

**EAST END WATER SYSTEM IMPROVEMENTS
INVITATION FOR BID
PROJECT NUMBER FY16-01**

Town of Middleburg, Virginia

ACCEPTANCE DATE: Prior to 3:00 p.m., October 16, 2015

ACCEPTANCE PLACE:

Town of Middleburg, Virginia
10 W. Marshall Street
Middleburg, VA 20117

SEALED BIDS:

Sealed Bids will be received at the Town of Middleburg's office, Attention: Ms. Martha Mason Semmes. The Bids will not be publicly opened by the Town. Bids received after the acceptance time and date will not be accepted.

Bids shall be enclosed in an envelope labeled,
"Town of Middleburg East End Water System Improvements
Attention: Ms. Martha Mason Semmes, Town Administrator".

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

Name: Ms. Martha Mason Semmes
Title: Town Administrator
(540) 687-5152
townadmin@townofmiddleburg.org

Issue Date: September 16, 2015

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

NOTE: All contractors intending to submit a bid are requested to register with the Town
and the Architect/Engineer (A/E) by email at the following addresses:

townadmin@townofmiddleburg.org
DWestman@wrallp.com

Addenda will be issued to the registered contractors by email.
**TOWN OF MIDDLEBURG EAST END WATER SYSTEM IMPROVEMENTS
INVITATION FOR BID**

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**TOWN OF MIDDLEBURG EAST END WATER SYSTEM IMPROVEMENTS
BIDDING AND CONTRACT REQUIREMENTS**

1.0 PROJECT

The project involves the installation of approximately 1,100 linear feet of new 8-inch diameter PVC water main along East Washington Street and along North Pinckney Street from East Washington Street to East Marshall Street. The work includes connecting the new Pinckney Street water main to the existing 6-inch water main at Orange Drive and to the existing 6-inch water main on East Marshall Street. The new water main will also be connected to the 12-inch water main to be constructed as part of the VDOT Route 50 street improvements project. The East End Water System Improvements Project also includes connecting the new water mains to existing and new meters and abandoning the existing 2-inch galvanized steel water main along East Washington Street. This work is further described in Division 1.

2.0 AWARD OR REJECTION OF BIDS

It is the intent of the Town to award the construction contract to the lowest Base Bid price from a responsive and responsible Bidder complying with all the provisions of this bid document, provided the Base Bid price is reasonable and it is to the interest of the Town to accept it. However, the Town reserves the right to cancel the project, at no penalty, up to the issuance of the "Notice to Proceed". The Town reserves the right to reject any or all bids and to waive any informality or deficiency in bids received, whenever such rejection or waiver is in the best interest of the Town. The Town also reserves the right to reject the bid of a Bidder who has previously failed to perform properly or to complete, on time, contracts of a similar nature, or after investigation, it is the Town's opinion that the Bidder is not in a position to perform the Contract.

3.0 DISCREPANCIES

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

4.0 CONTRACT TERMS AND CONDITIONS

The Contract with the successful bidder will contain the following Terms and Conditions. These Terms and Conditions are not negotiable.

4.1 Procedures. The extent and character of the services to be performed by the Contractor shall be subject to the general control and approval of the Town of Middleburg or its authorized representative(s).

4.2 Delays. If delay is foreseen, Contractor shall give immediate written notice to the Town. Town has the right to extend completion date if reasons appear, in the sole discretion of the Town, to be valid. Contractor must keep the Town advised at all times of status of Work.

4.3 Material Safety Data Sheets. By law, the Town of Middleburg will not receive any materials, products, or chemicals which may be hazardous to an employee's health unless accompanied by a Material Safety Data Sheet (MSDS) when received. This MSDS will be reviewed by the Town, and if approved, the materials, product or chemical can be used. If the MSDS is rejected, the Contractor must identify a substitute that will meet the Town's criteria for approval.

4.4 Insurance.

- A. The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract.
- B. The Contractor shall, during the continuance of all work under the Contract provide, and require that its subcontractors provide, the following:
 - 1. Workers' Compensation and Employer's Liability to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.
 - 2. Comprehensive General Liability insurance to protect the Contractor, its subcontractors, and the interest of the Town, its officers, employees, and agents against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverage for explosion, collapse, and underground hazards, where required.
 - 3. Owned, non-owned, and hired Automobile Liability insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor or subcontractor. In addition, all mobile equipment used by the Contractor, or subcontractor, in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.
 - 4. Builder's Risk and Fire and Extended Coverage insurance to protect the Town and Contractor and subcontractors. Such insurable value shall reflect any increases to the Contract amount through Change Orders. Policy to be in Builder's Risk Completed Value forms, including the following:
 - a. Policies shall be written to include the names of Contractors and Town and the words "as their interest may appear";
 - b. All insurance shall be in effect on or before the date when construction work is to commence; and

- c. All insurance shall be maintained in full force and effect until the final acceptance of the project by the Town.
 - 5. Boiler and machinery insurance as may be required by the Contract Documents. This insurance shall include the interests of the Town, the Contractor and subcontractors.
- C. The Contractor agrees to provide, and require its subcontractors to provide, the above referenced policies with the following limits. Liability insurance limits may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.
- 1. Workers' Compensation:
 - Coverage A: Statutory
 - Coverage B: \$100,000
 - 2. General Liability:
 - Per Occurrence: \$1,000,000
 - Personal/Advertising Injury: \$1,000,000
 - General Aggregate: \$2,000,000
 - Products/Completed Operations: \$2,000,000
 - Fire Damage Legal Liability: \$100,000
 - GL Coverage, excluding Products and Completed Operations, must be on a Per Project Basis
 - 3. Automobile Liability:
 - Combined Single Limit: \$1,000,000
 - 4. Builders' Risk: 100% of Value: 100% of the insurable value of the Contract. Insurable value does not include site acquisition, site work, grading, infrastructure etc.
 - 5. Boiler & Machinery: (If applicable) \$1,000,000
- D. The following provisions shall be agreed to by the Contractor:
- 1. The Town shall be named as an additional insured on an endorsement to the insurance policy. Prior to the Commencement Date, Contractor shall obtain and furnish to the Town Administrator a Certificate of Insurance naming the Town, its officers, employees and agents, as additional insureds, giving a forty-five (45) day notice of cancellations, non-renewal, change in the insurance coverage, and/or restrictions. Additional insured status can only be provided as an endorsement to the Contractor's insurance. This endorsement must be issued by the insurance company and evidence of the required endorsement provided to the Town. A notation of Additional Insured status on a Certificate of Insurance is not sufficient. Similarly, Contractor shall not allow any approved subcontractor to commence Services under the Contract on its subcontract

until subcontractor has obtained and provided evidence to the Town of the insurance required hereunder. The Contractor shall obtain and furnish to the Town Administrator a new certificate and endorsement prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate and endorsement will result in suspension of all payments until the new certificate and endorsement are furnished.

2. Liability Insurance "Claims Made" basis: If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:
 - a. Agree to provide, prior to commencing work under the Contract, certificates of insurance evidencing the above coverage for a period of five (5) years after final payment for the Contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's or subcontractor's work under this Contract, or
 - b. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
3.
 - a. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VII.
 - b. European markets including those based in London, and the domestic surplus lines market that operate on a non-admitted basis are exempt from this requirement provided that the Contractor's broker can provide financial data to establish that a market's policyholder surpluses are equal to or exceed the surpluses that correspond to Best's A:VII Rating.
4.
 - a. The Contractor will provide an original signed Certificate of Insurance and such endorsements as prescribed herein.
 - b. The Contractor will secure and maintain all insurance certificates and endorsements of its subcontractors which shall be made available to the Town on demand.
 - c. The Contractor will provide on request certified copies of all insurance coverage related to the Contract within ten (10) business days of demand by the Town. These certified copies will be sent to the Town from the Contractor's insurance agent or representative. Any request made under this provision will be deemed confidential and proprietary.
 - d. Any certificates provided shall indicate the Contract name and number.
5. The Town, its officers and employees shall be named as an "additional insured" via an endorsement to the Automobile, General Liability policies, and it shall be stated on the

Insurance Certificate with the provision that this coverage "is primary to all other coverage the Town may possess."

6. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities provisions of the Contract.
- E. Contractual and other Liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the Town from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors.
- F. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the Town. The Contractor shall be as fully responsible to the Town for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- G. Precaution shall be exercised at all times for the protection of persons (including employees) and property.
- H. Any loss insured under subparagraph 4.4.B.4 is to be adjusted with the Town and made payable to the Town as trustee for the requirements of any applicable mortgagee clause. The Contractor shall pay each subcontractor a just share of any insurance monies received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each subcontractor to make payments to his sub-subcontractors in similar manner.
- I. All firms or individuals located or doing business in the Town of Middleburg are required to be licensed in accordance with the Town's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in Loudoun County are exempt from this requirement.
- J. When the Town finds it necessary to occupy or use a portion or portions of the work prior to substantial completion thereof, such occupancy shall commence with a mutual agreement between the Town and Contractor. The insurance company or companies providing the property insurance recognize this contingency and shall provide evidence of such endorsement prior to commencement of work. This insurance shall not be canceled or lapsed for the unoccupied part of the building on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.
- K. If an "ACORD" Insurance Certificate form is used by the Contractor's insurance agent, the words "endeavor to" and "... but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.

L. The Contractor agrees to waive all rights of subrogation against the Town, its officers, employees, and agents.

4.5 Hold Harmless Clause. The Contractor shall, indemnify, defend, and hold harmless the Town from loss from all suits, actions, or claims of any kind brought as a consequence of any negligent act or omission by the Contractor. The Contractor agrees that this clause shall include claims involving infringement of patent or copyright. For purposes of this paragraph, "Town" and "Contractor" includes their employees, officials, agents, and representatives. "Contractor" also includes subcontractors and suppliers to the Contractor. The word "defend" means to provide legal counsel for the Town or to reimburse the Town for its attorney's fees and costs related to the claim. This section shall survive the Contract. The Town is prohibited from indemnifying Contractor and/or any other third parties.

4.6 Safety. The Contractor and all subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract. Also, all Contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.

4.7 Permits. It shall be the responsibility of the Contractor to comply with Town Ordinances by securing the necessary permits. All required permits, including trade permits, will be the responsibility of the Contractor. The Town shall waive any fees involved in securing Town permits.

4.8 Notice of Required Disability Legislation Compliance. The Town of Middleburg is required to comply with state and federal disability legislation: The Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and The Virginians with Disabilities Act of 1990. Specifically, the Town of Middleburg, may not, through its contractual and/or financial arrangements, directly or indirectly avoid compliance with Title II of the Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination by public entities on the basis of disability. Subtitle A protects qualified individuals with disability from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. It extends the prohibition of discrimination in federally assisted programs established by the Rehabilitation Act of 1973 Section 504 to all activities of State and local governments, including those that do not receive Federal financial assistance, and incorporates specific prohibitions of discrimination on the basis of disability in Titles I, III, and V of the Americans with Disabilities Act. The 1990 Virginians with Disabilities Act follows the Rehabilitation Act of 1973 Section 504.

4.9 Ethics in Public Contracting. The provisions contained in Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act as set forth in the 1950 Code of Virginia, as amended, shall be applicable to all Contracts solicited or entered into by the Town.

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

4.10 Employment Discrimination by Contractors Prohibited. Every Contract of more than \$10,000 shall include the following provisions:

- A. During the performance of this Contract, the Contractor agrees as follows:
 - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an equal opportunity employer.
 - 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.
- B. The Contractor will include the provisions of the foregoing paragraphs, 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

4.11 Contractor 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.

4.12 Drug Free Workplace

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

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

- 4.13 Taxes. The Contractor shall be responsible for the payment of any sales, use, or excise tax it incurs in providing the goods required by the Contract, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project.
- 4.14 Condition of Items. All items shall be new, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated herein. Verbal agreements to the contrary will not be recognized.
- 4.15 Substitutions. No substitutions, additions or cancellations, including those of key personnel, are permitted after award without written approval by the Town. Where specific employees are proposed by the Contractor for the work, those employees shall perform the work as long as those employees work for the Contractor, either as employees or subcontractors, unless the Town agrees to a substitution. Requests for substitutions shall be reviewed and may be approved by the Town at its sole discretion.
- 4.16 Workmanship and Inspection. All work under this Contract shall be performed in a skillful and workmanlike manner. The Contractor and its employees shall be professional and courteous at all times. The Town may, in writing, require the Contractor to remove any employee from work for reasonable cause, as determined by the Town. Further, the Town may, from time to time, make inspections of the work performed under the Contract. Any inspection by the Town does not relieve the Contractor of any responsibility in meeting the Contract requirements.
- 4.17 Cleaning Up. The Contractor shall at all times keep the adjacent areas of the property free from rubbish and the accumulation of any waste materials. Contractor shall be responsible for the removal of all trash at the end of each day, or more frequently as may be required by the Town, or its authorized representative.
- 4.18 Ordering, Invoicing and Payment. Contractor shall submit progress payments and invoices in duplicate at the end of each calendar month, such statement to include detailed breakdown of all charges, and shall be based on completion of tasks or deliverables for the period of time being billed. Invoices shall be submitted to:

Martha Mason Semmes, Town Administrator
Town of Middleburg, Virginia
10 W. Marshall Street, PO Box 187
Middleburg, VA 20118-0187

Upon inspection and acceptance of the work, the Town will render payment, less retainage, within thirty (30) days by the Town unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Contractor shall provide complete cooperation during any such investigation. The payments to the Contractor will not exceed 90% of the contract value until the water main improvements have been successfully put into operation for a minimum of 7 continuous days.

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

- 4.19 Payments to Subcontractors. Within seven (7) days after receipt of amounts paid by the Town for work performed by a subcontractor under this Contract, the Contractor shall either:
- A. Pay the subcontractor for the proportionate share of the total payment received from the Town attributable to the work performed by the subcontractor under this Contract; or
 - B. Notify the Town and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for non-payment.

The Contractor shall pay interest to the subcontractor on all amounts owed that remain unpaid beyond the seven (7) day period except for amounts withheld as allowed in item B. above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as set forth above with respect to each lower-tier subcontractor. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this provision may not be construed to be an obligation of the Town.

- 4.20 Assignment of Contract. This Contract may not be assigned in whole or in part without the written consent of the Town.

- 4.21 Termination. Subject to the provisions below, this Contract may be terminated by the Town upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the Contract may be extended upon written approval of the Town until said work or services are completed and accepted.

- A. Termination for Convenience: The Town may terminate this Contract for convenience at any time in which the case the parties shall negotiate reasonable termination costs.
- B. Termination for Cause: In the event of Termination for Cause, the thirty (30) days advance notice is waived and the Contractor shall not be entitled to termination costs.
- C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: If funds are not appropriated or otherwise made available to support continuation of the performance of this Contract in a subsequent fiscal year, then the Contract shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract.

- 4.22 Town's Right to Stop Work. If the Contractor fails to correct defective Work as required herein or persistently fails to carry out the Work in accordance with the Contract Documents, the Town, by a written order, may order the Contractor to stop the Work, or any portion thereof,

until the cause for such order has been eliminated. However, this right of the Town to stop the Work shall not give rise to any duty on the part of the Town to exercise this right for the benefit of the Contractor or any other person or entity.

4.23 Town's Right to Carry Out Work.

- A. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written Notice from the Town to commence and continue correction of such default or neglect with diligence and promptness, the Town may, without prejudice to any other remedy it may have, rectify such deficiencies as outlined in Section 4.22. Town's Right to Perform Work and to Award Separate Contracts. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for any Architect/Engineer ("A/E") additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Town.
- B. Neither the Town nor the A/E nor their officers, agents, assigns or employees are in any way liable or accountable to the Contractor or its surety for the method by which work performed by the Town, or at the Town's direction, or any portion thereof, is accomplished or for price paid therefor. Notwithstanding the Town's right to carry out a portion of the Work, maintenance and protection of the Work remains the Contractor's and Surety's responsibility as provided for in the Contractor's Performance Bond.

4.22 Town's Right to Perform and Award Separate Contracts.

- A. The Town reserves the right to perform work related to the Project with its own forces, and to award separate Contracts in connection with other portions of the Project or other work on the site.
- B. When separate Contracts are awarded for different portions of the Project or other Work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Town-Contractor Agreement.

4.23 Claims and Disputes Procedure.

- A. No claim shall be made under this Contract until and unless the Contractor has failed to obtain a Change Order pursuant to the relevant sections of this Article. The Contractor shall give the Town written Notice of its intent to file a claim within ten (10) calendar days of the occurrence giving rise to the claim, or at the beginning of the work upon which the claim is to be based, or after rejection of its Proposed Change Order, whichever is earlier.
- B. No claim shall be allowed and no amounts paid for any and all costs incurred if Notice of Intent to file a claim is not given to the Town as herein provided.
- C. The complete written claim, with all supporting documentation, shall be submitted to the Town no later than fourteen (14) days after the final payment. If the claim is not disposed of by agreement, the Town Administrator shall reduce his or her decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of the Town's receipt of the claim. The Town Administrator's decision shall be final.

- D. No litigation shall be instituted prior to the exhaustion of the aforesaid claims process. The Contractor may not introduce factual matters in such litigation that were not set forth in the aforesaid claims process. Each party shall bear its own costs and expenses resulting from any litigation, including attorney's fees.

4.24 Changes in the Work

A. CHANGES IN GENERAL

1. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in this section and elsewhere in the Contract Documents. No change in the work covered by the Contract Documents shall be made without prior written approval of the Town Administrator.
2. A Change Order shall be based upon agreement among the Town and the Contractor; a Construction Change Directive may or may not be agreed to by the Contractor and may be issued by the Town, an order for a minor change in work may be issued by the Town alone.
3. Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.
4. If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Town or Contractor, the applicable unit prices shall be equitably adjusted.
5. A minor change in the work is defined as a change not involving adjustment in the Contract Sum or an extension of the Contract Time and is not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Town and the Contractor. The Contractor shall carry out such orders promptly.

B. CHANGE ORDERS

1. A Change Order is a written instrument prepared by the Town or the Engineer and signed by the Town and Contractor, stating their agreement upon all of the following:
 - a. The nature of the change in the Work;
 - b. The amount of the adjustment in the Contract Sum, if any; and
 - c. The extent of the adjustment in the Contract Time, if any.
2. Methods used in determining adjustments to the Contract Sum may include those listed in subparagraph 4.24.B.3.

3. If the Town requests a Change Order the Contractor shall respond to the Town with a cost and/or time proposal within ten (10) working days. If a Change Order is being requested by the Contractor, the Contractor shall first submit written notification to the Town that a Change Order will be requested. A Change Order which is requested by the Contractor shall be submitted within ten (10) days of the occurrence of the event which gives rise to Contractor's belief that it is entitled to a change in the Contract Sum and/or Contract Time. Such proposed Change Order shall be supplemented with documentation supporting the proposed change in sufficient time for the Town to process the request before commencement of the affected work and prior to the point in time where the Contractor substantially changes his financial or scheduling position in reliance on the proposed change. Upon acceptance of the Change Order by both parties, the Town shall process Proposed Change Orders within five (5) working days. All Change Orders shall be approved in writing by both parties. If the Contractor proceeds with a change in work without written authorization it shall constitute a waiver by Contractor of any claim for an increase in the Contract sum and/or Contract time on account thereof. In the event an agreement cannot be reached between the Town and the Contractor on a proposed Change Order, the Town may issue a Construction Change Directive to direct the Contractor to proceed with the work.

C. CONSTRUCTION CHANGE DIRECTIVES

1. A Construction Change Directive is a written order prepared by the Town or Engineer and signed by the Town, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum, or Contract Time, or both. The Town may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
2. A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
3. If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
 - a. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - b. Unit prices stated in the Contract Documents or subsequently agreed upon;
 - c. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - d. As provided in subparagraph 4.24.C.6.
4. Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Engineer and Town of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
5. A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the

method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

6. If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Contractor may submit a claim under Section 4.23 of this Contract. The claim shall be reviewed and decided on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 4.24.C.3, the Contractor shall keep and present an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this subparagraph 4.24.C.6 shall be limited to the following:
 - a. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' or workmen's compensation insurance;
 - b. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
 - c. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
 - d. Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
 - e. Additional costs of supervision and field office personnel directly attributable to the change. There shall be a fixed fee limit for overhead and Profit in accordance with the following Schedule: 1) If the General Contractor does the work, 10% of the labor and Material costs; 2) If the work is done through the General Contractor's subcontractor, the subcontractor involved shall be allowed 10% of the labor and materials cost and the General Contractor shall be allowed 4% of the subcontractor's total cost. This shall be the complete compensation for "Overhead and Profit" and shall include the costs of supervision, bond, profit, insurance, bookkeeping, clerical, estimating and any other general expense including any delay and impact costs. Proof of payment of increase in bond premium will be required.
7. Pending final determination of cost to the Town, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Contractor to the Town for a deletion or Change which results in a net decrease in the Contract Sum shall be actual net cost as Confirmed by the Town or the Architect.

4.25 Construction Contract Performance and Payment Bonds. The following bonds or security shall be delivered to the Town and shall become binding on the parties upon the execution of the Contract:

- A. A performance bond satisfactory to the Town, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the Town, for the faithful performance of the Contract in strict conformity with the plans, specifications and conditions of the Contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract; and

- B. A payment bond satisfactory to the Town, executed by a surety company authorized to do business in Virginia with a Best's Key Rating of Level A or better and in a financial size of Class VII or higher, or otherwise secured in a manner satisfactory to the Town, for the protection of all persons supplying labor and material to the Contractor or its subcontractors for the performance of the work provided for in the Contract. Labor and materials shall include public utility services and reasonable rentals of equipment, but only for the periods when the equipment rented is actually used at the site. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the Contract.
 - C. The amount of the performance and payment bonds shall increase without the necessity of any action by the Town, to the same extent the Contract Price increases due to changes.
 - D. All sureties providing bonds shall give written notice to the Town at least thirty (30) days prior to the expiration or termination of the bond(s).
 - E. If at any time, any surety or sureties become insolvent or are determined by the Town to be unable to adequately secure the interests of the Town, the Contractor shall within thirty (30) days after such notice from Town to do so, substitute an acceptable bond(s) in such form and sum and signed by such other sureties as may be satisfactory to Town. The premium on such bond(s) shall be paid by the Contractor at no additional cost to the Town provided reasonable justification can be provided by the Town for its determination.
 - F. A prime Contractor shall not be precluded from requiring each subcontractor to furnish a payment bond with surety thereon in an amount equal to one hundred percent (100%) of the Contract with such subcontractor.
- 4.26 Construction Contract Bond Forms and Copies; Alternative Forms. In lieu of a payment or performance bond, the Contractor may furnish a certified check or cash escrow in the face amount required for the bond. If approved by the Town Attorney, a Contractor may furnish a bank's letter of credit on certain designated funds in the face amount required for the payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords the same protection to the Town equivalent to the corporate surety bond.
- 4.27 Construction Contract Retainages. The Contractor shall be paid at least ninety-five percent (95%) of the earned sum when payment is due, with not more than five percent (5%) being retained to assure faithful performance of the Contract. All amounts withheld may be included in the final payment. Any subcontract, which provides for similar progress payments shall be subject to the same limitations.
- 4.28 Guarantee. The Contractor shall be required, at its expense, to correct any Work that is found not to be in conformance with the Contract Documents or due to faulty materials or installation which may occur for a period of one (1) year from the date that the Town has accepted the work and placed the water main improvements into operation. The Contractor shall, at no expense to the Town, replace any defective materials during the period of

guarantee. The Contractor shall correct such Work within five (5) working days after written notice from the Town.

- 4.29 Warranty. Contractor warrants to Town that all construction, including all materials and equipment furnished as part of this Contract, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents, and free of defects in materials and workmanship.
- 4.30 Severability. In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.
- 4.31 Applicable Laws/Forum. This Contract shall be governed in all respects by the laws of the Commonwealth of Virginia. Any judicial action shall be filed in the Commonwealth of Virginia, County of Loudoun. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court, Leesburg, Virginia. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.
- 4.32 Licensure. To the extent required by the Commonwealth of Virginia (see e.g. 54.1-1100 et seq. of the Code of Virginia) or the Town, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.
- 4.33 Authority to Transact Business in Virginia. A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the Town pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The Town may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- 4.34 Counterparts. This Contract and any amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Contract or any amendment or renewal. A signature by any party to this Contract provided by facsimile or electronic mail is binding upon that party as if it were the original.

5.0 INSTRUCTIONS TO BIDDERS

- 5.1 Register with the Town. All interested parties are requested to contact the Town and request to be added to the bidder's list. Bidders who are on the list will be copied with addenda by email as they are released by the Town.

5.2 Preparation and Submission of Bids.

- A. Before submitting a bid, read the ENTIRE solicitation including the Contract Terms and Conditions. Failure to read any part of this solicitation will not relieve a bidder of the Contractual obligations.
- C. Pricing must be submitted on IFB pricing form only. Include other information, as requested or required.
- C. All bids must be submitted to the Town in a sealed container. The face of the sealed container shall indicate the IFB FY16-01, time and date of opening and the title of the IFB.
- D. All bids shall be signed in ink by the individual or authorized principals of the firm.
- E. All attachments to the IFB requiring execution by the bidder are to be returned with the bids.
- F. Requests for extensions of this time and date will not be granted, unless deemed to be in the Town's best interest. Bidders mailing their bids shall allow for sufficient mail time to ensure receipt of their bids by the Town at the time and date fixed for acceptance of the bids. Bids or unsolicited amendments to bids received by the Town after the acceptance date and time will not be considered.
- G. Bids may be either mailed or hand delivered. Faxed and e-mailed bids will not be accepted.
- H. Each firm shall submit one (1) original of their bid.

5.3 Questions and Inquiries. Questions and inquiries, both oral and written, will be accepted from any and all bidders. However, when requested, complex oral questions shall be submitted in writing. The Town Administrator (or her designee) is the sole point of contact for this solicitation. Unauthorized contact with other Middleburg Town staff or Town contractors regarding the IFB may result in the disqualification of the bidder. Inquiries pertaining to the Invitation for Bid must give the Project Title, time and date of opening. Material questions will be answered in writing with an Addendum provided, however, that all questions are received at least ten (10) days in advance of the bid opening date.

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

5.5 Delivery. Delivery of materials shall be made during normal working hours only, 8:30 am to 4:30 pm, unless prior approval for an alternate delivery has been obtained from the Town.

5.6 Firm Pricing for Town Acceptance. Bid price must be firm for Town acceptance for a minimum of ninety (90) days from bid opening date.

5.7 Unit Price. Bid unit price on quantity specified, extend and show total. In case of errors in extension, unit prices shall govern.

5.8 Quotations to be F.O.B. Destination - Freight Prepaid and Allowed. Any goods to be delivered to a Town location shall be coordinated with the Town prior to delivery. Such goods shall be delivered F.O.B. Destination, freight prepaid, and allowed. COD deliveries shall be denied. The cost of freight, insurance, and all other delivery related costs shall be included in the cost of performing the work proposed in the price proposal.

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

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

If a sole proprietorship, the owner may sign.

If a general partnership, any general partner may sign.

If a limited partnership, a general partner must sign.

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

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

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

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

- 5.12 Subcontractors. The Contractor shall submit to the Town with a copy to the A/E prior to the award of any subcontract for work under this Contract and thirty (30) calendar days after the award of this Contract, the names of the suppliers of principal items, systems, materials, and equipment proposed for the Work; the names and addresses, business and emergency phones of the subcontractors which he proposes to employ under this Contract, as well as such other information as may be requested by the Town. The Town will review each subcontractor and supplier based upon his apparent financial soundness and responsibility, his known or reported performance on previous similar work, and his available plant, equipment and personnel to perform the Work. The Contractor shall not employ a subcontractor or supplier to whom the Town reasonably objects. The Town's objection to a proposed subcontractor or supplier shall not affect the Contract price.
- 5.13 References. All bidders shall include, with their bids, a list of at least three (3) current references for whom comparable work has been performed. This list shall include owner name, person to contact, address, telephone number, e-mail address, and the nature of the work performed. Failure to include references may be cause for rejection of bid as non-responsible. Bidder hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference
- 5.14 Incidental and Consequential Damages. No bidder may require contractual language limiting or eliminating liability for incidental and consequential damages.
- 5.15 Use of Brand Names. For this project, the name of a certain brand, make or manufacturer does restrict bidders to the specific brand, make or manufacturer names. If bidding on other than the referenced make or model, the bidder must submit information on the product at least ten (10) days prior to bid date. Information must include: manufacturer, brand or trade name, catalog number, illustrations and complete description etc. of article offered. Samples may be required. If bidder makes no other bid and takes no exception to specific or reference data, he will be required to furnish brand names, numbers, etc., as specified. Bidders must certify item(s) he bids upon meets and/or exceeds specifications.
- 5.16 Late Bids. LATE bids will be returned to bidder UNOPENED, if IFB FY16-01, opening date and bidder's return address is shown on the container.
- 5.17 Rights of Town. The Town reserves the right to reject all or any part of any bid, waive informalities, and award the contract to the lowest responsive and responsible bidder to best serve the interest of the Town. Informality shall mean a minor defect or variation of a bid from the exact requirements of the Invitation for Bid which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.
- 5.18 Prohibition as Subcontractors Under Competitive Sealed Bidding. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- 5.19 Anti-Trust Violations. Tie bids may cause rejection of bids by the Town and/or prompt an investigation for Anti-Trust violations.

- 5.20 Basis for Award. Contract award will be made to the lowest responsive and responsible bidder and subject to the provisions of Section 2.0 above.

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

- 5.21 Negotiation with the Lowest Responsible Bidder. Unless all bids are cancelled or rejected, the Town reserves the right granted by § 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available whenever such low bid exceeds the available funds. Negotiations with the low bidder may include both modifications of the bid price and the specifications/scope of work to be performed.
- 5.22 Protest. Bidders may refer to Sections 2.2-4357 through 2.2-4364 of the Code of Virginia to determine their remedies concerning this competitive process. Protests shall be submitted to the Town Administrator.
- 5.23 Contract Documents. Contract Documents shall include all plans, specifications, addenda, change orders and construction change directives and the Town-Contractor Agreement.
- 5.24 Debarment. By submitting a bid, the bidder is certifying that bidder is not currently debarred by the Town, or in a procurement involving federal funds, by the Federal Government.
- 5.25 Proof of Authority to Transact Business in Virginia. A bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder is not required to be so authorized. Any bidder described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Purchasing Agent or his designee.
- 5.26 W-9 Form Required. Each bidder shall submit a completed W-9 form with their bid. In the event of contract award, this information is required in order to issue purchase orders and payments to your firm.
- 5.27 Insurance Coverage. Bidders shall include with their bid a copy of their current Certificate of Insurance that illustrates the current level of coverage the bidder carries. The Certificate can be a current file.
- 5.28 Acknowledgement of Contract. By submitting a bid, the bidder acknowledges that it understands and agrees to the Contract Terms and Conditions contained herein.

BID FORMS
TOWN OF MIDDLEBURG EAST END WATER SYSTEM IMPROVEMENTS PROJECT

THE FIRM OF: _____

ADDRESS: _____

Construction of 8-inch and 6-inch water main, appurtenances and all associated work in accordance with the specifications and terms and conditions contained herein:

Bidder will complete all Work in accordance with the Contract Documents for the following Lump Sum price(s). The Town intends to award to the lowest responsive bidder for the base and contingent bid items listed below:

PART A: BASE BID ITEMS

Item No.	Bid Items	Unit	Unit Cost (\$)	Quantity	Amount (\$)
1	Mobilization and Demobilization	LS		1	
2	Furnish and Install 8-inch diameter PVC Water main	Feet		1058	
3	Furnish and Install 6-inch water main connection to Orange Street Water Main	LS		1	
4	Furnish and Install Fire Hydrant and Appurtenances	LS		1	
5	Furnish and Install ¾-inch Water Service Connection	Feet		115	
6	Furnish and Install 8-inch Gate Valve & Box	EA		7	
7	Sediment and Erosion Controls	LS		1	
8	Furnish and Install 6-inch x 8-Inch Tapping Sleeve , Valve & Box	EA		1	
9	Traffic Control	LS		1	
10	Temporary and Permanent Seeding	LS		1	

Total for Base Bid Items, PART A (in numbers):

Total for Base Bid Items, PART A (in words):

PART B: CONTINGENT BID ITEMS

The following unit prices for fixed price contingent bid items will be used in the event the work is increased or decreased beyond the scope of the base bid as required by the Engineer. I/We understand and agree that the quantities included in the unit price items are to be used for evaluation of proposals and are not to be interpreted as the exact quantities actually involved for the completion of the work.

Item No.	Bid Items	Unit	Unit Cost (\$)	Quantity	Amount (\$)
C-1	Test Pits	CY		50	
C-2	Unclassified Excavation	CY		100	
C-3	Pavement Restoration	SY		100	
C-4	Common Borrow A-1, A-2-4, or A-2-6	CY		50	
C-5	DGA Aggregate, 21A or 21B	CY		50	

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) 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, determined as provided in the Contract Documents.

Total for Contingent Bid Items, PART B (in numbers):

Total for Contingent Bid Items, PART B (in words):

Total Bid, PART A (Base Bid) and PART B (Contingent Bid) (in numbers):

Total Bid, PART A (Base Bid) and PART B (Contingent Bid) (in words):

Work shall completed within 180 calendar days following Notice To Proceed.

IT IS THE INTENT OF THE TOWN TO ASSESS LIQUIDATED DAMAGES IN THE AMOUNT OF \$1,000 FOR EACH CALENDAR DAY THE CONTRACTOR IS DELINQUENT IN COMPLETING THE WORK IN THE CONTRACT.

BID ITEM DESCRIPTIONS

Furnish and install all improvements, as described in the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS, as necessary to furnish a complete operating water system.

- A. Bid Item #1 for Mobilization & Demobilization shall be lump sum payment. The Lump Sum Price for this item shall be full compensation for mobilizing all labor, materials, equipment, tools, fees, permits and insurance. The lump sum price for "Mobilization & Demobilization" will not be made more than once regardless of the fact that the Contractor may have, for any reasons, to shut down his work on the project or move equipment away from the project and then back again. Mobilization & Demobilization shall not exceed 5% of the total Bid Price.
- B. Bid Item #2, installation of 8-inch diameter PVC water main on East Washington Street and North Pinckney Street shall include all labor, equipment and materials necessary for excavating, installing, disinfecting, testing and placing the water main into operation, including all survey, stakeout, all as-built surveys, connection to existing water mains, test pitting, sheeting, shoring, dewatering, bedding, installation of pipe, utility locating, backfilling replacing unsuitable materials with suitable materials and compaction. The cost of all pipe, fittings, bends, short pieces, connectors, and connections, tees, fittings, acceptance testing; surface restoration of paved and driveway areas including milling and paving, and repair or replacement of curb and gutter and pavement markings; gravel surfaces repair or replacement; and surface restoration and re-establishment of unpaved areas including installation of coir matting and seeding shall be considered incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- C. Bid Item #3, installation of 6-inch diameter PVC water main connection at Orange Drive including all labor, equipment and materials necessary for excavating, installing, disinfecting, testing and placing the water main connection into operation, including all survey, stakeout, all as-built surveys, test pitting, sheeting, shoring, dewatering, bedding, installation of pipe, utility locating, backfilling replacing unsuitable materials with suitable materials and compaction. The cost of all pipe, fittings, bends, short pieces, connectors, acceptance testing; surface restoration of paved and driveway areas including milling and paving, and repair or replacement of curb and gutter and pavement markings; gravel surfaces repair or replacement; and surface restoration and re-establishment of unpaved areas including Installation of coir matting and all work required or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- D. Bid Item #4, installation of fire hydrant and appurtenances shall include all labor, equipment and materials necessary for excavating installing, disinfection, testing and placing the fire hydrant into operation including all survey, stakeout, as-built surveys, test pitting, sheeting, shoring, dewatering, bedding, installation of pipe, hydrant and utilities, acceptance testing, surface restoration of paved and gravel areas, including milling and paving, replacement or repair of curb and gutter seeding and all work required or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- E. Bid Item #5, installation of new ¾-inch copper water service connections as shown on the Drawings shall include all labor, equipment and materials necessary for excavating, installing, testing and placing the water meter and meter box into operation, including all survey, stakeout, all as-built surveys, test pitting, sheeting, shoring, dewatering, bedding, utility locating, backfilling replacing

unsuitable materials with suitable materials and compaction. The cost of all pipe, fittings, bends, acceptance testing, surface restoration including replacement of asphalt, gravel and soil and all work required for or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.

- F. Bid Item #6, installation of new 8-inch Gate Valve & Box shall include all labor, materials, equipment, testing, tools, excavation, and restoration for installing and placing the Gate Valve into operation including valve boxes, connection piping and isolation valves and all work required or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- G. Bid Item #7, installation of sediment and erosion control measures shall include all labor, materials and equipment necessary for installing, maintaining and removing, inlet protection, check dams, coir matting and all other erosion and sediment control measures as shown on the Drawings and Details, including all work required for or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- H. Bid Item #8, installation of 6-inch by 8-inch tapping sleeve and valve shall include all labor, materials and equipment necessary for installing, maintaining and testing the tapping sleeve and valve as shown on the Drawings and as specified, including all work required for or incidental to the satisfactory installation in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS
- I. Bid Item #9, traffic control shall include all labor, equipment and materials necessary for installing, moving, operating, removing and maintaining the Maintenance of Traffic systems as shown on the plans and as approved in the VDOT permit including all incidental work in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- J. Bid Item #10 temporary and permanent seeding shall include all installation and maintenance of all temporary and permanent seeding, fertilizer, top soil and items necessary for stabilization of ground in accordance with the CONTRACT DOCUMENTS, PLANS AND SPECIFICATIONS.
- K. Contingent Bid Item #C-1, excavating test pits, whether done by hand or equipment, when directed in writing by the Engineer. Contingent item does not include test pits associated with locating any existing utilities shown on the Drawings.
- L. Contingent Bid Item #C-2, unclassified excavation, as described in Section 02200, of all unsuitable material below subgrade, or of all material in addition to that shown on the Drawings, specified, or included in other Bid Items, and in accordance with the written direction of the Engineer.
- M. Contingent Bid Item #C-3, restoration of surfaces within paved areas, including all materials, labor and maintenance associated with milling and paving; repair or replacement of curb and gutter; re-establishment of pavement markings; and restoration of driveway entrances in addition to that shown on the Drawings, specified, or included in other Bid Items, and in accordance with the written direction of the Engineer.
- N. Contingent Bid Item #C-4, furnishing and placing complete, common borrow material, A-1, A-2-4, or A-2-6, as described in Section 02200, in addition to that shown on the Drawings, specified, or as

included in other Bid Items, or in the event that sufficient suitable material is not available from the required excavations on site, and in accordance with the written direction of the Engineer.

- O. Contingent Bid Item #C-5, furnishing and placing complete, Dense Graded Aggregate, 21A or 21B, as described in Section 02200, in addition to that shown on the Drawings, specified, or included in other Bid Items, and in accordance with the written direction of the Engineer.

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

ITEM:	INCLUDED: (X)
1. W-9 Form:	_____
2. Certificate of Insurance:	_____
3. Addenda, if any (Informality):	_____
4. Proof of Authority to Transact Business in Virginia	_____

B. REFERENCES – The bidder shall provide at least three (3) current references for whom comparable work has been performed. Failure to include references may be cause for rejection of bid as non-responsible. Bidder hereby releases listed references from all claims and liability for damages that may result from the information provided by the reference

OWNER NAME	CONTACT PERSON	PROJECT DESCRIPTION	PHONE#	EMAIL
---------------	-------------------	---------------------	--------	-------

1. _____

2. _____

3. _____

Person to contact regarding this bid (printed): _____

Title: _____ Phone: _____ Fax: _____

E-mail Address: _____

Name of person authorized to bind the Firm (ref. 5.10): _____

Signature: _____ Date: _____

By signing and submitting a bid, your firm acknowledges and agrees that it has read and understands the IFB documents and agrees to the Contract Terms and Conditions as contained herein.

PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER: Town of Middleburg, VA, 10 West Marshall Street, Middleburg, VA 20117. Ph: 540-687-5152

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description: Extension of the Washington Street Water Main from the intersection of Jay Street to east of Pinckney Street and north along Pinckney Street to the intersection of Marshall Street. The work shall include the installation of approximately 1,100 linear feet of 8-inch diameter PVC water main, appurtenances, connections to existing water mains, building service connections, site restoration and all work necessary for the project as shown on the construction contract plans and specifications.

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER: Town of Middleburg, VA, 10 West Marshall Street, Middleburg, VA 20118. Ph.: 540-687-5152

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description: Extension of the Washington Street Water Main from the intersection of Jay Street to east of Pinckney Street and north along Pinckney Street to the intersection of Marshall Street. The work shall include the installation of approximately 1,100 linear feet of 8-inch diameter PVC water main, appurtenances, connections to existing water mains, building service connections, site restoration and all work necessary for the project as shown on the construction contract plans and specifications.

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable

AUTHORIZATION TO TRANSACT BUSINESS IN VIRGINIA

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

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

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

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

- A. _____ Bidder/offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.
- B. _____ Bidder/offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's/offeror's Identification Number issued to it by the SCC is _____.
- C. _____ Bidder/offeror does not have an Identification Number issued to it by the SCC and such bidder/offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

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

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

Legal Name of Bidder/Offeror

Date

Authorized Signature

Print or Type Name and Title

TOWN-CONTRACTOR AGREEMENT

THIS AGREEMENT for the construction of the East End Water System Improvements, herein after referred to as the "Project", executed in three (3) originals, effective this _____ day of _____, 2015, is by and between the TOWN OF MIDDLEBURG, VIRGINIA (herein referred to as the "Town"), and _____ (herein referred to as the "Contractor").

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

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

Part 1 - The Town's Invitation for Bid dated September 16, 2015 , including any addenda.

Part 2 - The Contract Scope of Work

Part 3 - The Contractor's bid dated _____.

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

Article 1 - ARCHITECT/ENGINEER

1.1 The Architect/Engineer (hereinafter referred to as the "A/E") is Dean Westman PE, with Whitman, Requardt & Associates (WRA). The Town may amend this Article from time to time by designating a different person or organization to act as its A/E and so advising the Contractor in writing, at which time the person or organization so designated shall be the A/E for purposes of this Contract.

Article 2 - TIME OF COMMENCEMENT AND COMPLETION

2.1 The Contractor shall commence the Work upon the date established in the Notice to Proceed.

2.3 The Contractor shall achieve final completion/substantial completion of this work within 180 calendar days of the Notice of Award. This time period shall be designated the Contract Time.

Article 3 - CONTRACT SUM

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

Article 4 - PROGRESS PAYMENTS

4.1 The Contractor hereby agrees that he will deliver to the Town a proper invoice for payment in accordance with the provisions of Section 4.16 of the IFB.

Article 5 - OTHER REQUIREMENTS

- 5.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond, the Insurance Endorsement, and Certification of Insurance as required by the Contract Documents.
- 5.2 To the extent required by the Commonwealth of Virginia (see e.g. 54.1-1100 et seq. of the Code of Virginia) or the Town of Middleburg, the Contractor shall be duly licensed to perform the services required to be delivered pursuant to this Contract.
- 5.3 A Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the Town pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The Town may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

Article 6 - EMPLOYMENT DISCRIMINATION and HIRING OF ILLEGAL ALIENS BY CONTRACTORS PROHIBITED; DRUG FREE WORKPLACE

- 6.1 By entering this Contract, the Contractor certifies that it does not and will not discriminate against any employee or applicant in accordance with the Contract Terms and Conditions Section 4.10, that it will not hire illegal aliens in accordance with the Contract Terms and Conditions Section 4.11, and that it will foster a drug-free workplace in accordance with the Contract Terms and Conditions Section 4.12.

Article 7- ENTIRE AGREEMENT AND SEVERABILITY

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

Article 8 - APPLICABLE LAWS/FORUM

- 8.1 This Contract shall be governed in all respects by the laws of the Commonwealth of Virginia. Any judicial action shall be filed in the Commonwealth of Virginia, County of Loudoun. Contractor expressly waives any objection to venue or jurisdiction of the Loudoun County Circuit Court,

Loudoun County, Virginia. Contractor expressly consents to waiver of service of process in an action pending in the Loudoun County Circuit Court pursuant to Virginia Code Section 8.01-286.1.

Witness the following signatures:

TOWN OF MIDDLEBURG, VIRGINIA
10 West Marshall Street
P.O. Box 187
Middleburg, VA 20118-0187
Phone: (540) 687-5152

CONTRACTOR

Phone:

By:

By:

Name: Martha Mason Semmes

Name:

Title: Town Administrator

Title:

Date:

Date:

[Insert notary signature and language]

APPROVED AS TO FORM:

By: _____
Angela Plowman
Town Attorney