporation, either the President or a Vice President must sign. A corporate resolution will be required for any other officer to sign. If other than a corporation, either the sole proprietor or an authorized partner must sign.)

## LISTING OF SUPPLIERS

The undersigned, bidding on the Repairing and Repainting the Interior and Exterior of One 5,000,000 Gallon Steel Ground Storage Tank, "Copeland Park Tank," in Newport News, Virginia, plans to use the material suppliers and materials as follows:

Paint Manufacturer: \_\_\_\_\_

Address: \_\_\_\_\_

Local Representative: \_\_\_\_\_

Exterior Surfaces: Epoxy/Polyurethane System

First Coat: \_\_\_\_\_

Second Coat: \_\_\_\_\_

Third Coat: \_\_\_\_\_

Interior Surfaces: Epoxy System

First Coat: \_\_\_\_\_

Second Coat: \_\_\_\_\_

Solventless Epoxy Seam Sealer Manufacturer: \_\_\_\_\_

Address: \_\_\_\_\_

Local Representative: \_\_\_\_\_

Solventless Epoxy Seam Sealer Material: \_\_\_\_\_

Flexible Sealant Manufacturer: \_\_\_\_\_

Address: \_\_\_\_\_

Local Representative: \_\_\_\_\_

Flexible Sealant Material: \_\_\_\_\_

Containment/Enclosure Material Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

Local Representative: \_\_\_\_\_

\_\_\_\_\_  
BIDDER

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

The proposed REPAIR SUBCONTRACTOR is:

\_\_\_\_\_  
name

\_\_\_\_\_  
street

\_\_\_\_\_  
city state zip

The proposed HAZARDOUS DISPOSAL SUBCONTRACTOR is:

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name

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street

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city

state

zip

The proposed CATHODIC PROTECTION SUBCONTRACTOR is:

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name

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street

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city

state

zip

**CERTIFIED COPY OF RESOLUTION OF  
BOARD OF DIRECTORS OF**

\_\_\_\_\_  
(Name of Corporation)

RESOLVED that \_\_\_\_\_, \_\_\_\_\_  
(Person Authorized to Sign) (Title)

of \_\_\_\_\_ be authorized to sign and  
(Name of Corporation)

submit the bid or proposal of this corporation for the following:

**CITY OF NEWPORT NEWS, VIRGINIA  
DEPARTMENT OF PUBLIC UTILITIES (WATERWORKS)  
COPELAND PARK TANK REHABILITATION PROJECT  
CONTRACT NO. 80**

The foregoing is a true and correct copy of the resolution adopted by

\_\_\_\_\_ at a meeting of its Board of Directors held on the  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_

(SEAL)

The above form must be completed if the bidder is a Corporation.

## QUESTIONNAIRE

The undersigned guarantees the accuracy of all statements and answers herein contained (please print in ink).

1. How many years has your firm been in business as a General Contractor?

\_\_\_\_\_ years

2. List at least five (5) projects of this nature that you have completed and give the name, address and telephone number of a reference from each. Also, give the completed cost of each project listed.

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3. List projects presently under construction by your firm, dollar volume of the contract, and the percent of completion.

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4. Have you ever performed work for a municipality previously? (If municipalities are listed under 2, this question need not be completed.)

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5. Have you ever failed to complete work awarded to you; if so, state where and why?

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6. Have you or your authorized representative personally inspected the location of the proposed work and do you have a clear understanding of the requirements of the Plans, Specifications and other Contract Documents?

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7. Do you plan to sublet any part of this work? If so, give details.

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12. If you intend to sublet any portion of the Work, state the name and address of each Subcontractor, equipment to be used by the Subcontractor, and whether you expect to require a performance bond.

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13. Have you made contracts or received offers for all materials within prices used in preparing your proposal?

(CIRCLE ONE)      YES              NO



16. State the true, exact, correct and complete name of the partnership, corporation or trade name under which you do business, and the address and the place of business. (If a corporation, state the name of the President and Secretary. If a partnership, state the names of all general partners. If a trade name, state the names of the individuals who do business under the trade name.) It is absolutely necessary that this information be furnished.

\_\_\_\_\_  
Legal Name of Bidder

(a) The business is a \_\_\_\_\_

(b) The address of principal place of business is:

\_\_\_\_\_

(c) The names of the corporate officers, or general partners, or individuals doing business under a trade name, are as follows:

\_\_\_\_\_

\_\_\_\_\_

17. Name and address of Surety Company:

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\_\_\_\_\_  
(Authorized Signature of Bidder)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By \_\_\_\_\_

\_\_\_\_\_ being duly sworn

deposes and says that he is \_\_\_\_\_

of the \_\_\_\_\_

\_\_\_\_\_ and that the answers of the foregoing questions and all statements therein contained are true and correct.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(SEAL)

My commission expires \_\_\_\_\_

END OF SECTION

Bid Bond # \_\_\_\_\_

**BID BOND**

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

\_\_\_\_\_  
\_\_\_\_\_ as Principal, and \_\_\_\_\_  
\_\_\_\_\_

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

WHEREAS, the Principal has submitted a bid, dated \_\_\_\_\_, 20\_\_\_\_, **COPELAND PARK TANK REHABILITATION PROJECT, 2009-4300-0911, Contract No. 80.**

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

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

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_  
SEAL

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
SEAL

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Resident Virginia Agent of Surety

Submit with Power of Attorney

# **SECTION ‘B’**

## **Selected Contractor Submits**

## INSURANCE ENDORSEMENTS

**Insurance:** The contractor shall maintain adequate liability insurance, which shall protect and save harmless the City of Newport News, Virginia, and its officials from all suits and actions of every kind and description arising from injury or damage to persons and property in the prosecution of said work or in failure to properly safeguard same, and from all claims arising under the workmen's compensation laws. The contractor shall furnish proof of said insurance prior to commencement of services. Separate forms which name the City as additional insured and as alternate employer must be included with the Certificate of Insurance.

The Commonwealth of Virginia requires construction contractors and subcontractors to obtain and maintain worker's compensation insurance while performing work on behalf for the City. Evidence of coverage needs to be provided prior to commencement of work.

Sample forms CG 20-10 (naming the City as additional insured for liability claims) and WC 00-03-01 (naming the City as an alternate employer for Worker's Compensation claims, pursuant to Section 65.2-302(A) of the Code of Virginia, 1950, as amended); and the Commonwealth's form for Worker's Compensation Certificate of Coverage are attached.

Contractor shall have ten (10) days from notice of intent to award to provide insurance documentation. Failure to provide the Certificate and forms within this period may be cause for the City to award a contract to the next responsive bidder, and hold the original contractor liable for excess costs.

<u>Type Insurance Coverage</u>	<u>Limits</u>
1) Worker's Compensation	Statutory
Employer's Liability	Statutory
2) Comprehensive General Liability with X C U and Contractual included	\$500,000 each person, \$1,000,000 each occurrence, \$1,000,000 in the aggregate
3) Property Damage Liability	\$1,000,000 each occurrence, \$2,000,000 in the aggregate
4) Comprehensive Automobile Liability (including owned, non-owned, and hired)	\$1,000,000 combined single limit for bodily injury and property damage liability
5) Contractual Liability: In concurrence with the Comprehensive General Liability insurance, a contractual liability endorsement shall be executed to indemnify and save harmless the City of Newport News, Virginia, from any and all claims arising out of the performance of this contract by the Contractor or any of his agents. The limits of this coverage shall be equal to the Comprehensive General Liability limits shown above and as follows:	
a. Bodily	\$500,000 each person, \$1,000,000 each occurrence, \$1,000,000 aggregate
b. Property Damage	\$1,000,000 each occurrence, \$2,000,000 aggregate
6) Umbrella Excess Liability	\$3,000,000

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**SAMPLE DOCUMENTS FOLLOW. ONLY THE SELECTED BIDDER SHALL BE REQUIRED TO SUBMIT INSURANCE DOCUMENTATION.**

**Do not return completed insurance forms with your bid.**

POLICY NUMBER: \_\_\_\_\_

COMMERCIAL GENERAL LIABILITY

CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name of Person or Organizations:

**City of Newport News  
Purchasing Department  
2400 Washington Ave  
Newport News, VA 23607**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement).

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for this insured.

CG 20 10 10 93

**Endorsement**

**Alternate Employer**

**WC 00 03 01**

**Policy Amendment**

**If the following information is not complete, refer to the appropriate information page attached to the policy.**

<b>INSURED</b>	<b>POLICY NO.</b>	<b>SEQ. NO.</b>
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<b>PRODUCER</b>	<b>EFFECTIVE DATE</b>
-----------------	-----------------------

**SCHEDULE**

Alternate Employer

Address

State of Special  
or Temporary Employment

**City of Newport News  
c/o Purchasing Department  
2400 Washington Avenue  
Newport News, Virginia**

**Virginia**

This endorsement applies only with respect to bodily injury to your employees while in the course of special or temporary employment by the alternate employer in the state named in the Schedule. Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply as though the alternate employer is insured.

Under Part One (Workers Compensation Insurance), we will reimburse the alternate employer for the benefits required by the workers compensation law if we are not permitted to pay the benefits directly to the person entitled to them.

The insurance afforded by this endorsement is not intended to satisfy the alternate employers duty to secure its obligations under the workers compensation law. We will not file evidence of this insurance on behalf of the alternate employer with any government agency.

We will not ask any other insurer of the alternate employer to share with us a loss covered by this endorsement.

Premiums will be charged for your employees while in the course of special or temporary employment by the alternate employer.

Part Four (Your Duties If Injury Occurs) applies to you and the alternate employer. The alternate employer will recognize our right to defend under Parts One and Two and our right to inspect under Part Six.

## WORKER'S COMPENSATION

### CERTIFICATE OF COVERAGE

Section 11-46.3, Code of Virginia, requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia departments, institutions or agencies. This same requirement applies for work being performed on behalf of local governments.

Evidence of coverage needs to be provided prior to commencement of work.

This form is to be returned to the organization contracting the work.

The undersigned organization stipulates that it either:

A. Has worker's compensation insurance \_\_\_\_\_ Yes

Insurance Company: \_\_\_\_\_

Policy Expiration Date: \_\_\_\_\_

B. Is self-insured for workers' compensation \_\_\_\_\_ Yes

Title of Construction Contract: **COPELAND PARK TANK REHABILITATION PROJECT, Contract No. 80,**

Contract Number: \_\_\_\_\_

Signed By: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

**CITY OF NEWPORT NEWS  
DEPARTMENT OF PUBLIC UTILITIES (WATERWORKS)**

**COPELAND PARK TANK REHABILITATION PROJECT**

**CONTRACT NO. 80**

**CONTRACT AND AGREEMENT**

(Note 1. The sub-headings are for convenience of reference only and do not form a part of the Contract Documents.)

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20 \_\_\_\_\_,

between the City of Newport News, hereinafter called the City, and

\_\_\_\_\_, hereinafter called the Contractor:

**COVENANT**

WITNESSETH: That the parties to these presents each in consideration of the undertakings, promises and agreements on the part of the other herein contained have undertaken, promised and agree, and do hereby undertake, promise and agree, the party of the first part for itself, its successors and assigns, and the party of the second part for itself and its heirs, executors, administrators, successors, and assigns as follows:

**1. CONTRACT INCLUDES**

The Contractor, at his own sole cost and expense, shall furnish all labor, tools, materials, equipment and services for the COPELAND PARK TANK REHABILITATION PROJECT, Contract No. 80, as shown on the plans and specified herein. He will construct, complete and finish the same in the most thorough, workmanlike and substantial manner, in every respect to the satisfaction and approval of the City and the Engineer, in the manner and within the time hereinafter limited, and in strict accordance with the Invitation for Bids 2009-4300-0911, Bid Form, Contract and Agreement, General Conditions and Special Conditions of the Contract, Technical Specifications, Standard Specifications, Standard Details and the Plans for the work, which Contract Documents are hereby made a part of this Contract and incorporated herein as fully as if the same were repeated at length herein.

This Contract shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia. The parties hereby irrevocably submit themselves to the original jurisdiction and venue of the state courts located within the City of Newport News, Virginia, with regard to any controversy or dispute arising out of, related to, or in any way concerning the Contract.

2. **RATE OF PROGRESS AND TIME OF COMPLETION**

The Contractor shall, within ten (10) calendar days after the date of his execution of this Contract, submit a construction schedule showing dates of starting and completion of various parts of the work. The completion date of this Contract shall be determined from the date of the Notice to Proceed forwarded to the Contractor from the City. The work shall be substantially complete (as defined by Substantial Completion) within **110 calendar days** of the Notice to Proceed and completed and ready for acceptance (as defined by Final Completion) by the City in accordance with Paragraph 10.15 of the General Conditions within **125 calendar days** of the Notice to Proceed. See Section 10 of the General Conditions of the contract documents. **TIME IS OF THE ESSENCE!**

3. **DAMAGES FOR FAILURE TO COMPLETE ON TIME**

**TIME IS OF THE ESSENCE ON THIS CONTRACT.** Failure of the Contractor to complete the work within the time allowed will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified for substantial completion of the work, the Contractor shall pay to the City, or have withheld from monies due it, the sum of **\$700 per calendar day**. For each consecutive calendar day in excess of the time specified for completion of the work, the Contractor shall pay to the City, or have withheld from monies due it, the sum of **\$125 per calendar day**.

Execution of the contract under these specifications shall constitute agreement by the City and Contractor that this amount per day is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

Permitting the Contractor to continue and finish the work or any part thereof after the contract time or adjusted contract time, as pertinent, has expired shall in no way operate as a waiver on the part of the City or any of its rights under the contract.

Payment of liquidated damages shall not release the Contractor from obligations in respect to the fulfillment of the entire contract, nor shall the payment of such liquidated damages constitute a waiver of the City's right to collect any additional damages which may be sustained by failure of the contractor to carry out the terms of the contract, it being the intent of the parties that said liquidated damages be full and complete payment only for failure of

the Contractor to complete the work on time. Liquidated damages will be assessed in addition to any disincentives specified in this contract.

If the Contractor enters into an Escrow Agreement as described herein, the City is authorized to deduct the amount of any such damages from any moneys due the Contractor under this Contract and not to pay these damages to the escrow agent.

**4. PAYMENT**

The Owner, in consideration of the faithful performance by the Contractor of all and singular his covenants, promises and agreements contained herein, agrees to pay the Contractor for the full completion by him of the work embraced in this Contract, in the manner and within the time herein specified and limited, and to the satisfaction and approval of the City and the Engineer, the prices stipulated in the said bid hereto attached, such payment to be made at the time and in the manner and upon the conditions herein expressly provided. The City also agrees to pay in addition such amounts as may be agreed upon for modification and for extra work in accordance with Section 5 of the General Conditions of Contract.

**5. PARTIAL AND FINAL ESTIMATES**

On or about the last day of each month the Contractor shall make an approximate estimate of the value of the work done and of the materials incorporated into the work, and/or stored on site as allowed in the special conditions, and shall submit same to the Engineer.

Whenever the amount of such estimate or estimates of work done since the last previous estimate exceeds Three Thousand Dollars (\$3,000.00), ninety-five percent (95%) of such estimated sum will be paid to the Contractor within thirty (30) calendar days of the date the estimate is submitted.

A payment of ninety-five percent (95%) of the invoiced price of materials received at the job site but not incorporated in the work will be included in the monthly estimates, providing the following conditions are satisfied:

- 1) The materials shall be received in a condition satisfactory for incorporation in the work;
- 2) The materials shall be stored in such manner that they will not be lost or damaged due to weather, construction operations, theft or any other cause;

- 3) An invoice from the supplier shall be furnished for each item;
- 4) The Contractor shall furnish written proof from each Supplier of payment for the materials no later than thirty (30) calendar days after receipt of payment, i.e., along with each monthly pay request the Contractor will provide a certification of payment for materials from prior payment(s). If the Contractor fails to provide such proof, the amounts included in the estimate may be deducted from subsequent estimates at the discretion of the Engineer.
- 5) Materials delivered to the job site more than ninety (90) calendar days in advance of their incorporation in the work will not be paid for as materials on-hand unless payment is specifically approved by the Engineer.

If the City shall, at any time, fail to make to the Contractor a monthly payment at the time herein specified, such failure shall not be held to vitiate or void this Contract.

The Engineer will, as soon as practicable after the completion of the work, make a final certificate of the entire amount of work done under this Contract, and the City shall within thirty (30) calendar days after such final estimate is approved, pay the entire sum so found to be due hereunder, after deducting therefrom all previous payments, and also all percentages and deductions to be retained under any of the provisions of this Contract.

Before the final payment is made, the Contractor shall satisfy the City that all bills for labor and materials have been paid.

**6. INDEMNIFICATION AND DEFENSE OF SUITS**

In the event of a civil action brought against the City or any of its representatives or agents for or on account of the failure, omission or neglect of the Contractor or his subcontractor or his or their employees or agents to do and perform any of the covenants, acts, matters or things by this contract undertaken or to be done or performed by the Contractor or his subcontractors, or his or their employees or agents, the Contractor shall defend, indemnify and save harmless the City, its representatives, agents and servants of and from all loss, cost, damage, expense, judgment or decrees whatever arising out of such civil actions as may or shall be brought as aforesaid.

**7. ENTIRE AGREEMENT**

This Contract and the incorporated documents constitutes the entire agreement and understanding between the City and Contractor, and it may not be modified or altered, changed or amended in any respect unless in writing and signed by both parties hereto.

**8. EXECUTION OF CONTRACT**

IN WITNESS WHEREOF, the said parties hereto have caused this instrument to be signed by their respective duly constituted officers, attested and sealed pursuant to proper resolutions.

\_\_\_\_\_  
Contractor

Witness:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
President

Attest:

CITY OF NEWPORT NEWS

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



not be deemed a party to, bound by, required to inquire into the terms of, the contract or any other instrument or agreement between the City and the Contractor.

### III.

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

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

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

### IV.

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

### V.

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

- (1) United States Treasury Bonds, United States Treasury Notes, United States Treasury Certificates of Indebtedness or United States Treasury Bills,
- (2) Bonds, notes and other evidences of indebtedness unconditionally guaranteed as to the payment of principal and interest by the United States,
- (3) Bonds or notes of the Commonwealth of Virginia.

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

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

## VI.

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

Upon receipt of a direction signed by the City Manager, Director of Finance, Director of Engineering or Director of Public Utilities, the Bank shall pay the principal of the fund, or any specified amount thereof, to the City. Such payment shall be made in cash as soon as is practicable after receipt of the direction.

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

VII.

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

VIII.

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

IX.

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

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

CITY OF NEWPORT NEWS

By \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Officer, Partner or Owner

\_\_\_\_\_  
Bank

By \_\_\_\_\_  
President/Vice-President

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-fact

Bond # \_\_\_\_\_

**PERFORMANCE BOND**

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

WHEREAS, the said \_\_\_\_\_  
did, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a contract with the  
City of Newport News, Virginia for the **COPELAND PARK TANK REHABILITATION  
PROJECT, 2009-4300-0911, Contract No. 80**, which said contract is by reference made a  
part hereof, is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall in all  
respects promptly and faithfully comply with and fulfill all the terms and conditions of said  
contract, then this obligation shall be void; otherwise it shall remain in full force and effect.  
The Surety hereby waives notice of any change, alteration or addition to the terms of the Contract  
or extension of time made by the City.

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

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and

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

It is hereby expressly further understood and agreed that this Bond is also given and made against defective material and workmanship in the said work covered by the said Contract, provided, however, that no suit, action or proceeding, by reason of any defect whatever, shall be brought upon this Bond after one (1) year following the date of final acceptance of the completed project by the City.

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

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_

Signature of Authorized  
Owner, Partner or Officer

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
Attorney In Fact

**Attach Original Power of Attorney**

City Attorney Use Only	
<b>APPROVED AS TO FORM</b>	
_____	
_____	_____
City Attorney	Date

Bond # \_\_\_\_\_

## LABOR AND MATERIAL PAYMENT BOND

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

WHEREAS, the said \_\_\_\_\_ did, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, enter into a contract with the City of Newport News, Virginia, for the **COPELAND PARK TANK REHABILITATION PROJECT, 2009-4300-0911, Contract No. 80**, which said contract is by reference made a part hereof, as fully and is hereinafter referred to as the Contract.

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

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to also include that part of water, gas, power, light, heat, oil, gasoline, telephone service or

rental of equipment directly applicable to the Contract.

2. The above-named Principal and Surety hereby jointly and severally agree with the City that every claimant as herein defined, who has not been paid in full before the expiration of a period ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for such sum or sums as may be justly due claimant, and have execution thereon. The City shall not be liable for the payment of any costs or expenses of any such suit.

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

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

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

- B. After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - C. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.
4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

BY \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

Signature of Authorized  
Owner, Partner or Officer

\_\_\_\_\_  
SURETY

BY \_\_\_\_\_  
Attorney In Fact

**Attach Original Power of Attorney**

City Attorney Use Only	
<b>APPROVED AS TO FORM</b>	
_____	
_____	_____
City Attorney	Date

# **SECTION “C”**

## **General Conditions Technical Specifications**

# GENERAL CONDITIONS

## SECTION 1

### TERMS, DEFINITIONS AND ABBREVIATIONS

In the interpretation of the Contract Documents and the construction operations governed by said documents, the following terms, definitions, and abbreviations, or pronouns in place of them shall each be construed as defined below, unless otherwise stated:

- 1.1 Terms: The words "as described," "as required," "as permitted," "as allowed," or phrases of like effect or import as used herein shall mean that the direction, requirement, permission, or allowance of the Engineer is intended, and similarly the words "approved," "reasonable," "suitably," "properly," "satisfactory," or words of like effect or import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, properly or satisfactory in the judgment of the Engineer.

Command type sentences are used throughout the Contract Documents. In all cases the command expressed or implied is directed to the Contractor.

- 1.2 Definitions:

Acts of God: An act of God is to be construed to mean a flood, tornado, hurricane or other phenomenon of nature of catastrophic proportions.

Addendum: A modification of the Contract Documents issued in writing by the City prior to the opening of bids.

Approved Equal: A product, component or process whose use in or on a particular project is specified as a standard for comparison purposes only. The "equal" product, component or process shall be the same or better than that named in function, performance, reliability, quality and general configuration. Determination of equality in reference to the project design requirements will be made by the Engineer.

Attorney: The City Attorney as appointed by the Incorporated City of Newport News.

Authorized Representative: Any person, persons or firms duly authorized by the City.

Backflow: The flow of water or other liquids, mixtures, or substances into the waterworks from any source other than its intended source.

Bid: The offer of the bidder to perform work, at the prices quoted, submitted on the City's official proposal or bid form, properly signed and guaranteed.

Bid Guaranty, Bid Bond: Cash, bond, cashier's or certified check accompanying the bid submitted by the bidder as a guaranty that he will enter into contract with the City for performance of the work if the contract is awarded to him.

Bidder: Any individual, firm, partnership or corporation submitting a bid in response to the Invitation for Bids calling for bids on the work contemplated.

Calendar Day: Any day shown on the calendar, beginning and ending at midnight.

Change Order: A written order, approved by the City and issued by the Engineer to the Contractor, covering changes in the Contract Documents after award of contract.

City: The incorporated City of Newport News, Virginia, acting through its duly authorized officials, officers, employees or representatives.

Codes: Applicable local, state and federal codes, regulations or ordinances under which the work is to be performed.

Coliform Bacteria: A group of bacteria predominantly inhabiting the intestines of man or animal but also occasionally found elsewhere. It includes all aerobic and facultative-anaerobic, gram-negative, non-sporeforming bacilli that ferment lactose with production of gas. Also included are all bacteria that produce a dark purplish-green colony with metallic sheen by the membrane filter technique used for coliform identification.

Contract: A part of the Contract Documents which stipulates conditions on which the work is agreed to be performed, executed by the City and the Contractor.

Contract Documents: The written agreement covering the performance of the work, the Invitation for Bids, special conditions, bid, plans (drawings), all specifications, addenda, permits, contract, contract bonds, change orders in the course of the work, and any approved revisions made during the performance of the work to any of the above listed documents.

The Contract Documents are complementary and what is called for by one shall be as binding as if called for by all. In case of discrepancies, specifications shall govern over plans, supplemental specifications shall govern over standard

specifications, and special conditions shall govern over all specifications and plans. In case of any ambiguity or dispute over interpretation of the provisions of the Contract Documents, the decision of the Purchasing Agent or his designated representative shall be final.

Contract Item: A specific unit of work for which a price or basis of payment is provided in the contract.

Contract Price: The total amount of money for which the contract is awarded.

Contractor: Any individual, firm, partnership, corporation or any combination thereof who has entered into the contract with the City. In case of work being done under permit issued by the City, the permittee shall be construed to be the Contractor.

Cross Connection: Any connection or structural arrangement, direct or indirect, to the Waterworks whereby backflow can occur.

Department: Refers to the Department of Purchasing of the Incorporated City of Newport News.

Distribution Main: A water main, generally 4 to 12 inches in diameter, which supplies potable water to a service connection.

Disinfection: The destruction or inactivation of pathogenic microorganisms.

Domestic Usage: Normal family use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

Easement: A grant of a right of use of the property by the owner for a specific and limited use.

Engineer: The firm(s), individual(s) or City employee(s) designated by the City, whether acting directly or through their properly authorized agents, inspectors or representatives, acting within the scope of duties entrusted to them.

Extra Work: An item of work not provided for in the Contract as awarded but determined by the Engineer as essential to the proper completion of the contract within its intended scope.

Inspector: The authorized representative of the Engineer entrusted with making inspections of the work or materials.

Invitation for Bids: The public announcement inviting bids for work to be performed or materials to be furnished.

Latest Revision: Where reference is made to standards in the Technical Specifications, the phrase "latest revision" shall mean the latest published edition prior to the date listed in the "Invitation for Bids" that the Plans, Specifications, Bid Forms and other Contract Documents will be available to Bidders.

Labor and Material Payment Bond: The form of security approved by the City, furnished by the Contractor and his surety, to guarantee the payment of all persons supplying labor and materials in the prosecution of the work in accordance with the terms of the Contract Documents.

Liquidated Damages: The amount prescribed in the Contract Documents to be paid the City, or to be deducted from any payments due or to become due the Contractor for each day's delay in completing the whole or any specified portion of the work beyond the time allowed in the Contract Documents.

Lump Sum: A method of payment providing for one all inclusive cost for the work or for a particular portion of the work.

Maintenance Bond: The form of security approved by the City, furnished by the Contractor and his surety to guarantee materials and workmanship for one year. The amount will be as specified in the contract or water pipeline extension agreement.

Notice: A written communication delivered to the authorized individual, member of the firm or officer of the corporation for which it is intended. In the case of a contract with two (2) or more persons, firms or corporations, notice to one shall be deemed notice to all, unless otherwise specified in the Contract Documents.

1. Notice of Award: A written notice from the City to the Contractor informing him that the contract has been awarded to him and that he should begin execution of the Contract Documents.
2. Notice to Proceed: A written notice to the Contractor from the City, designating the date the contract term is to begin and the date for final completion of the contract requirements.

Owner: Will have the same meaning as "City" in the Contract Documents.

Performance Bond: The form of security approved by the City, furnished by the Contractor and his surety, guaranteeing the complete and faithful performance of all the obligations and conditions placed on the Contractor by the Contract Documents.

Plans: The drawings, profiles, cross-sections, working drawings, and supplemental drawings, or reproductions thereof, which show the location, character, dimension and details of the work to be performed. Plans may either be bound in the same book as the balance of the Contract Documents or bound in separate sets, and are a part of the Contract Documents, regardless of the method of binding. Plan is used interchangeably with drawings and construction drawings throughout these documents.

Pollution: The presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution Hazard: A condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Potable Water: Water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substance, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons served (Title 32.1, Article 2, Code of Virginia 1950, as amended).

Reference Specifications: Bulletins, standards, rules, methods of analysis or test, codes and specifications of other agencies, engineering societies, or industrial associations referred to in the Contract Documents.

Purchasing Agent: The duly appointed agent of the Purchasing Department for the incorporated City of Newport News or his authorized representatives. The decision of the Purchasing Agent shall be final.

Rights-of-Way: A general term denoting land, property or interest therein, acquired for or devoted to public use.

Right-of-Way Official: Individual responsible for the maintenance and activities within a right-of-way for the owner of the right-of-way.

Roadway: That portion of the highway included between curbs, gutters, or ditches, intended primarily for vehicular traffic, and including all pertinent appurtenant structures and other features necessary for proper drainage and protection.

Service Connection: The point at which a meter service line is connected to the Distribution Main, usually consisting of a corporation or corporation and tapping saddle.

Service Line: The line extending from the service connection to the water meter.

Sewer: Any sanitary or combined sewer used to convey municipal or industrial waste, but excluding sewers which convey only storm water.

Shop Drawings: All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by contractor to illustrate material or equipment for some portion of the work.

Special Conditions: Requirements peculiar to the project and which are not otherwise thoroughly or satisfactorily detailed and set forth in the standard specifications.

Standard Plans or Drawings: Details of structures, devices, or instructions adopted by the City as a standard and referred to in the Contract Documents by title or number.

Standard Sample: That portion of finished drinking water that is examined for the presence of coliform bacteria.

Standard Specifications: The terms, directions, provisions and requirements set forth in the Water Distribution System Standards, together with all subsequent addenda and supplements thereto identified as such.

State: The Commonwealth of Virginia.

Sub-Contractor: An individual, partnership, firm, corporation, or any acceptable combination thereof, or joint venture to whom the Contractor sublets part of the contract.

Supplemental Specifications: Supplemental specifications are those adopted subsequent to the standard specifications and generally involve alterations and new construction items, or substantial changes in the standard specifications.

Surety: Any individual, firm or corporation, authorized to do business in the State, bound with and for the Contractor for the acceptable performance, execution and completion of the work, and for the satisfaction of all obligations incurred.

Transmission Main: A water main, generally 16 inches in diameter or larger, which is used to convey water to one or more distribution mains. Service connections are generally not made to these lines.

Unit Price: A contract item of work providing for payment based on a specified unit of measurement; e.g., linear foot or cubic yard.

Utility: Tracks, overhead or underground wire, pipelines, conduits, ducts, or structures, owned, operated or maintained in or across public or private rights-of-way or easements.

Waterworks: Includes all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures beyond the water meter at the building where such water is delivered.

Waterworks Regulations: Regulations adopted by the Virginia Department of Health (VDH) governing the design, construction, and operation of a waterworks, including standards for potable water quality. All references shall be to the latest edition.

Work: That which is proposed to be constructed or performed under the contract or permit, including the furnishing of all material, labor, tools, machinery and appurtenances necessary to complete the contract.

Written Notice: Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business address known to him who gives the notice.

1.3 Abbreviations: The abbreviations herein, together with others in general use, are applicable to these standard specifications, to project plans, and other Contract Documents.

<u>Abbreviation</u>	<u>Word or Words</u>
Aband.	Abandon, Abandoned
ABS	Acrylonitrile - butadiene - styrene
Alt.	Alternate
Bdry.	Boundary
B.M.	Benchmark
C.A.P.	Corrugated aluminum pipe
C.B.R.	California Bearing Ratio
C.I.P.	Cast iron pipe
C.L.	Cleanout
Conc.	Concrete
Const.	Construct, Construction

<u>Abbreviation</u>	<u>Word or Words</u>
C.S.P.	Corrugated steel pipe
C.Y.	Cubic yard
D.I.	Drop inlet
D.I.P.	Ductile iron pipe
Dwg.	Drawing
E.C.R.	End of curb return
E.G.L.	Energy grade line
E.S.V.C.	Extra strength vitrified clay
Exc.	Excavated
Flg.	Flanged
Gal.	Galvanized
G.I.P.	Galvanized iron pipe
Gr.	Grade
G.S.P.	Galvanized steel pipe
Hdwl.	Headwall
H.G.L.	Hydraulic grade line
Horz.	Horizontal
Hyd.	Fire hydrant
Inv.	Invert
I.P.	Iron Pipe
L.S.	Lump sum
L.F.	Linear foot
M.H.	Manhole
M.J.	Mechanical joint
N.I.C.	Not in contract
P.I.	Point of intersection
P.C.	Beginning of curve
P.C.R.	Beginning of curve return
P.L.	Property line
P.O.C.	Point on curve
P.O.T.	Point on tangent
P.T.	Point of tangency
P.V.C.	Polyvinyl chloride
Pvmt.	Pavement
R.	Radius
R.C.P.	Reinforced concrete pipe
Ref.	Reference
Reinf.	Reinforced or reinforcement
R.R.	Railroad
R/W or R.O.W.	Right of way
SDR	Standard dimension ratio
Spec.	Specifications
S.S.	Sanitary Sewer

<u>Abbreviation</u>	<u>Word or Words</u>
Std.	Standard
S.Y.	Square yard
Tan.	Tangent
T.C.	Top of curb
T.S. & V.	Tapping sleeve and valve
VDOT	Virginia Department of Transportation
VDH	Virginia Department of Health
Vert.	Vertical
V.F.	Vertical foot
Vol.	Volume
W.I.	Wrought iron
Y.D.	Yard drain
X-Sec.	Cross section

END OF SECTION

**GENERAL CONDITIONS**

**SECTION 2**

**BID REQUIREMENTS**

2.1

Prequalification of Bidders: If a contract is for seventy thousand dollars (\$70,000) or more, or if the total value of all construction, removal, repair of improvements undertaken by the bidder within any twelve-month period is five hundred thousand dollars (\$500,000) or more, the bidder is required under Title 54, Chapter 11, Code of Virginia (1950), as amended, to show evidence of being licensed as a "Class A Contractor." If a contract is seventy-five hundred dollars (\$7,500) or more, but less than seventy thousand dollars (\$70,000), the bidder is required to show evidence of being licensed as a "Class B Contractor." If a contract is for one thousand dollars (\$1,000) or more, but no more than seventy-five hundred dollars (\$7,500), the bidder is required to show evidence of being licensed as a "Class C Contractor." The bidder shall place in the bid over his signature whichever of the following notations is appropriate:

"Licensed Class A Virginia Contractor No. \_\_\_\_\_."

"Licensed Class B Virginia Contractor No. \_\_\_\_\_."

"Licensed Class C Virginia Contractor No. \_\_\_\_\_."

The attention of non-resident bidders is directed to the requirements of Section 40.1-30 Code of Virginia which provides that all non-resident employers performing any demolition, excavation, installation, paving, repair, maintenance, erection, or construction work within the state when the cost of the undertaking is not less than \$300.00 nor more than \$60,000, must register with the Department of Labor and Industry prior to commencement of such work unless they are registered with the State Registration Board for Contractors.

The bidder must also be qualified by experience, financing and equipment to do the work called for in the plans and specifications. Whenever required in the Invitation for Bids, the bidder shall furnish a statement of his construction experience and his general ability to perform the work contemplated, and shall submit same along with his bid.

The bid portion of these documents includes a Questionnaire in which the Contractor is to list certain data concerning his experience and financial resources.

Low bidders may be asked to furnish additional data to demonstrate competency.

2.2

Disqualification of Bidder: The Purchasing Agent in his discretion, may determine that a bidder is not qualified and reject his bid for any of the following reasons:

- A. More than one bid on the same project from a bidder under the same or different names, in which case, all such duplicate bids shall be rejected.
- B. Evidence of collusion with any other bidder or bidders. Participants in such collusion shall be disqualified from submitting bids on any further work for the City until such time as the Director shall determine that the bidder should be reinstated.
- C. If a bidder is not qualified for the work bid upon or to the extent of his bid.
- D. Unsatisfactory performance record, judged from the standpoint of conduct of work, workmanship, or progress, as shown by past or current work for the City or others.
- E. Uncompleted work, whether for the City or otherwise, which might hinder or prevent the prompt completion of the work bid upon.
- F. Failure to have paid or settled bills for labor or materials on any former or current contracts.
- G. If the bidder has previously defaulted in the performance of a public contract, or has been convicted of a crime arising from the performance of a previous or current public contract.
- H. Any other inability, financial or otherwise, to perform the work.
- I. The bidder is not authorized to do business in the Commonwealth of Virginia.
- J. For any other reasons deemed proper as determined from a prepared survey of bidder's capability to perform the work.

2.3

Contents of Bid Forms: Upon request, prospective bidders will be furnished with bid forms which will state the location and description of the contemplated construction and will show the approximate estimate of the various quantities and kind of work to be performed and/or materials to be furnished, with a schedule of items for which unit bid prices are asked.

Bid forms will be bound with the notice to bidders, information for bidders, contract, bond forms, special provisions, special conditions, specifications and any other items deemed necessary by the City.

**IF THE BID FORMS ARE REMOVED FROM THE BOUND CONTRACT DOCUMENTS THEY SHALL BE REINSERTED FOR SUBMITTAL OF BIDS.** The plans, standard specifications and any supplemental specifications thereto, will be considered a part of the Contract Documents whether attached or not.

2.4 Examination of Contract Document And Site of Work: BIDDERS SHALL DETERMINE FOR THEMSELVES THE CONDITIONS AND CIRCUMSTANCES AFFECTING THE WORK AND THE COST BY: PERSONAL EXAMINATION OF THE ENTIRE CONSTRUCTION SITE, DETAIL REVIEW OF ALL CONTRACT DOCUMENTS, AND BY SUCH OTHER MEANS AS THEY MAY CHOOSE. THE SUBMISSION OF A BID WILL BE CONSIDERED CONCLUSIVE EVIDENCE THAT THE BIDDER HAS MADE SUCH EXAMINATIONS AND HAS INVESTIGATED AND IS KNOWLEDGEABLE AS TO: THE CONDITIONS TO BE ENCOUNTERED; THE CHARACTER, QUANTITY, QUALITY, AND SCOPE OF WORK; AND THE REQUIREMENTS OF THE CONTRACT DOCUMENTS FOR PERFORMANCE OF THE WORK IN FULL. THE BID SUBMITTED WILL INCLUDE THE TOTAL COST TO COMPLETE WORK AS DEFINED ABOVE.

It is understood and agreed that information regarding underground or other conditions or obstructions indicated in the Contract Documents has been obtained from data at hand. There is no express or implied agreement that such conditions are fully and correctly shown and the bidder must take into consideration the possibility that conditions affecting the cost or quantity of work may differ from those indicated. No information derived from any inspection of records or investigation will in any way relieve the bidder or contractor from any risks, or from properly performing his obligations under the contract. If in the performance of work, methods, materials, labor or equipment are required beyond those anticipated by the bidder, he will not be entitled to additional compensation, unless approved by the Engineer.

Information regarding the availability of subsurface and/or related investigations for the project is provided in the Special Conditions. Permission to make any additional subsurface investigations on the City's property must be requested in writing and approved. Responsibility for obtaining permission to make surveys and subsurface investigations on property other than the City's shall rest with the bidder.

The bidder must also be familiar with all federal, state and local laws, ordinances and regulations which in any manner affect those engaged or employed in the work, the materials, the equipment and the procedures used in the work, or which in any other way would affect the conduct of the work. He is assumed to be familiar with such laws and regulations, and no plea of misunderstanding or ignorance of the law will be considered. If the bidder, or contractor shall discover any provision in the Contract Documents which is contrary to or inconsistent with any law, ordinance, or regulation, he shall forthwith report it in writing to the Purchasing Agent.

- 2.5 Quantities and Unit Prices: The City reserves the right to increase or decrease the amount of any class or portion of the work. No such change in the work shall be considered as a waiver of any condition of the contract nor shall such change invalidate any of the provisions thereof.

The estimate of quantities of work to be done under unit price bids is approximate and is given only as a basis of calculation for comparison of bids and award of the contract. The City does not by implication agree that the actual amount of work will correspond precisely to the amount as shown or estimated.

The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased or omitted. Payment will be made at unit prices under the contract only for the work actually performed or materials furnished and accepted.

Bidders must include in their bid prices the entire cost of each item of the work set forth in the bid, and it is understood and agreed that there is included in each lump sum or unit price bid the entire cost of materials and labor incidental or necessary to the completion of that portion of the work covered, unless such incidental work is expressly included in other lump sum or unit price bids in the bid.

- 2.6 Preparation of Bid: EACH BID MUST BE ON THE FORMS FURNISHED BY THE CITY AND MUST BE SIGNED IN INK BY THE BIDDER WITH THE SIGNATURE IN FULL. If the bid is made by a partnership, its name and address and the signature and title of the person authorized to sign must be shown. If the bid is made by a corporation, the name of the corporation, its address and the signature and title of the officer or officers authorized to sign must be shown. The blank spaces in the bid must be filled in correctly where indicated for each and every item, and the Bidder must state, both in words and in numerals, written or printed in ink, the prices for which he proposes to do each item of the work contemplated. In case of discrepancy between the words and the numerals, the words shall govern. Ditto marks are not considered writing or printing and shall not be used.

In case of a discrepancy between the unit price and its extension, the unit price shall govern. Any omission of prices on items shown in the bid form or any addition in writing to the form of bid, or any condition, limitation or provision not officially invited in the bid form, addenda or special conditions may render the bid as being incomplete or modified and may become cause for rejection of the bid. Also, bids which are considered to be unbalanced or unreasonable as to the amount bid for any lump sum or unit price item may be rejected.

If a bidder decides to make any alternative bid on different type of construction than one called for, it shall be enclosed on a separate sheet.

- 2.7 Bid Guaranty: ALL BIDS MUST BE ACCOMPANIED BY A BID GUARANTY IN THE FORM OF CASH, BID BOND, CASHIER'S OR CERTIFIED CHECK OR LETTER OF CREDIT DRAWN UPON A NATIONAL OR STATE BANK, PAYABLE AT SIGHT TO THE TREASURER OF THE CITY OF NEWPORT NEWS, VIRGINIA, EQUAL TO FIVE PERCENT (5%) OF THE TOTAL AMOUNT BID. EACH CERTIFIED CHECK MUST BEAR THE SIGNATURE OF AN AUTHORIZED REPRESENTATIVE OF THE BIDDER.

Bonds shall be furnished by a company authorized to do business in the Commonwealth of Virginia.

Upon execution of the contract, the bid guaranty will be returned to the depositor and to him only; no request for other delivery will be honored.

The City reserves the right to deposit such checks pending the award and execution of the contract, in which case the monies realized thereon will be returned to the respective bidders. No other fees shall be paid by the City on bid deposits.

- 2.8 Withdrawal or Revision of Bids: A bidder may, without prejudice to himself, withdraw, modify, or correct a bid after it has been deposited with the City, provided the request is filed (in a sealed envelope with the bid number, date, and time clearly marked on the outside) with the City in writing or by written telegram, before the time set for opening bids. The original bid, as modified by such writing or telegraphic communication, will be considered as the bid submitted. No oral or telephone bids or modifications will be considered.

No bidder will be permitted to withdraw his bid between the closing time for receipt of bids and the execution of contract, unless the award is delayed for a period exceeding ninety (90) calendar days or permission is given by the City to

withdraw, modify or explain the bid in accordance with Article XX of Chapter 2 of the Newport News City Code.

- 2.9 Alternate Bids: If alternate bids are required for a portion or all of the work due to the character of the improvement and uncertainties which may be encountered during construction, bidders shall submit alternate bids on all items as shown on the bid. The bidder shall bid on all alternates on the bid form as provided by the City. When bidding on an alternate for which there is no charge, the bidder shall insert the words "No Charge" in the space provided on the bid form. The unit contract price bid shall be full compensation for furnishing all labor, tools and equipment which may be required under the several items listed and shall be a basis for final settlement.

Only the bid for the basic contract shall be considered in the determination of the lowest and best bid. The alternate bid or the addition and/or deduction to the unit bid shall not be considered in this determination unless it is so provided in the special conditions.

- 2.10 Rejection of Bid: The City reserves the right to reject any and all project bids (Ref. Section 3.1).

END OF SECTION

## GENERAL CONDITIONS

### SECTION 3

#### AWARD AND EXECUTION OF CONTRACT

- 3.1 Award of Contract: The award of contract, if it be awarded, shall be made to the lowest bidder deemed qualified, responsive, and responsible by the City.

THE CITY RESERVES THE RIGHT TO WAIVE ANY INFORMALITY OR TECHNICAL DEFECTS, TO REJECT ANY AND ALL BIDS IN WHOLE OR IN PART, AND MAY ADVERTISE FOR NEW BIDS IF, IN ITS JUDGMENT, THE BEST INTERESTS OF THE CITY WILL BE SERVED.

- 3.2 Execution of Contract: Within ten (10) calendar days after the date the bidder receives notification of award of contract, as evidenced by receipt from the City of properly prepared Contract Documents, the bidder to whom award is made must execute and return the contract in the required number of copies, and must furnish a performance bond and other required bonds and insurances satisfactory to the City (Reference Section 4).

- 3.3 Failure to Execute Contract: Failure on the part of the bidder to whom the contract is awarded to execute the contract or furnish the necessary bonds and insurance within the time specified in Section 3.2, must be just cause for cancellation of award, withdrawal of the contract and forfeiture of the bid guaranty. The forfeited bid guaranty, whether in form of a bond, check or cash deposit, will be paid to the City Treasurer, not as a penalty but as liquidated damages.

The award may then, at the discretion of the City, either be made to the next lowest qualified bidder or readvertised.

- 3.4 Return of Bid Guarantee: The bid guarantee may be returned to all except the three lowest bidders upon request after the formal opening of bids. The bid guarantee will be returned to the three lowest bidders upon request after the complete execution of the contract to include the furnishing of the required security by the successful bidder. Upon the execution of the contract and approval of the bond, the bid guaranty will be returned to the successful bidder.
- 3.5 Performance and Labor and Material Payment Bond: The contractor shall furnish a performance bond and a labor and material payment bond (use only forms

attached to bid unless approved by City) each in an amount equal to the contract price as security for faithful performance of the work in strict conformity with the contract documents and for payment of all persons who perform labor and furnish materials in prosecution of the work. The surety on such bonds shall be duly authorized to do business in the Commonwealth of Virginia and satisfactory to the City.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 4

#### LEGAL RELATIONS AND RESPONSIBILITIES

- 4.1 Bonds: The Contractor shall provide and maintain performance and labor and material payment bonds as set forth in Section 3, and any additional bonds required by municipal or regulatory authorities and agencies.
- 4.2 Laws and Regulations: THE CONTRACTOR SHALL KEEP HIMSELF FULLY INFORMED OF ALL FEDERAL, STATE AND LOCAL LAWS, ORDINANCES AND REGULATIONS WHICH IN ANY MANNER AFFECT THE CONDUCT OF THE WORK. The Contractor shall at all times observe and comply with all such laws, ordinances and regulations and he shall protect and indemnify the City and its representatives against any claim or liability arising from or based on any violation of the same, whether by the Contractor, his subcontractors, suppliers of materials or services, or others engaged by the Contractor or the employees of any of them.
- 4.3 Assignment of Contract: This contract may not be assigned without the written consent of the City.
- 4.4 Subcontractors: No part of the work shall be transferred or subcontracted without prior written consent of the City, or approval at the time of award, and no such consent or approval shall release the Contractor from any obligation to the City or persons employed by the subcontractors, or to those supplying materials to the subcontractors.
- 4.5 Contractor's Liability for Employees: Each and every employee of the Contractor, and each and every employee of his subcontractors engaged in the work shall, for all purposes, be deemed and taken to be the exclusive servants of the Contractor and not for any purpose or in any manner in the employment of the City. The Contractor shall in no manner be relieved from responsibility or liability on account of any fault or delay in the execution of the work, or any part thereof, by any such employee, subcontractor or material men whatsoever.
- 4.6 No Waiver of Legal Rights: NO CERTIFICATE GIVEN OR PAYMENT MADE UNDER THIS CONTRACT, EXCEPT THE FINAL CERTIFICATE OR FINAL PAYMENT, SHALL BE EVIDENCE OF THE ACCEPTABILITY OF THE PERFORMANCE OF THE CONTRACT EITHER WHOLLY OR IN

PART, AND NO PAYMENT SHALL BE CONSTRUED TO BE AN ACCEPTANCE OF DEFECTIVE WORK OR IMPROPER MATERIALS.

No act of the City or of any representative of the City, nor any extension of time for the completion of the work, shall be regarded or taken as an acceptance of such work, or any part thereof, or of materials used therein or therefore, either in whole or in part; but such acceptance shall be evidenced only by the final certificate of the Engineer as approved by the City.

Before any final certificate shall be allowed, the Contractor will be required, and he hereby agrees, to sign and attest on said certificate a statement that he accepts the same in full payment and settlement of all claims on account of work done and materials furnished under this contract, and furthermore that all claims for materials provided or labor performed have been paid or satisfactorily secured. No waiver of any breach of this contract by the City or any one acting for it or on its behalf shall be held as a waiver of any other or subsequent breach thereof.

4.7 Other Contracts: The City shall have the right to let other contracts to be coordinated with this contract. The Contractor shall cooperate with and afford such other contractors reasonable opportunity for introduction and storage of materials and for execution of their work. Any matter of dispute shall be decided by the Purchasing Agent and that decision shall be binding. If any part of the work depends for its proper execution upon the work of any such other contractor, the Contractor shall inspect and promptly report to the Engineer any defects that affect the subsequent work. Failure to do so shall constitute an acceptance of such other contractor's work as fit and proper for the reception and attachment of the Contractor's own work and equipment.

4.8 Insurance: The Contractor shall provide insurance as set forth in Section 3. The limits and conditions of such insurance are specified on pages INS-1 through INS-4.

4.9 Permits, Laws, Licenses, and Taxes: The Contractor shall procure all permits and licenses, pay all charges, fees and taxes and give all notices necessary and incidental to the due and lawful prosecution of the work except those provided by the City and contained in the contract documents.

City shall furnish, as indicated in the Contract Documents, the lands upon which work is to be performed, rights-of-way for access thereto, and such other lands which are designated for use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the City, unless otherwise specified in the Contract Documents. Contractor

shall provide for all additional lands and access thereto that may be required for temporary construction facilities or for storage of materials and equipment.

4.10 Royalties and Patents: The Contractor shall indemnify and save harmless the City from all suits brought against the City by reason of infringement of patent rights on any material, machine or appliance that may be used on the work or incorporated into the finished job. The contract price shall include payment of royalties, if any.

4.11 Defense of Suits: In the event that an action at law or suit in equity is brought against the City, any of its representatives or agents for or on account of the failure, omission or neglect of the Contractor or his subcontractor or his or their employees or agents to do and perform any of the covenants, acts, matters or things by this contract undertaken or to be done or performed by the Contractor or his subcontractors, or his or their employees or agents, the Contractor shall defend, indemnify and save harmless the City, its representatives, agents, and servants from all loss, cost, damage, expense, judgment or decrees whatever arising out of such actions of suits as may or shall be brought as aforesaid.

4.12 Release of Liability: No person or corporation other than the signer of this contract, as Contractor now has any interest hereunder, and no claim shall be made, or be valid, and neither the City or any employee or agent thereof shall be liable or be held to pay any money, except as herein before provided. The acceptance by the Contractor of the final payment shall operate as and shall be a release to the City and every representative and agent thereof, from all claims and liability to the Contractor for any thing done or furnished for or relating to the work, or for any act or neglect of the City or any person relating to or affecting the work.

4.13 Payment of Obligations: The Contractor shall make payment promptly as due, to all persons supplying labor or materials for the prosecution of work under the contract.

Failure to make prompt payment of any claim when due, for labor or service supplied for the prosecution of work under the contract, including labor or material supplied by the subcontractors, may necessitate City paying such claim to the person furnishing the labor or services and charging the amount of payment against funds due or to become due to the Contractor by reason of his contract. Such payment shall not relieve the Contractor or his surety from obligations with respect to any unpaid claims.

4.14 Public Safety and Convenience: The Contractor shall conduct the project with proper regard for the safety and convenience of the public. When the project

involves use of public right-of-ways, Contractor shall provide necessary flagmen and install and maintain means of free access to all fire hydrants, service stations, warehouses, stores, houses, garages and other property.

Private residential driveways shall be closed only with the approval of the Engineer and notification to property resident. The Contractor shall not interfere with the normal operation of public transit vehicles unless otherwise authorized. The Contractor shall not obstruct or interfere with travel over any public street or sidewalk without approval. Where detours are necessary, they shall be maintained with good surface and shall be clearly marked. The Contractor shall provide adequate barricades of an approved type which can be seen from a reasonable distance around open trenches, excavations, or anything that would impede the normal use of the right-of-way. At night, the Contractor shall barricade all areas restricted from public use within the construction area. The Contractor shall observe all safety instructions received but following of such instructions shall not relieve the Contractor from the responsibility or liability for accidents to workers or damage or injury to the public or property.

Emergency traffic such as police, fire and disaster units shall be provided reasonable access to the work area at all times.

The Contractor shall be liable for any damages which may result from failure to provide such reasonable access or failure to notify the appropriate authority.

- 4.15 Personal Safety: The Contractor shall be responsible for conditions of the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours. Safety provisions shall conform to the applicable federal, state, county and local laws, ordinances and codes. Where any of these are in conflict, the more stringent requirement shall be followed.

The Contractor shall maintain at the office or other well known place at the job site, all articles necessary for giving first aid to the injured and establish the procedure for the immediate removal to a hospital or a doctor's care of employees and other persons who may be injured on the job site.

The duty of the Engineer to conduct construction reviews and inspections of the Contractor's performance is not intended to include a review of the adequacy of the Contractor's safety measures in, on, or near the construction site.

All accidents causing death or serious injuries or damages shall be reported immediately by telephone or messenger to the Director of Public Utilities. In addition, the Contractor shall promptly report in writing to the Engineer all

accidents whatsoever arising out of, or in connection with, the performance of the work, whether on or adjacent to the site, giving full details and statements of witnesses.

If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Engineer, giving full details of the claim.

4.16 Labor: Only competent workers shall be employed on the work. Any person employed, who is found to be incompetent, intemperate, troublesome, disorderly or otherwise objectionable, or who fails or refuses to perform work properly and acceptable, shall be immediately removed from the work by the Contractor and not be re-employed on the work.

The Contractor, its agents and employees shall be bound by and comply with all applicable provisions of the Labor Code and with federal, state and local laws related to labor.

The Contractor shall strictly adhere to the provisions of the U.S. Department of Labor Regulations regarding minimum wages, 40-hour week, overtime, and non-discrimination because of race, color, sex, national origin or religion.

4.17 Guarantee and Maintenance: The Contractor shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the Engineer and at no cost to the City, any and all defects, breaks, or failures of the work occurring within one (1) year following the date of final acceptance of the work due to: faulty or inadequate materials or workmanship, and for damage or disturbances to other improvements under, within, or adjacent to the work, whether or not caused by settling, washing or slipping when such damage or disturbance is caused, in whole or in part, from activities of the Contractor in performing the duties and obligations under this Contract. When such defects or damage occur, within the time period described hereinbefore, in any part of the surface or subsurface work done under the contract, or in any adjacent surface or subsurface improvements not included in the work under the contract, the Contractor shall repair the same and the one year maintenance period required shall, with relation to such required repair, be extended one year from the date of completion of such repair.

The Contractor agrees that he will obtain from the manufacturers of equipment and materials furnished under this Contract, guarantees against defective materials and workmanship, and if these guarantees, as furnished by the manufacturer, do not extend for the term of one (1) year following the date of final acceptance of the work, he shall make the necessary arrangements and assume all costs for extending this guarantee for the required period.

The Contractor shall promptly make such repairs or replacements as may be required under the above specified guarantee; and, when the repairs or replacements involve one or more items of installed equipment, shall provide the services of qualified factory-trained servicemen in the employ of the equipment manufacturers to perform or supervise the repairs or replacements.

When the Engineer or the City deems it necessary, and so orders, such replacements or repairs under this section shall be undertaken by the Contractor within twenty-four (24) hours after service of notice. If the Contractor unnecessarily delays or fails to make the ordered replacements or repairs within the time specified, or if any replacements or repairs are of such nature as not to admit of the delay incident to the service of a notice, then the City shall have the right to make such replacements or repairs and the expense thereof shall be paid by the Contractor or deducted from any moneys due the Contractor.

4.18 Working Conditions:

The Contractor shall provide working conditions on each operation that shall be as safe and as healthful as the nature of the work permits. He shall inform himself of and shall comply with all safety and sanitary rules, laws and regulations.

4.19 Night and Sunday Work:

Unless otherwise especially permitted, no work shall be done between the hours of 6:00 p.m. and 7:00 a.m., nor on Sunday, except as necessary for the proper care and protection of work already performed. If it shall become absolutely necessary to perform work at night or on Sunday, the City shall be informed at least forty-eight (48) hours in advance of the beginning of performance of such work. Only such work shall be done at night as can be done satisfactorily and in a first class manner. Good lighting and all other necessary facilities for carrying out and inspecting the work shall be provided and maintained at all points where such work is being done.

4.20 Public Safeguards:

The Contractor shall be responsible for all legal notices and warnings to the public while the work is in progress and for providing watchmen, flagmen, barricades, warning and danger signs and lights, and such other precautions necessary to protect life and property.

4.21 Payment for Temporary Work:

No additional direct or separate payment will be made for providing miscellaneous temporary works, plants, services, offices, layout surveys, sanitary requirements, removals and disposals, safety devices, watchmen, bonds and insurance. Compensation for all such services and materials shall be considered as having been included in the prices bid for the Contract items.

4.22 Operation or Use of Facilities Prior to Completion:

Work under this Contract shall be executed so that the facilities may be used as soon as possible. It is understood that the City may use any completed facility.

Use, by the City, of any facility prior to the Engineer's final certificate for all work under the Contract will not be considered as constituting acceptance nor will the period of time the facility is used be considered as part of the required one-year guarantee period.

4.23 Use of Existing Facilities:

The Contractor shall not hinder the City in the use of the existing facilities. Any work by the Contractor limiting the use of the existing facilities by the City shall be conducted at a time acceptable to the City.

4.24 Utilities:

The Contractor shall comply with the VIRGINIA UTILITY DAMAGE PREVENTION ACT as enacted and amended, and shall be responsible for notifying the owners of utilities and requesting the locating and marking of all underground facilities before beginning any excavation.

Call MISS UTILITY 1-800-552-7001 at least 48 hours, excluding Saturdays, Sundays and Legal Holidays, prior to beginning work.

All utilities encountered by the Contractor including, but not limited to, gas, water, electric, storm sewer, sanitary sewer, television cable, and telephone service, which are located in the project area, are totally the responsibility of the Contractor to maintain, protect and avoid during the accomplishment of this work.

Any damage to utilities shall be restored as the Contractor's responsibility and at the Contractor's expense.

4.25 Protection of Public and Private Property:

The Contractor shall exercise care in constructing the facilities so as to avoid unnecessary damage to crops, fences, drains or other structures and shall confine his operations within the portions of the site as are necessary for construction purposes. He shall not use any private roads or property outside of the limits of the site for any purpose without specific permission from the Owner and will be responsible for all damage to private property caused by his operations. The Contractor shall remove and replace and repair if necessary such structures as fences which are disturbed by his operations.

4.26 Permits:

The Contractor shall obtain all permits, furnish all sureties, and pay all fees in accordance with Section 4.9 of the General Conditions. In addition, in those cases where the Owner has obtained certain permits, the Contractor shall assume all appropriate responsibilities, as agent for the City, in complying with the requirements stated therein. Where the conditions of any permit are more stringent than the requirements of the specifications, the permit shall govern.

4.27 Schedule of Values:

The Contractor shall submit a schedule of values in accordance with the requirements of Sections 11.1 and 11.2 of the General Conditions.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 5

#### SCOPE OF WORK

5.1 Intent of Contract: The intent of the contract is to provide for the construction and completion of the work described. The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, specifications and terms of the contract.

5.2 Plans and Specifications: The plans, specifications and other Contract Documents will govern the work. The Contract Documents are intended to be complementary and cooperative and to describe and provide for a complete project.

While it is believed that most of the information pertaining to conditions which may affect the cost of the proposed work will be shown on the plans or indicated in the specifications, the City does not warrant the completeness or accuracy of such information. It is the Contractor's responsibility to ascertain the existence of any conditions affecting the cost of the work which would have been disclosed by reasonable examination of the site.

The Contractor shall, upon discovering any error or omission in the plans and specifications, immediately call it to the attention of the Engineer.

5.3 Additional Instructions: In the event it is found that the instructions contained in the Contract Documents are not sufficiently clear to permit the Contractor to proceed with the work, the Engineer shall, either upon his own initiative or upon the request from the Contractor, furnish such additional instructions as may be necessary.

When such request is received from the Contractor, it must be in ample time to permit the preparation of the instructions and drawings by the Engineer before the construction of the work covered by them is undertaken. Such additional instructions and drawings shall be consistent with the Contract Documents and shall have the same force and effect as if contained in the Contract Documents.

5.4 Changes in Work:

A. Changes requested by the Contractor: Changes in specified methods of construction may be made at the Contractor's request when approved in writing by the Engineer.

Changes in the plans and specifications, requested in writing by the Contractor, which do not materially affect the work and which are not detrimental to the work or to the interests of the City, may be granted by the Engineer. No additional payment will be made for these changes.

- B. Changes initiated by the City: The City may change the plans, specifications, character of the work, or quantity of work both additive and deductive. This contract amount may not be increased by more than twenty-five percent (25%) of the original contract amount or ten thousand dollars (\$10,000.00), whichever is greater.

Change orders shall be in writing and state the dollar value of the change or establish method of payment, any adjustments in contract time and, when negotiated prices are involved, shall provide for the Contractor's signature indicating acceptance.

Payment for all work will be made per Section 11 of these General Conditions.

5.5

Changed Conditions: Should the Contractor encounter subsurface or latent physical conditions at the site differing materially from those indicated in the contract or unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract, which changed or unusual conditions will be considered by the Contractor as the basis for a claim for extra compensation, the Contractor shall promptly notify the Engineer of the alleged conditions in writing. Changed conditions that occur as a result of any negligence or inattention on the part of the Contractor or his agent shall not be considered eligible for extra payment.

IF THE ENGINEER IS NOT GIVEN WRITTEN NOTICE WITHIN SEVEN (7) CALENDAR DAYS OF THE DATE OF FIRST DISCOVERY, THE CONTRACTOR WILL BE DEEMED TO HAVE WAIVED ANY CLAIM OR CLAIMS FOR EXTRA COMPENSATION IN ANY MANNER ARISING OUT OF THE CHANGED OR UNUSUAL CONDITIONS.

If the City shall determine the conditions to be such as to justify a claim for additional compensation, it may provide for additional payment as specified in Section 5.9 for the particular phase of work in question, or by any other equitable arrangement mutually agreed upon by the City and Contractor. In any event, the Contractor shall not be relieved, unless permitted to do so by the City, from his obligation of resuming construction operations pending decision as to the validity of a claim, or pending the execution of a negotiated agreement to cover additional

costs if a claim shall be recognized under the provisions of this section of the specifications.

- 5.6 Claims for Unauthorized Extra Work: If the Contractor performs work which he considers is not included under any of the items of the contract and which has not been specifically ordered in writing by the City as extra work, he may make a claim for extra payment for such work by immediate oral notice followed by written notice within ten (10) calendar days after the occurrence to the City, with detailed cost data to support his claim within thirty (30) calendar days after the said work is performed.

Should such work extend over a period of more than thirty (30) calendar days, he shall submit monthly records of all cost data relating to the claim for extra payment of such work.

- 5.7 Disputed Work: If unable to reach agreement under any of the foregoing procedures, the City may direct the Contractor to proceed with the work. Payment shall be as determined by Section 5.9, below.

Although not to be construed as proceeding under extra work provisions, the Contractor shall keep and furnish records of all disputed work.

- 5.8 Extra Work: Any extra work made necessary by alteration of, or additions to the plans, or by other reasons for which no price is provided in the contract, shall be performed by the Contractor as directed by the Engineer and he shall be compensated therefore as elsewhere provided herein.

Minor changes in the work not involving extra cost and not inconsistent with the purpose of the work may be made by verbal order, but no modifications involving extra work shall be made unless ordered in writing by the City.

- 5.9 Payment for Extra Work: The Contractor agrees that he will accept as full compensation for extra work, the unit prices bid, where such are applicable; and for such items as are not properly covered by unit prices, a lump sum agreed upon as reasonable by the City and the Contractor. When a schedule of values has been provided by the Contractor on a lump sum contract, the values may, at the discretion of the City, be used as a basis of payment. If an agreement cannot be made for payment for extra work on a unit price or lump sum basis, the Contractor will accept as full compensation the reasonable cost, as determined by the City, of all necessary labor, including insurance and payroll taxes, equipment rental and materials, plus twenty percent (20%) which covers superintendence, the use of tools and plant, and other overhead expenses and profit. For all such work done by Subcontractors, each Subcontractor may add twenty percent (20%) of his

actual net increase in costs for combined overhead and profit, and the Contractor may add up to five percent (5%) of the Subcontractor's total for his combined overhead and profit; provided that no overhead and profit shall be allowed on costs incurred in connection with premiums for public liability insurance or other special insurance directly related to such Work.

Equipment rental charges shall be the pro-rated charge actually paid by the Contractor in the case where equipment is rented, except that this rental charge shall not exceed the latest rates published in the Rental Rate Blue Book by National Research and Appraisal Company. If the equipment is owned by the contractor, the equipment rental charge shall be pro-rated on the basis of the monthly rates published in the Rental Rate Blue Book. All fuel and lubrication costs will be paid for separately on a reimbursable basis.

The Contractor agrees to prosecute such extra work with all reasonable diligence, and to employ thereon competent men. The Contractor shall give the City access to all accounts, bills, payrolls and vouchers relating to extra work not covered by unit prices, and he agrees that he shall have no claim for compensation for such extra work in the case of items not covered by unit prices unless a statement in writing of the actual cost of the same, fully itemized as to labor and materials, is presented to the City before the thirtieth (30th) day of the month following that during which each specific order was complied with by him.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 6

#### CONTROL OF WORK

6.1 Purchasing Agent Decision: The Purchasing Agent shall decide all questions which may arise as to the fulfillment of the terms of the contract by the Contractor, and as to the intent and purpose of the Contract Documents. THE DETERMINATION OF THE PURCHASING AGENT IN ALL SUCH MATTERS SHALL BE FINAL AND BINDING UPON THE PARTIES THERETO.

6.2 Authority of the Engineer: It is understood and agreed by and between the parties hereto that the work included in the contract is to be done in accordance with the Contract Documents and to the satisfaction of the City and the Engineer. The Engineer shall determine the unit quantities and the classification of all work done and materials furnished under the provisions of the contract.

It is not the function of the Engineer to supervise or direct the manner in which the work to be done under this Contract is carried on or conducted. The Engineer is not responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.

Nevertheless, the Contractor agrees that any method or procedure, which in the opinion of the Engineer does not achieve the required results or quality of the work specified, shall be discontinued immediately upon the order of the Engineer.

The Engineer may appoint assistants and inspectors to inspect the materials furnished and the work included under the provisions of the contract.

Nothing contained in the contract shall be construed as requiring the Engineer to direct the method or manner of performing the work.

6.3 Approval of Contractor's Plans: The approval by the Engineer of any drawing or any method of work proposed by the Contractor shall not relieve the Contractor of any of his responsibility for any errors therein and shall not be regarded as any assumption of risk or liability by the City or any officer or employee thereof, and the Contractor shall have no claim under the contract on account of the failure or partial failure or inefficiency of any plan or method so approved. Such approval shall be considered to mean merely that the Engineer has no objection to the Contractor's using, upon his own full responsibility, the plans or method proposed.

6.4 Suggestions to Contractor: Any plan or method or work suggested by the Engineer to the contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor; and the Engineer and the City shall assume no responsibility therefor.

6.5 Authority and Duties of Inspectors: The Engineer may appoint assistants to inspect all materials used and all work done. Such inspection may extend to any or all parts of the work and to the preparation or manufacture of the materials to be used. The Inspectors will not be authorized to revoke, alter, enlarge or relax the provisions of these specifications.

An Inspector may be placed on the work to keep the Engineer informed as to the progress of the work and the manner in which it is being done; also to call the attention of the Contractor to any infringements upon plans or specifications, but failure of the Inspector or the Engineer to call the attention of the Contractor to faulty work or infringements upon the plans or specifications, shall not constitute acceptance of said work.

An Inspector will not be authorized to issue instructions contrary to the plans and specifications. The Inspector will have authority to reject defective material and to suspend any work that is being improperly done, subject to the final decision of the Engineer. The Inspector will exercise such additional authority as may, from time to time, be especially delegated to him in writing by the Engineer.

The City, at its own expense, may appoint and employ the Engineer whose duty it is to observe and inspect, in the City's interest, the materials furnished and the work done as the work progresses for full and complete compliance with the Contract. It is agreed that the City may also, at its pleasure and at its own expense, appoint and employ such other persons as may be necessary for those purposes. The Engineer and all such other persons referred to shall have unrestricted access to all parts of the work and to other places at and in which the preparation of the materials and other parts of the work to be done under this Contract are carried on and conducted and shall be given by the Contractor all facilities and assistance required to carry out their work of observation and inspection.

In addition to the City, the Engineer shall have the authority to reject any work, material, or any part thereof, which does not in his opinion conform to the Plans, Drawings, Specifications and Contract, and it shall be permissible for him to do so at any time during the progress of the work and until its acceptance.

No material of any kind shall be used in the work until it has been inspected and accepted by the Engineer. All materials rejected shall be removed immediately from the work and not again offered for inspection. Any materials or workmanship found at any time to be defective or not of the quality or character required by the Contract Documents shall be remedied at once regardless of any previous inspection.

Such inspection shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Contract Documents and work not so constructed shall be removed and made good by the Contractor at his own expense, and free from all expense to the Owner whenever so ordered by the Owner without reference to any previous oversight or error in inspection.

6.6 Disputed Work: If the Contractor considers any work demanded of him to be outside the scope of the contract or considers any ruling of the Engineer to be unfair, upon such work being demanded or such ruling being made, the Contractor shall proceed without delay to perform the work or to conform to the ruling. The Contractor shall within ten (10) calendar days after date of receipt of the instructions or ruling, file a written protest with the Engineer with a copy sent to the Purchasing Agent, stating clearly and in detail the basis of his objection, and include an itemized statement of any extra costs and additional time, if any, which may have resulted. Except for such protests or objections which are reported in the manner specified and within the time limit stated in Section 5.6; the records, rulings, instructions or decisions of the Engineer will be final and conclusive.

6.7 Responsibility of the Contractor: The Contractor shall do all the work and furnish all labor, materials, equipment, tools and machines necessary for the performance and completion of the project in accordance with the contract documents within the specified time.

Material and construction details of plans, forms, shoring, false work and other structures built by the Contractor but not a part of the permanent project shall meet the approval of the Engineer, but such approval shall not relieve the Contractor from responsibility for their safety and sufficiency.

The Contractor shall be responsible for all expense involved in making any required changes in the plans or specifications to accommodate a substitution approved by the Engineer for the convenience of the Contractor or to circumvent an unforeseen difficulty in obtaining a specified article.

**THE CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR THE WORK.** As between the Contractor and the City, the Contractor shall bear all losses and damages directly or indirectly resulting to him, to the City, or to others because of the performance of the work, unforeseen difficulties, accidents

or any other cause whatsoever. The Contractor shall assume the defense and indemnify and save harmless the City, its officers, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from the Contractor's activities in the performance of the contract, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Contractor or any subcontractor under the contract, or in any way arising out of the contract, irrespective of whether fault is the basis of the liability of claim, and irrespective of whether any act, omission or conduct of the City connected with the contract is a condition of contributory cause of the claimed liability, loss, damage or injury and irrespective of whether act, omission or conduct of the Contractor or subcontractor is merely a condition rather than a cause of the claim, liability, loss, damage or injury. The Contractor shall not be liable for, nor be required to defend or indemnify the City relative to claims for damage or damages resulting solely from acts or omissions of the City, its officers, agents or employees.

- 6.7.1 Record Drawing: Contractor shall keep one record copy of all specifications, drawings, addenda, modifications, shop drawings and samples at the site in good order and annotated to show all changes made during the construction process. These shall be available to Engineer for examination and shall be delivered to him for the City upon completion of the work. As-built information (including dimensions, materials, existing utilities) shall also be included on these drawings.
- 6.8 Protection of Work: Until acceptance of the project, the Contractor shall at all times protect from damage all public property and private property which may be affected by the work and preserve all materials, supplies, equipment of any description, and all work already performed, from the nature of the work, the action of the elements, and damage by any person or persons or from any other cause whatsoever. Neither the City nor any of its officers, employees or agents assume any responsibility for collecting indemnity from any person or persons causing damage to the work.
- 6.9 Maintenance of Work After Acceptance: With the approval of the City, or upon the order of the City, in writing, the Contractor may be relieved of the duty of maintaining and protecting certain portions of the work which are approved to be placed in service and which have been completed in accordance with the contract documents, including cleanup.

In addition, such action by the City will relieve the Contractor of responsibility for injury or damage to said completed portions of the work resulting from use by public traffic or from the action of the elements or from any other cause, excepting injury or damage resulting from the Contractor's own operations or negligence. The Contractor will not be required to again clean up such portions

of the improvement prior to field acceptance, excepting for such items of work as result from the Contractor's operations. However, nothing in this section shall be construed as relieving the Contractor from full responsibility for making good defective work or materials found to be defective in accordance with Section 4.17 of these General Conditions.

6.10 Use of Light, Power and Water: The Contractor shall pay for and furnish temporary light, power and water complete with connecting piping, wiring, lamps and similar equipment as necessary. The Contractor shall install, maintain and remove temporary lines upon the completion of the work. The Contractor shall obtain all permits and bear all costs in connection with temporary services and facilities at no expense to the City. The Contractor's attention is specifically drawn to the fact that all use of water must be subject to the conditions of the Department of Public Utilities.

6.11 **VERBAL AGREEMENTS: NO VERBAL AGREEMENT OR CONVERSATION WITH ANY OFFICER, AGENT OR EMPLOYEE OF THE CITY, OR THE ENGINEER, EITHER BEFORE OR AFTER EXECUTION OF THE CONTRACT, SHALL AFFECT OR MODIFY ANY OF THE TERMS OR OBLIGATIONS CONTAINED IN ANY OF THE DOCUMENTS COMPRISING THE CONTRACT. ANY SUCH VERBAL AGREEMENT OR CONVERSATION SHALL BE CONSIDERED AS UNOFFICIAL INFORMATION AND IN NO WAY BINDING UPON THE CITY OR THE ENGINEER.**

6.12 Dust Control: During all phases of the construction work, and when directed, the Contractor shall take precautions to abate dust nuisance by cleaning up, sweeping, sprinkling with water, or other means as necessary to accomplish the suppression of dust.

6.13 Removal of Unacceptable Work: All work which does not conform to the requirements of the contract documents shall be unacceptable.

The Contractor shall remove all unacceptable and defective work or materials. The replacement of work and materials shall conform to the contract documents or be in a manner acceptable to the Engineer. This provision shall have full effect regardless of the fact that the unacceptable work may have been done or the defective materials used with the full knowledge of the Inspector. The fact that the Inspector in charge may have previously overlooked such defective work shall not constitute an acceptance of any part of such work.

**WORK DONE CONTRARY TO OR REGARDLESS OF THE INSTRUCTIONS OF THE ENGINEER, WORK DONE BEYOND THE LINES SHOWN OR AS DIRECTED, EXCEPT AS HEREIN PROVIDED, OR ANY EXTRA WORK DONE WITHOUT AUTHORITY, WILL BE**

**CONSIDERED UNAUTHORIZED AND WILL NOT BE PAID FOR UNDER THE PROVISIONS OF THE CONTRACT. WORK SO DONE MAY BE ORDERED REMOVED OR REPLACED AT NO EXPENSE TO THE CITY.**

In the event any defect in the work is of a minor nature and the Engineer determines that it is not of such consequence as to result in dangerous or undesirable conditions, the City shall have the right to retain such work and to make such deductions in the payment as determined reasonable and in the public interest. Such determination by the City shall be final.

- 6.14 Final Inspection: At such time as all construction work on the project is complete and all bills, forms and documents required under the contract are submitted, the Contractor shall so notify the Engineer in writing. The Engineer will make an inspection of the project and the project records within fifteen (15) calendar days of receiving said notice. If as a result of such inspection, all construction provided for and ordered under the contract is found completed and satisfactory, and all certifications, bills, forms and documents have been properly submitted, such inspection shall constitute the final inspection.

If any work in whole or in part is found unsatisfactory, or it is found that all certifications, bills, forms, and documents have not been properly submitted, the Engineer shall give the Contractor the necessary instructions regarding the replacement of material and the performance or re-performance of construction work necessary and prerequisite to satisfactory final completion of construction work and shall give the Contractor the necessary instructions for submission of bills, forms and documents. The Contractor forthwith shall comply with and execute such instructions. At such time as such instructions are complied with and executed, the Contractor shall so notify the Engineer in writing. The Engineer will make another inspection within fifteen (15) calendar days after such notice and this inspection shall constitute the final inspection, if all requirements have been met to the satisfaction of the Engineer. If the instructions are not completed to the satisfaction of the Engineer, additional instructions will be issued by the Engineer and the process will be repeated until the Engineer is satisfied that all requirements have been complied with.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 7

#### TESTING LABORATORY SERVICES

##### 7.1 Description:

###### A. Work Included:

- 1) Cooperation with the selected testing laboratory and all others responsible for testing and inspecting the work.
- 2) Providing other testing and inspection as specified to be furnished by the Contractor in the contract documents.
- 3) The Contractor shall select a qualified testing laboratory.

###### B. Related work described elsewhere:

- 1) The requirements for testing may be described in various other sections of these specifications.
- 2) Where no testing requirements are described, but the Engineer decides that testing is required, the Engineer may direct that such testing be performed under current standards for testing. Payment for such testing will be made as described in this section.

##### 7.2 Quality Assurance:

A. Qualifications for testing laboratory: The testing laboratory will be qualified within guidelines established by the City. The Contractor shall be notified by the Engineer of the acceptability of the selected laboratory.

B. Codes and standards: Testing, when required, will be in accordance with the latest revision of pertinent codes and regulations and with selected standards of the American Society for Testing and Materials, the American Water Works Association, the Virginia Department of Transportation, the Virginia Department of Health and/or other recognized industry standards (reference Section 9).

- 7.3 Product Handling: The Contractor shall promptly process and distribute required copies of test reports and related instructions to ensure that any necessary retesting and replacement of materials may be accomplished with the least possible delay in progress of the work.
- 7.4 Payment for Testing:
- A. Testing services: Unless otherwise specified, the City will pay for additional testing services requested by the City. **THIS DOES NOT APPLY TO TESTS REQUIRED BY THE CONTRACT DOCUMENTS FOR WHICH THE CONTRACTOR BEARS ALL COSTS.**
  - B. Non-compliance: When additional tests requested and paid for by the City indicate non-compliance with the contract documents, the costs of tests associated with that non-compliance will be deducted by the City from the contract price.
  - C. Retesting: When tests indicate non-compliance with the contract documents, all subsequent retesting occasioned by the non-compliance will be done at no cost to the City.
- 7.5 Code Compliance Testing: Inspections and tests required by codes and ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of, and shall be paid for by the Contractor, unless otherwise provided in the Contract Documents.
- 7.6 Contractor's Convenience Testing: Testing and inspecting performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.
- 7.7 Cooperation with Testing Laboratory: Representatives of the testing laboratory shall have access to the work at all times. The Contractor shall provide facilities for such access in order that the laboratory may properly perform its function.
- 7.8 Taking Specimens: Specimens and samples for testing, unless otherwise provided in the Contract Documents, will be taken by the testing personnel. Sampling equipment and personnel are to be provided by the laboratory. Deliveries of specimens and samples to the testing laboratory will be performed by the testing laboratory.

7.9

Schedule for Testing:

- A. Establishing the schedule: By advance discussion with the testing laboratory selected, the Contractor shall make allowance for the time required for the laboratory to perform its tests and to issue each of its findings. The Contractor shall provide time within the construction schedule.
- B. Revising the schedule: When changes of construction schedule are necessary during construction, the Contractor shall coordinate such changes of schedule with the testing laboratory as required.
- C. Adherence to schedule: When the testing laboratory is ready to test according to the established schedule, but it is prevented from testing or taking samples due to incompleteness of the work, all extra charges for testing attributable to the delay will be borne by the Contractor.

7.10

Alternative Testing Procedure: The Engineer shall have the right to require testing procedures other than as specified when, in the Engineer's judgment, other testing is required to demonstrate compliance with the contract requirements. The cost of such alternate testing will be borne by the City if the products are found to comply with the contract documents, otherwise the cost shall be borne by the Contractor.

END OF SECTION

# GENERAL CONDITIONS

## SECTION 8

### SUBMITTALS AND SUBSTITUTIONS

#### 8.1 Description:

Work included: Throughout the Contract Documents, the minimum acceptable quality of workmanship and materials has been defined by manufacturer's name, reference to recognized standards, or description of required characteristics and performance.

To insure that the materials, equipment and methods are in accordance with design intent, procedures have been established for advance submittal and for their review and approval by the Engineer.

Make all submittals required by the Contract Documents. Revise and resubmit as necessary to establish compliance with the specified requirements.

#### 8.2 Quality Assurance:

A. Coordination of submittals: Prior to each submittal, the Contractor shall carefully review and coordinate all aspects of each item being submitted and verify that each item adheres in all respects with the requirements of the Contract Documents. Each submittal shall have the Contractor's signature, and certify that this coordination has been performed.

B. Material affidavit: The Contractor shall certify that all materials used in the work are in complete compliance with all specified provisions. Certification shall not be construed as relieving the Contractor from his responsibility of furnishing satisfactory materials if, after tests are performed on selected samples, the material is found not to meet specified requirements.

The following information is to be shown on each certificate:

- 1) Name and location of the work;
- 2) Name and address of Contractor;

- 3) Quantity and date or dates of shipment and/or delivery to which the certificate applies;
- 4) Name of the manufacturing or fabricating company.

Certification shall be in the form of a letter or company-standard form containing all required data and signed by an officer of the manufacturing, fabricating or supplying company.

In addition to the above information, all laboratory test reports submitted with Certificates of Compliance shall show the following information:

- 1) Date or dates of testing;
- 2) The specified requirements for which testing was performed;
- 3) Results of the test or tests.

8.3 Submittals:

- A. Submittal schedule: Within ten (10) calendar days after award of contract, and prior to any items being submitted for approval, the Contractor shall submit to the Engineer three (3) copies of the submittal schedule described in Section 8.4.
- B. The Contractor shall make all submittals in strict accordance with the provisions of this section.

8.4 Submittal Schedule:

- A. The Contractor shall compile a complete and comprehensive schedule of all the submittals anticipated to be made during progress of the work. The schedule shall include a list of each type of item for which Contractor's drawings, shop drawings, material affidavit, material samples, guarantees, or other types of submittals are required. Upon approval by the Engineer this schedule will become part of the Contract except when specifically permitted otherwise.
- B. The schedule is to be coordinated with all necessary subcontractors and materials suppliers to ensure their understanding of the importance of adhering to the approved schedule and their ability to so adhere. The Contractor shall coordinate, as required, the grouping of the submittals as required in Section 8.10.

- C. The Contractor shall revise and update the submittal schedule on a monthly basis, as necessary, to reflect conditions and sequences.

8.5 Shop Drawings:

- A. All shop drawings shall be drawn to a scale sufficiently large to show all pertinent aspects of the item and its method of connection to the work.
- B. The Contractor shall submit the number of copies which are required to be returned plus three (3) copies which will be retained by the Engineer.

8.6 Manufacturer's Literature:

- A. Where contents of the manufacturer's literature includes data not pertinent to the submittal, clearly indicate which portion of the contents is being submitted for review.
- B. The Contractor shall submit the number of copies which are required to be returned plus three (3) copies which will be retained by the Engineer.

8.7 Sample:

- A. Samples shall be of the precise article proposed to be furnished.
- B. The Contractor shall submit all samples in the quantity which is required to be returned plus one (1) which will be retained by the Engineer.

8.8 Substitutions:

- A. Alternate equipment and/or materials must be submitted to the Engineer within ten (10) calendar days after the Award of Contract. Failure to submit information on alternate equipment and/or materials may be cause for rejection of the proposed alternate and only the specified equipment and/or materials will be permitted to be incorporated in the finished project.
- B. All alternate equipment and/or materials offered must comply with the detailed requirements of the Drawings and Specifications and shall be covered by the specified guarantees and warranties. If it is determined that the alternate equipment and/or materials do not conform to the Specifications, the Contractor will be required to furnish and install other equipment and/or materials to meet the Specifications.

- C. The following data shall be submitted by the Contractor to the Owner in order for the alternate to be considered:
1. Complete data substantiating compliance of proposed alternate with the Project specifications and Drawings. The alternate shall not change design intent.
  2. For Products:
    - a. Product identification, including manufacturer's name and address.
    - b. Manufacturer's literature, including but not necessarily limited to:
      - 1) Product description, performance and test data.
      - 2) Reference standards.
    - c. Samples where appropriate.
    - d. Name and address of similar projects on which product was used, date of installation, and name of Engineer.
  3. For Construction Methods:
    - a. Detailed description of proposed method.
    - b. Drawings illustrating methods.
    - c. Name and address of similar projects on which method was used, data of use, and names of Contractor and Engineer.
  4. Itemized comparison of proposed alternate with product or method specified. Different types of products and methods will be considered provided final performance is at least equal to that specified.
  5. Data relating to impact on construction schedule occasioned by the proposed alternate.
  6. Accurate cost data on proposed alternate in comparison with product or method specified, including costs of all redesigns required.
  7. In making request for substitution, Bidder represents:
    - a. He has personally investigated proposed product or method, and determined that it is equal or superior in all respects to that specified. He will provide the same guarantee for alternate as for product or method specified.
    - b. He will coordinate installation of accepted alternate into work, making such design and construction changes as may be required for work to be complete in all respects.
- D. The decision of the Engineer regarding evaluation of alternates shall be considered final and binding. Requests for time extensions and additional compensation based on submission of, acceptance of, or rejection of alternates will not be allowed.
- E. Specified equipment and materials have been used to prepare the Drawings. Changes in piping, wiring, structure, etc., necessary to accommodate alternates shall be submitted by the Contractor to the Engineer for approval and/or revision.

- F. The Contractor shall pay for all additional installation costs necessitated by the selection of alternate equipment and material. Such costs are included in the Contract bid price and any modifications as stated in the Bid.

8.9 Identification of Submittals:

- A. All submittals shall be consecutively numbered. Accompany each submittal with a letter of transmittal containing all the pertinent information required for identification and checking of submittals including an indication of the intended use of the product being submitted.
- B. On the first page of each copy of each submittal, and elsewhere as required for positive identification, clearly indicate the submittal number in which the item was included and the project it is to be used on.
- C. When an item is resubmitted for any reason, transmit under a new letter of transmittal and with the same submittal number marked "revised."
- D. Maintain an accurate submittal log for the duration of the contract, showing current status of all submittals at all times. Make the submittal log available for the Engineer's review upon request.

8.10 Coordination of Submittals:

- A. Prior to submittal for approval, the Contractor shall fully coordinate all material including, but not necessarily limited to:
  - 1) Coordination with other trades as required;
  - 2) Clearly indicate all deviations from requirements of the Contract Documents.
- B. Unless otherwise specified, all submittals shall be made in groups containing all associated items to ensure that information is available for checking each item when it is received. Partial submittals may be rejected as not complying with the provisions of the Contract Documents and the Contractor shall be strictly liable for all delays so occasioned.

8.11 Timing of Submittals:

- A. All submittals shall be made far enough in advance of scheduled dates for installation to provide all the time required for reviews, for securing the

necessary approvals, for possible revisions and resubmittals, and for placing orders and securing delivery.

- B. In scheduling, allow at least twenty one (21) calendar days for review by the Engineer following his receipt of the submittal.
- C. Delays caused by tardiness in receipt of submittals will not be an acceptable basis for extension of the contract completion date.

8.12

Engineer's Review:

- A. Review by the Engineer shall not be construed as a complete check, but only that the general method of construction and detailing is satisfactory. This review shall not relieve the Contractor of his responsibility for errors which may exist.
- B. Approval of Shop Drawings shall not relieve the Contractor from the responsibility of furnishing materials and equipment of proper dimension, size, quality, quantity, and all performance characteristics to efficiently perform the requirements and intent of the Contract Documents. Approval shall not relieve the Contractor from responsibility for errors of any sort of the Shop Drawings. Approval is intended for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. The Contractor is responsible for dimensions which shall be confirmed and correlated at the Project site. The Contractor is also responsible for information that pertains solely to the fabrication processes or to the technique of construction and for the coordination of the work of all trades, and for performing his work in a safe and satisfactory manner.
- C. Submittals stamped "Approved" or "Approved As Noted," with the Engineer's signature and dated, authorizes the Contractor to proceed with fabrication, purchase, or both, of the items so noted, subject to the changes, if any, required by the Engineer's review comments.
- D. For submittals stamped "Revise and Resubmit," the Contractor shall make the revisions required by the Engineer. Each drawing revision shall be shown by number, date, and subject in the revision block on the drawing. Only those revisions directed or approved by the Engineer shall be made. After correction, the submittal shall be re-submitted to the Engineer and the process repeated until "Approved" or "Approved As Noted" is achieved.

- E. Submittals stamped "Not Approved" shall not be revised or corrected by the Contractor; a new submittal on materials in conformance with the specifications shall be prepared and submitted.
- F. If more than one resubmission is required because of failure of Contractor to provide all previously requested corrected data or additional information, Contractor shall reimburse Owner for the charges of Engineer for review of the additional resubmissions. This does not include initial submittal data and/or shop tests and field tests which are submitted after the initial submittal.
- G. Any need for more than one resubmission, or any other delay in obtaining Engineer's review of submittals, will not entitle Contractor to extension of Contract time unless delay of the Work is directly caused by a change of Work authorized by a Change Order or by failure of Engineer to review the submittal within the submittal review period specified herein and to return the submittal to Contractor.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 9

#### REFERENCE SPECIFICATIONS

- 9.1 Description: Codes and standards which establish qualities and types of workmanship and materials, and which establish methods for testing and reporting on the relative characteristics of materials are referenced throughout the Contract Documents.

**THE CONTRACT DOCUMENTS REQUIRE THAT MATERIALS AND WORKMANSHIP MEET OR EXCEED THE SPECIFICALLY NAMED CODE OR STANDARD, AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE MATERIALS AND WORKMANSHIP WHICH MEET OR EXCEED THE SPECIFICALLY NAMED CODE OR STANDARD.**

It shall also be the Contractor's responsibility to deliver to the Engineer proof that the materials or workmanship, or both, meet or exceed the requirements of the specifically named code or standard, when required by the Contract Documents or by written request from the Engineer. Submittals of the required proof shall be in the form requested in writing by the Engineer, and generally will be required to be copies of a certified report of tests conducted by an agency approved for that purpose by the Engineer.

- 9.2 Revision of Codes or Standards: Whenever a specifically named code or standard is referenced in the Contract Documents, it shall be understood to mean the latest revision of said code or standard as amended prior to the date of Invitation for Bids.
- 9.3 Procurement of Items Used in this Work: It shall be the Contractor's responsibility to verify the detailed requirements of the specifically named codes and standards and to verify that the items procured meet or exceed the specified requirements.
- 9.4 Right to Reject Non-Complying Items: The Engineer is required to reject any item used in this work which fails to meet the specified minimum requirements.

9.5 Agencies and Organizations: Applicable codes and standards listed in these specifications include, but are not limited to, codes and standards published by the following:

1. A.A. - Aluminum Association
2. A.A.M.A. - Architectural Aluminum Manufacturer's Association
3. A.A.N. - American Association of Nurserymen
4. A.A.R. - Association of American Railroads
5. AASHTO - American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D.C. 20004.
6. A.C.I. - American Concrete Institute, Box 19150, Redford Station, Detroit, Michigan 48129.
7. A.C.P.A. - American Concrete Pipe Association
8. A.G.A. - American Gas Association
9. A.I. - Asphalt Institute
10. A.I.A. - American Institute of Architects
11. A.I.E.E. - American Institute of Electrical Engineers
12. A.I.S.C. - American Institute of Steel Construction, Inc., 1220 Avenue of the Americas, New York, New York 10020.
13. A.I.S.I. - American Iron and Steel Institute
14. A.L.S. - American Lumber Standards
15. A.M.C.A. - Air Moving and Conditioning Association, Inc.
16. A.N.S.I. - American National Standards Institute, 1430 Broadway, New York, New York 10018.
17. A.P.A. - American Plywood Association

18. A.P.W.A. - American Public Works Association, 1313 East 60th Street, Chicago, Illinois 60637.
19. A.R.E.A. - American Railroad Engineering Association
20. A.S.C.E. - American Society of Civil Engineers, 345 East 47th Street, New York, New York 10017.
21. A.S.H.R.A.E. - American Society of Heating, Refrigerating, and Air Conditioning Engineers
22. A.S.L.A. - American Society of Landscape Architects
23. A.S.M.E. - American Society of Mechanical Engineers
24. A.S.T.M. - American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.
25. A.T.B.C.B. - Architectural and Transportation Barriers Compliance Board.
26. A.W.G. - American Wire Gauge
27. A.W.P.A. - American Wood Preservers Association
28. A.W.S. - American Welding Society, Inc., 2501 N.W. 7th Street, Miami, Florida 33125.
29. A.W.W.A. - American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235.
30. B. & S. - Brown and Sharpe Wire Gauge
31. B.O.C.A. - Building Officials and Codes Administrators International, Inc., 17926 South Halstead Street, Homewood, Illinois 60430.
32. C.A.B.R.A. - Copper and Brass Research Association
33. C.R.S.I. - Concrete Reinforcing Steel Institute, 228 North LaSalle Street, Chicago, Illinois 60610.
34. C.S.P.A. - Clay Sewer Pipe Association

35. D.I.P.R.A. - Ductile Iron Pipe Research Association
36. E.P.A. - Environmental Protection Agency, headquarters or regional offices.
37. F.S. - Federal Specifications (United States Government)
38. I.E.E.E. - Institute of Electrical & Electronic Engineers
39. I.E.S. - Illuminating Engineering Society
40. MIL. - Military Specifications (United States Government)
41. N.A.A.M.M. - National Association of Architectural Metal Manufacturers
42. N.A.P.C.A. - National Association of Pipe Coating Applicators
43. N.B.F.U. - National Board of Fire Underwriters
44. N.B.S. - National Bureau of Standards
45. N.E.C. - National Electric Code (see NFPA).
46. N.E.M.A. - National Electrical Manufacturers Association, 155 East 44th Street, New York, New York 10017.
47. N.E.S.C. - National Electric Safety Code
48. N.E.T.A. - National Electrical Testing Association
49. N.F.C. - National Fire Code
50. N.F.P.A. - National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.
51. N.F.P.A. - National Forest Products Association
52. N.H.L.A. - National Hardware Lumber Association
53. N.L.M.A. - National Lumber Manufacturer's Association
54. N.S.F. - National Sanitation Foundation.

55. O.S.H.A. - Occupational Safety and Health Administration, headquarters or regional offices.
56. P.C.A. - Portland Cement Association
57. P.C.I. - Prestressed Concrete Institute
58. S.B.I. - Steel Boiler Institute
59. S.C.P.I. - Structural Clay Products Institute
60. S.C.S. - Soils Conservation Service
61. S.D.I. - Steel Deck Institute
62. S.J.I. - Steel Joist Institute
63. S.P.R. - Simplified Practice Recommendation,
64. S.S.P.C. - Steel Structure Painting Council
65. U.L. - Underwriter's Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611.
66. U.S.S.G. - United States Standard Gauge
67. U.S.S.W.G. - United States Steel Wire Gauge
68. V.D.H. - Virginia Department of Health, Madison Building, 109 Governor Street, Richmond, Virginia 23219.
69. V.D.O.T. - Virginia Department of Transportation, 1221 East Broad Street, Richmond, Virginia 23219.
70. Virginia Erosion and Sediment Control Handbook published by Virginia Soil & Water Conservation Commission, 830 East Main Street, Suite 800, Richmond, Virginia 23219.
71. V.T.M. - Virginia Test Method as published by Virginia Department of Transportation.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 10

#### PROSECUTION AND PROGRESS OF WORK

- 10.1 Contractor's Construction Schedule: WITHIN FIFTEEN (15) CALENDAR DAYS AFTER EXECUTION OF CONTRACT, THE CONTRACTOR SHALL SUBMIT A HARD COPY AND ELECTRONIC VERSION OF THE PROJECT SCHEDULE GENERATED USING "MS PROJECT" OR "PRIMAVERA" SOFTWARE TO THE ENGINEER SHOWING THE PROPOSED ORDER OF WORK AND INDICATING THE TIME REQUIRED FOR COMPLETION OF THE MAJOR ITEMS OF WORK. This working schedule shall take into account the passage or handling of traffic with the least practicable interference and the orderly, timely and efficient prosecution of the work.

In the event that the work performed does not correspond to the schedule, the Contractor shall submit a revised schedule when requested by the Engineer. The schedule will be used as an indication of the sequence of the major construction operations and as a check on the progress of the work, but does not become a part of the Contract Documents.

- 10.2 Preconstruction Conference: A preconstruction conference will be scheduled by the City prior to the commencement of any work. The meeting is to include, but not necessarily be limited to, representatives of the following groups: City and permitting officials, contractor, and affected utility companies.

The purpose of the conference will be to discuss the construction schedule set forth in Section 10.1 and items of the work which require special coordination.

- 10.3 Notice to Proceed: Written notice to proceed will be given after the contract has been executed and the performance bond and all required insurances have been filed with and approved by the City.

THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF THE TIME AND LOCATION THAT WORK WILL BEGIN AT LEAST 48 HOURS PRIOR TO BEGINNING WORK.

- 10.4 Contract Time: The Contract time will begin with the date specified in the Notice to Proceed.

The contract time shall be in terms of calendar days.

10.5

Suspension of Work: The City may, on its own volition and in the public interest, temporarily suspend the Contractor's operations on the project or upon any part of it. In the event of such suspension, except in emergency, the Contractor shall be given three (3) calendar days notice and the work shall be resumed within five (5) calendar days after notice has been given to the Contractor to do so. The City shall allow the Contractor an extension of time for completion corresponding to the total period of the temporary suspension and shall reimburse the Contractor for necessary rental of unused equipment, services of watchmen, and other unavoidable expenses occurring by reason of the suspension without fault of Contractor. The Contractor shall not be entitled to damages, overhead costs, or anticipated profits arising from such temporary suspension.

Pursuant to Section 6.2 and 6.5, the City shall have authority to suspend the work in whole or in part for failure of the Contractor to properly carry out the provisions of the contract or the directives of the City for such periods as the City may deem necessary due to conditions considered unsuitable for the performance of the work or for any reason deemed to be in the public interest.

Pursuant to Section 10.6, if the Contractor voluntarily suspends operations for its own purpose, an order to resume the work may not be required or issued. However, in all cases of suspension of construction operations by the Engineer, the work shall not again be resumed until permitted by order of the Engineer. No additional time for completion or request for compensation will be allowed for voluntary suspensions of the work.

At the commencement of and during any suspension of the work, the Contractor shall be responsible for the care of the work performed and take every precaution to prevent any damage or deterioration of the work including temporary protection devices to warn, safeguard, protect, guide and inform traffic, during suspension the same as though its performance had been continuous and without interferences (Reference Section 6.8).

If the suspension of the work is due to failure on the part of the Contractor to correct conditions unsafe for workers or the general public, or to carry out orders given, or to perform any provisions of the contract, then and in such event, he shall be solely responsible for making suitable provisions for necessary traffic and bear the costs of maintaining the work under the contract during the period of suspension. If the Contractor at any time fails to provide for traffic and to maintain the work, the City may immediately proceed to maintain such work and the entire costs of this maintenance will be deducted from monies due or to become due the Contractor on the contract.

The Contractor's voluntary or involuntary suspension or slowdown, with or without the approval of the Engineer, and suspension of the work ordered by the Engineer or the City will not be grounds for claims by the Contractor for damages, idle equipment or labor or extra compensation. No allowance or compensation will be made on account of such suspension of work except as provided hereinbefore and as provided in Section 5.4 and 5.6.

The Contractor shall be responsible for damage to the work that may occur during suspension of work the same as though the damage had occurred while the work was in progress.

10.6 Delays and Extensions: The City may grant extensions of time to the extent it finds reasonable and justified when the delay is due solely to causes beyond the control of the Contractor and subcontractors and without any fault or negligence or participation by them.

Causes which will be given consideration for an extension of contract time include, but are not limited to, the following:

- 1) Errors, changes or omissions in the plans, or errors or changes in the Specifications;
- 2) Failure of the City, its representatives and its other Contractors to act promptly in carrying out obligations and duties;
- 3) Performance of Extra Work as described in Section 5.9;
- 4) Court orders enjoining the prosecution of the project or an act of the City not authorized by the contract or permitted by law;
- 5) By fire, lightning, earthquake, tornado, cyclone, hurricane, riot, insurrection or war, or by the abandonment of the work by the workmen engaged therein through no fault of the Contractor;
- 6) Epidemics, quarantine restrictions, freight embargoes and acts of the public enemy;
- 7) Periods when the work is temporarily suspended upon written order of the City.

The City will not consider an extension of contract time based on shortage or inadequacy of labor and equipment, negligence or fault of the Contractor, and

other deficiencies or lacks which are within the province of the Contractor's control or responsibility.

If, in the judgment of the Engineer, insufficient force is being employed, or inadequate equipment and methods are used, or if progress is for any reason unduly delayed, the Engineer may instruct the Contractor in writing to increase the force or equipment, or adopt improved methods to expedite the work, and the Contractor shall heed and follow such instructions, but conformity to the Engineer's instructions shall not relieve the Contractor of any responsibilities under the contract.

An extension of contract time will be considered only if the Contractor has given written notice to the Engineer within five (5) calendar days after occurrence of the delay for which he claims allowance and if he makes claim for such extension prior to the contract completion date. THE DECISION BY THE PURCHASING AGENT OF THE TERMS OF ANY EXTENSION OR DENIAL THEREOF SHALL BE FINAL.

10.7 Liquidated Damages: TIME IS OF THE ESSENCE ON THIS CONTRACT. Failure of the Contractor to complete the work within the time allowed will result in damages being sustained by the City. For each consecutive calendar day in excess of the time specified for completion of the work (as adjusted), the Contractor shall pay to the City, or have withheld from monies due him, the amount stated in the Contract and Agreement, unless otherwise provided in the special conditions, as liquidated damages.

Execution of the contract under these Specifications shall constitute agreement by the City and Contractor that the liquidated damages amount stated in the Contract and Agreement is the minimum value of the costs and actual damage caused by failure of the Contractor to complete the work within the allotted time, that such sum is liquidated damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

Permitting the Contractor to continue and finish the work or any part thereof after the contract time or adjusted contract time, as pertinent, has expired shall in no way operate as a waiver on the part of the City of any of its rights under the contract.

Payment of liquidated damages shall not release the Contractor from obligations in respect to the fulfillment of the entire contract, nor shall the payment of such liquidated damages constitute a waiver of the City's right to collect any additional damages which may be sustained by failure of the Contractor to carry out the terms of the contract, it being the intent of the parties that said liquidated damages

be full and complete payment only for failure of the Contractor to complete the work on time.

- 10.8 Contractor's Representative: The Contractor shall designate in writing before starting work an authorized representative, who shall have complete authority to represent and to act for the Contractor in his absence from the work site, in all directions given to him by the Engineer. The Contractor or the authorized representative shall give efficient supervision to the work, using the best skill and personal attention to the prosecution of the work, and shall be present on the site continually during its progress.

If called for in the Contract Documents, the Contractor shall maintain an office on or adjacent to the site of the project. The Contractor shall keep a complete copy of the Plans and Specifications on or near the site at all times. If the Contractor and the authorized representative are not present on any part of the work where it may be necessary to give instructions, directions may be given by the Engineer or his representative to the superintendent or foreman who may have charge of that particular part of the project, and such order shall be received and followed. Such directions shall not be deemed to change the status of Contractor or Subcontractor, nor to make the City an employer, nor to give the City direct responsibility for the methods and manner of the work.

Such directions of major importance will be confirmed in each case on written request from the Contractor.

Incompetent, careless or negligent employees or agents who threaten public safety shall forthwith be removed from work on this contract by the Contractor upon written request of the Engineer, and failure to comply with such request shall be sufficient grounds for termination of the contract.

- 10.9 Contractor's Equipment: The Contractor shall at all times employ sufficient and suitable equipment for prosecuting the work to full completion in the manner and time required by the terms of the contract.

Should the Contractor fail to furnish suitable and sufficient equipment for the proper prosecution of the work, the Engineer may suspend the work by written notice until such orders are complied with and such deficiencies are corrected as provided in Section 10.5.

- 10.10 Conflicts, Errors and Omissions: The Contractor shall check and compare all plans prior to construction and notify the Engineer of any discrepancies or omissions in order to permit correction by the Engineer. Coordination of plans and specification is intended. The Contractor shall furnish labor and materials required for the work if indicated on one and not the other as fully as if mentioned or indicated on both, and should any work or materials be reasonably required or

intended for carrying the project to completion which are inadvertently omitted on the Plans or Specifications. The Contractor shall furnish the same as fully as if particularly delineated or described.

It is understood to be the intent of the Plans and Specifications to show and describe a complete project within the limits shown. Dimensions shown on the plans shall be used rather than scaled measurements. Whenever it may appear that the contract plans are not sufficiently detailed or explicit, the Engineer may furnish additional detail drawings or written instructions and the Contractor shall perform the work to such additional detail drawings or written instructions. In case of conflict between the requirements set forth in the Contract Documents, the decision of the Engineer shall be final.

10.11 Completion of Work by City: If the work to be done under this contract should be abandoned by the Contractor, or if this contract shall be assigned, or the work sublet by him, otherwise than as herein specified, or if at any time the Engineer shall be of the opinion that the performance of the contract is unnecessarily or unreasonably delayed or that the Contractor is willfully or continuously violating any of the conditions or covenants of this contract, or of the Specifications, or is executing the same in bad faith or not in accordance with the terms thereof; or if the work be not fully completed within the time named in this contract for its completion, or within the time to which the completion of the contract may be extended by the City, the City may notify the Contractor to discontinue all work, or any part thereof under this contract, by a written notice to be served upon the Contractor, as herein provided; and the Contractor shall, within five (5) calendar days of the service of said notice, discontinue the work, or such part thereof, and the City shall thereupon have the power to contract for the completion of the Contract in the manner prescribed by law, or to place such and as many persons as it may deem advisable, by contract or otherwise, to work, and complete the work herein described, or such part thereof; to procure materials and equipment for the completion of the same, and to charge the expense of said labor and materials to the Contractor. The expense so charged shall be deducted and paid by the City out of such monies as may be due or may at any time thereafter become due to the Contractor under and by virtue of this contract, or any part thereof. And in case such expense shall exceed the amount which would have been payable under the Contract if the same had been completed by the Contractor, the Contractor and his surety shall pay the amount of such excess to the City.

10.12 Use of Improvement During Construction: The City shall have the right to take possession of and use any completed or partially completed portions of the work. Such use shall not be considered as final acceptance of any portion of the work. If such prior use increases the cost of, or delays the work, the Contractor shall be entitled to such extra compensation or extension of time, or both, as the Engineer

may determine unless otherwise provided for in the Contract Documents. A request for extra compensation must be submitted in writing and in accordance with Section 5.9 by the Contractor to be considered.

10.13 Termination of Contract: All terms and conditions of the contract are considered material, and failure by the Contractor to comply with any of said terms or conditions shall, at the City's option, be deemed a breach of the contract. Upon such failure, the City shall have the right, whether an alternative right is provided or not, to declare the contract terminated. The issuance by the City of an order stating that the contract is terminated, and service of a copy of said order upon the Contractor and the Contractor's surety shall be deemed a complete termination of the contract. Upon the contract being so terminated, the City may retain all sums due under the contract and both the Contractor and his sureties shall be liable under the bond for all losses, expenses and damages caused to the City by reason of failure to complete the contract, and the surety shall be required, at the City's option, to complete the project. Notwithstanding such termination, the Contractor and the Contractor's sureties shall remain liable under the terms of the contract for work performed prior to such termination.

10.14 Default by Contractor: If the Contractor fails to begin work as required by the contract, or be adjudged bankrupt, or make a general assignment for the benefit of his creditors, or a receiver is appointed on account of insolvency, or if at any time when work has been resumed after a Suspension of Work (pursuant to Section 10.5), the Contractor refuses, neglects or fails to correct the deficiency(s) or reason(s) for the suspension, or if the Contractor abandons the work, the Engineer may give written notice of default to the Contractor and the Contractor's surety, and the Contractor shall discontinue or not begin the work, and any or all payments due or that may become due the Contractor may be withheld by the City until the completion by the City, surety, or another person of all work included in the contract, and until expiration of any maintenance and/or warranty period.

After service on the Contractor of such order to desist from work or part thereof, or notice of termination as set forth in Section 10.13, the City may take possession of the project or such designated part thereof, and may, by contract or otherwise, provide supervision of workers, materials, appliances and equipment necessary for the completion of, and complete the project or such designated part thereof. The expense incurred for completion of the project or part thereof, together with all damages, liquidated or otherwise sustained or to be sustained by the City shall be deducted from the fund or appropriation set aside for the purpose of the contract and shall be charged to the Contractor as if paid. In case the amount of such expenses and damages exceeds the sum which would have been payable under the contract if completed entirely by the Contractor, the amount of such excess shall be paid to the City by the Contractor and the Contractor's sureties shall be liable to the City therefore; in case the amount of such expenses and

damages shall be less than the sum which would have been payable under the contract if completed entirely by the Contractor, he shall be entitled only to payment in accordance with contract terms for the work the Contractor actually performed, subject however, to all terms of said contract.

The Contractor shall complete all work unless an order to desist as provided above has been received, and shall cooperate with and in no way hinder or interfere with forces employed by the City or others.

None of the foregoing provisions, or the provisions in Section 10.13 shall be construed to require the City to complete the work, or to waive or in any way limit or modify the provisions of the contract relating to the fixed and liquidated damages suffered by the City on account of the failure of the Contractor to complete the project within the time prescribed.

10.15 Completion and acceptance: After completion of all items of work specified in the contract, and completion of the final inspection as set forth in Section 6.14, the Engineer will recommend to the City that the work be accepted and payment be made as provided for in Section 11.3.

IT IS MUTUALLY AGREED BETWEEN THE CITY AND THE CONTRACTOR THAT NO PAYMENT MADE UNDER THE CONTRACT EXCEPT THE FINAL PAYMENT SHALL BE EVIDENCE OF THE PERFORMANCE OF THE CONTRACT, EITHER WHOLLY OR IN PART, AND THAT NO PAYMENT SHALL CONSTITUTE AN ACCEPTANCE OF UNAUTHORIZED OR DEFECTIVE WORK OR IMPROPER MATERIAL.

The acceptance of the contract work shall not prevent the City from making claim against the Contractor for any defective work if same is discovered within the guaranty period.

All work shall be and is guaranteed by the Contractor for a period as specified after the date of final acceptance of all the work by the City.

If, within said guaranty period, repairs or changes are required in connection with guaranteed work, which, in the opinion of the Engineer, is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract, the Contractor shall, promptly upon receipt of notice from the City, and without expense to the City: a) place in satisfactory condition in every particular all of such guaranteed work, correct all defects therein; and b) make good all damage to the building site, equipment, or contents thereof which in the opinion of the Engineer, is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and c) make good any work or

material, or the equipment and contents of the building, structure or site disturbed in fulfilling any such guarantee.

If the Contractor, after notice, fails within ten (10) days (or a shorter time if required pursuant to Section 4.17) to proceed to comply with the terms of this guarantee, the City may have the defects corrected, and the Contractor and his surety shall be liable for all expense incurred provided however, that in case, of an emergency where, in the opinion of the Engineer, delay would cause serious loss or damage, repairs may be made without notice being given to the Contractor and the Contractor shall pay the cost thereof.

During the final inspection minor deficiencies may be noted which do not substantially affect the intent of the Contract Documents. These items will be noted and supplied to the Contractor before final payment. Until such time as these items are corrected final payment may be withheld.

END OF SECTION

## GENERAL CONDITIONS

### SECTION 11

#### MEASUREMENT AND PAYMENT

- 11.1 Measurement of Quantities for "Unit Price" work: Materials and items of work which are to be paid for on the basis of measurement shall be measured in accordance with the methods stipulated in the particular sections involved.

When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales or, when approved by the Engineer, on a completely automated weighing and recording system. The Contractor shall furnish the Engineer with duplicate licensed weighmaster's certificates showing the actual net weights. The City will accept the certificates as evidence of the weighs delivered.

Measurements shall be in accordance with U.S. Standard Measures. A pound is an avoirdupois pound. A ton is 2,000 pounds avoirdupois. The unit of liquid measure is the U.S. gallon.

The Contractor shall submit to the Engineer within fifteen (15) calendar days after award of contract, a detailed schedule of values, in triplicate, to be used only as a basis for determining progress payments on any designated unit price bid item. This schedule shall equal in total the unit price and shall be in such form and sufficiently detailed as to satisfy the Engineer that it correctly represents a reasonable apportionment of the unit price.

- 11.2 "Lump Sum" work: Items for which quantities are indicated as "lump sum," "L.S." shall be paid for at the price indicated in the bid. Such payment shall be full compensation for the items of work and all work appurtenant thereto.

The Contractor shall submit to the Engineer within fifteen (15) calendar days after award of contract, a detailed schedule of values, in triplicate, to be used only as a basis for determining progress payments on a lump sum contract or any designated lump sum bid item. This schedule shall equal in total the lump sum bid and shall be in such form and sufficiently detailed as to satisfy the Engineer that it correctly represents a reasonable apportionment of the lump sum.

11.3 Payment: Payment of all estimates, including the final, will be made only for actual quantities of work performed and materials in place as determined by the measurements of the Engineer, and this determination as to the quantities involved in any contract shall be accepted as final, conclusive and binding upon the Contractor.

Upon the completion of the required work as called for in the Contract Documents, should the final estimate of quantities show either an increase or decrease from the estimated quantities, then such variations will be computed at the unit price.

Payment to the Contractor for work satisfactorily performed will be made monthly. Ninety-five percent (95%) of work completed will be paid and five percent (5%) retained until the entire work has been completed and accepted.

**FINAL PAY VOUCHERS SHALL BE SIGNED BY THE CONTRACTOR AND CERTIFIED AS BEING PAYMENT IN FULL FOR THE CONTRACT.**

11.4 Payment to subcontractor: The Contractor must take one of the two following actions within seven (7) calendar days after receipt of amounts paid to the Contractor for work performed under this contract:

- a) Pay the subcontractor the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under this contract; or
- b) Notify the owner and subcontractor, in writing, of his intention to withhold all or part of the subcontractor's payment with the reason for nonpayment.

11.5 Payment of interest to subcontractor: The Contractor must pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment for work performed by the subcontractor under this contract, except for amounts withheld as allowed in Section 11.3 of the General Conditions. Interest shall accrue at the rate of one (1) percent per month. The Contractor is to include in each of its subcontracts 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.

11.6 Acceptance of final payment: The acceptance by the Contractor of the final payment shall release the City and its representatives from all claims and all liability to the Contractor for all things done or furnished in connection with the work, and every act of the City and others relating to or arising out of the work. No payment, however, final or otherwise, shall operate to release the Contractor or the Contractor's sureties from obligations under the contract and the performance, payment and other bonds and warranties, as herein provided.

11.7 Final Guaranty: All work shall be and is guaranteed by the Contractor for a period of one (1) year after the date of final acceptance of all the work by the City.

If, within said guaranty period, repairs or changes are required in connection with guaranteed work, which, in the opinion of the Engineer is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract, the Contractor shall promptly upon receipt of notice from the City, and without expense to the City: a) place in satisfactory condition in every particular all of such guaranteed work, correct all defects therein; b) make good all damage to the building, site equipment or contents thereof, which in the opinion of the Engineer, is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and c) make good any work, materials, equipment, or contents of building structure or site disturbed in fulfilling any such guarantee.

If the Contractor, after notice, fails within ten (10) calendar days (or shorter time if required pursuant to Section 4.17) to proceed to comply with the terms of this guaranty, the City may have the defects corrected, and the Contractor and the Contractor's surety shall be liable for all expense incurred, provided, however, that in case of an emergency where, in the opinion of the Engineer, delay would cause serious loss or damage, repairs may be made without notice being given to the Contractor and the Contractor shall pay the cost thereof.

END OF SECTION

**CITY OF NEWPORT NEWS  
DEPARTMENT OF PUBLIC UTILITIES (WATERWORKS)  
COPELAND PARK TANK REHABILITATION PROJECT  
SPECIAL CONDITIONS**

These Special Conditions amend or supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

**TABLE OF SECTIONS**

- SC-1 Terms, Definitions, and Abbreviations
- SC-2 Bid Requirements
- SC-4 Legal Relations and Responsibilities
- SC-6 Control of Work
- SC-8 Submittals and Substitutions
- SC-10 Prosecution and Progress of Work
- SC-11 Measurement and Payment

**SECTION SC-1 - TERMS, DEFINITIONS, AND ABBREVIATIONS**

SC-1.1 The terms used herein in these Supplementary Conditions which are defined in the General Conditions.

SC-1.2 Modify the definitions shown and add definitions as hereinafter described:

Modify the definition shown for “Contractor” by adding the following sentence to the definition:

The term “CONTRACTOR” shall have the same meaning as the term “Contractor”.

Modify the definition shown for “Engineer” by adding the following sentence to the definition:

The term “ENGINEER” shall have the same meaning as the term “Engineer”.

Modify the definition shown for “Owner” by adding the following sentence to the definition:

The term “OWNER” shall have the same meaning as the term “Owner”.

Between the definitions shown for “Extra Work” and “Inspector” add the following definition:

Final Completion: Work is completed and ready for acceptance by the City in accordance with Paragraph 10.15 of the General Conditions. In the case of this work, the tank is cleaned, painted, cured, disinfected, and ready for service and all site work, restoration work, clean-up, disposal, etc. is completed.

Between the definitions shown for “Sub-Contractor” and “Supplemental Specifications” add the following definition:

Substantial Completion: The work (or a specified portion thereof) has progressed to the point where, in the opinion of the Engineer as evidenced by the Engineer’s definitive Certification of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be used for the purposes for which it is intended, or if there is no such certificate issued, when final payment is due in accordance with Paragraph 10.15 of the General Conditions. The terms “substantially complete” and “substantially completed” as applied to any Work refer to the Substantial Completion thereof. In the case of this Work, the tank is cleaned, painted, cured, disinfected, and ready for service.

## **SECTION SC-2 - BID REQUIREMENTS**

### **SC-2.4 Examination of Contract Documents and Site of Work:**

Add the following new paragraphs prior to the last paragraph of Section 2.4 of the General Conditions, to read as follows:

In preparation of the Drawings and Specifications, the Engineer has relied upon the Evaluation of the 5,000,000 Gallon Steel Ground Storage Tank “Copeland Park Tank” dated May 24-27, 2005. Also included at the end of the Technical Specifications is a Summarized Tank Information Sheet.

The report and information sheet are provided solely to assist the Contractor in making his own determination of the nature and extent of conditions which may be encountered during the course of the Work. The information contained in such sheets and reports is not considered

technical in nature, rather the ENGINEER's opinion of the condition of the site and structure. Therefore, CONTRACTOR is not entitled to rely on any information contained in such sheets and reports. Such information and reports are made available to BIDDER as a courtesy only.

A copy of the above-referenced report is in Appendix A at the end of the Project Manual. This report is not intended to constitute any explicit or implicit representation as to the nature of the subsurface and latent physical conditions which may be encountered at the site or to constitute explicit or implicit representations as to any other matter contained in any report. This report is not guaranteed as to accuracy of completeness.

#### SECTION SC-4 - LEGAL RELATIONS AND RESPONSIBILITIES

##### SC-4.9 Permits, Laws, Licenses and Taxes

The CONTRACTOR's responsibilities shall include, but not be limited to, the following items:

Jurisdiction of the Work: All work to be conducted is located within the jurisdiction of the City of Newport News. The General Information Number for the City of Newport News is 757-886-7880.

- Business Licenses and Taxes: The CONTRACTOR shall obtain and maintain a valid business license with the governing jurisdiction throughout the duration of the project. The CONTRACTOR shall pay prevailing fees and taxes according to the requirements of the Newport News Office of Commissioner of Revenue (757-926-8651).

##### SC-4.11 Defense of Suits

Insert a second paragraph after the first paragraph of General Conditions Article 4.11 as follows:

To the fullest extent permitted by laws and regulations, CONTRACTOR shall indemnify and hold harmless OWNER, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred by OWNER, or OWNER's Consultants arising out of or relating to any failure of CONTRACTOR to comply with the requirements set forth in the General Conditions.

##### SC-4.17 Guarantee and Maintenance

In the first sentence of the first paragraph,

DELETE:

“final acceptance”

REPLACE WITH:

“substantial completion”

In the second paragraph,

DELETE:

“final acceptance”

REPLACE WITH:

“substantial completion”.

#### SECTION SC-6 - CONTROL OF WORK

##### SC-6.5 Authority and Duties of Inspectors:

Add the following sentence to the end of the sixth paragraph of Section 6.5 of the General Conditions:

If it is found that such Work is defective, the Contractor shall pay all claims, costs, losses and damages (including, but not limited to, all fees and charges of engineers, architects and other professionals) incurred by the City which are caused by, arise out of, or result from such defective Work.

##### SC-6.7 Add the following after the last paragraph:

Subcontracting of the cleaning and painting shall not be allowed. If a SUBCONTRACTOR is used for any work, the name and address of the proposed SUBCONTRACTOR shall be stated in the **Bid Form**.

All chemicals used during project construction, or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or other classification, must show approval of either EPA or USDA. Use of all such chemicals and disposal of residues shall be in strict conformance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents.

Contractor shall comply with all applicable laws and regulations (including but not limited to all rules and regulations promulgated under OSHA and the Commonwealth of Virginia) relating to safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for safety and protection.

Unless otherwise specified, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

Contractor provided chemical toilet and wash-up facilities shall be located immediately adjacent to the tank and shall be kept clean, in sanitary working condition, and free of offensive odors. Upon completion of the work, the facilities shall be removed from the site.

All materials and equipment incorporated into the work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of the Owner. If required by the Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the site and other areas permitted by laws and regulations, and shall unreasonably encumber the site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any adjacent land or areas resulting from the performance of the Work.

During the progress of the Work, Contractor shall keep the site and other areas free from accumulations of waste materials, rubbish, and other debris and keep the working area free at all times of tools, materials, and equipment not essential to the progress of the Work. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable laws and regulations.

Where waste materials, rubbish, and other debris have washed or flowed into or been placed in watercourses, ditches, gutters, drains, catch-basins, or elsewhere as result of Contractor's operations, such materials shall be entirely removed and satisfactorily disposed of during the progress of the Work. The watercourses, ditches, gutters, drains, catch-basins, etc. shall be kept in a clean and neat condition.

Prior to Substantial Completion, Contractor shall clean the Site and make it ready for utilization by the Owner. At the completion of the Work, Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract documents.

SC-6.15 Add the following paragraph:

6.15 Project Sign: Contractor shall procure and erect a project sign per the details of the drawing on the following page. The cost for the sign and its installation and removal at the end of the Project shall be included in the Base Bid. Data for the sign shall be modified as noted:

COPELAND PARK TANK REHABILITATION PROJECT (CONTRACT NO. 80)

Contractor: [Insert Name of Successful Bidder]

Construction Cost: [Insert Successful Bid Amount]

Estimated Completion Date: [To Be Determined based on Notice to Proceed]

For information call the City of Newport News Waterworks at 926-1155

CITY INFORMATION FOR SIGN:

*Your City in Progress!*

MAYOR

Joe S. Frank

Madeline McMillan

Sharon P. Scott

Tina L. Vick

Dr. Pat Woodberry

VICE MAYOR

Joseph C. Whitaker

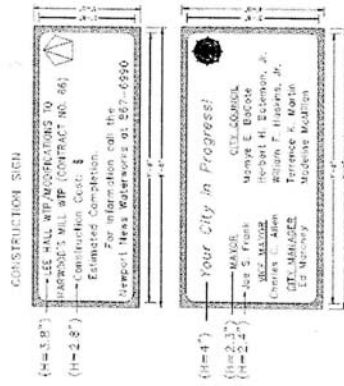
CITY MANAGER

Randy W. Hildebrandt

CITY COUNCIL

Herbert H. Bateman, Jr.

SC-7



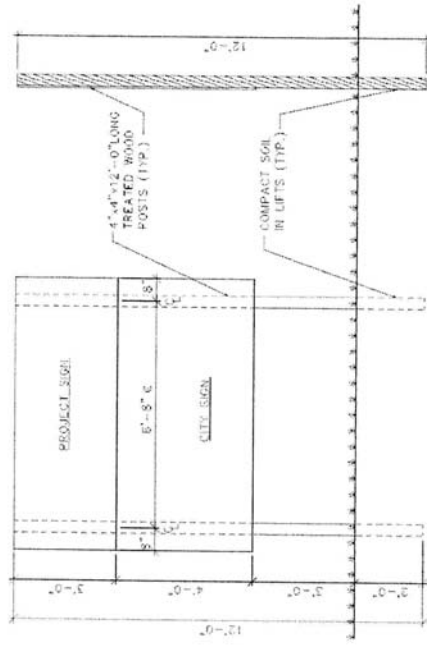
**NOTES:**

1. 8'-4" OF 5/8" PLYWOOD, MOUNT ON 4" X 4" TREATED POSTS
2. PAINTED BY CONTRACTOR
3. PAINTED LETTERING AS INDICATED
4. HEIGHT OF LETTERING AS SHOWN

**COLORES:**

BORDER AND LETTERING: SIERRA WILLIAMS  
 SWIRL: MALACHITE GREEN  
 BACKGROUND: SIERRA WILLIAMS  
 SWIRL: PINK ISLANDA

\* CONSTRUCTION SIGN REQUIRED ON ALL PROJECTS UNLESS OTHERWISE NOTED.



## SECTION SC-10 PROSECUTION AND PROGRESS OF WORK

### SC-10.15 Completion and Acceptance:

Before the first sentence add the following:

When the Contractor considers the entire Work ready for its intended use, the Contractor shall, in writing to the City and the Engineer, certify that, the entire Work, or portion presented, is substantially complete and request that the Engineer issue a Certificate of Substantial Completion. Substantial Completion date shall be considered when disinfection is accomplished. One tank of water for disinfection shall be furnished by the Owner at no charge to the Contractor. Additional water, in the event the first and any subsequent tests do not return satisfactory results, shall be furnished at current municipal water rate charged by the Owner and shall be paid for by the Contractor.

If the Engineer does not consider the Work substantially complete, the Engineer will notify the Contractor in writing giving his reasons therefor. If the Engineer considers the Work substantially complete, the Engineer will prepare and deliver to the City a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. The City shall have seven days after receipt of the tentative certificate during which the City may make written objection to the Engineer as to any provisions of the certificate or attached list. If, after considering such objections, the Engineer concludes that the Work is not substantially complete, the Engineer will within fourteen days after submission of the tentative certificate to the City notify the Contractor in writing, stating his reasons therefor. If, after consideration of the City's objections, the Engineer considers the Work substantially complete, the Engineer will within said fourteen days execute and deliver to the City and the Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as the Engineer believes justified after consideration of any objections from the City. At the time of delivery of the tentative certificate of Substantial Completion, the Engineer will deliver to the City and the Contractor a written recommendation as to division of responsibilities pending final payment between the City and the Contractor with respect to security, operation, safety, maintenance, heat, utilities and insurance.

The Owner shall have the right to exclude the Contractor from the Work after the date of Substantial Completion, but the Owner shall allow the Contractor reasonable access to complete or correct items on the tentative list.

Use by the Owner of completed portions of the Work may be accomplished prior to Substantial Completion of all the Work subject to the following:

1. The Owner at any time may request the Contractor in writing to permit the Owner to use any part of the Work which the Owner believes to be substantially complete and which may be used without significant interference with construction of the other parts of the Work. If the Contractor agrees, the Contractor will certify to the Owner and the Engineer that said part of the Work is substantially complete and request the Engineer to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time thereafter the Owner, the Contractor and the Engineer shall make an inspection of that part of the Work to determine its status of completion. If the Engineer does not consider that part of the Work to be substantially complete, the Engineer will notify the Owner and the Contractor in writing giving his reason therefor. If the Engineer considers that part of the Work to be substantially complete, the Engineer will execute and deliver to the Owner and the Contractor a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, attaching thereto a tentative list of items to be completed or corrected before final payment. Prior to issuing a certificate of Substantial Completion as to part of the Work, the Engineer will deliver to the Owner and the Contractor a written recommendation as to the division of responsibilities pending final payment between the Owner and the Contractor, with respect to security, operation, safety, maintenance, utilities and insurance for that part of the Work. The Owner shall have the right to exclude the Contractor from any part of the Work which the Engineer has so certified to be substantially complete, but the Owner shall allow the Contractor reasonable access to complete or correct items on the tentative list.
2. In lieu of the issuance of a Certificate of Substantial Completion as to part of the Work, the Owner may take over operation of a facility constituting part of the Work whether or not it is substantially complete if such facility is functionally and separately useable; provided that prior to any such take over, the Owner and the Contractor have agreed as to the division of responsibilities between

the Owner and the Contractor for security, operation, safety, maintenance, correction period, heat, utilities and insurance with respect to such facility.

++ END OF SECTION ++