



**GOOCHLAND COUNTY, VIRGINIA
CONTRACT FOR CONSTRUCTION AND RELATED SERVICES
GENERAL CONTRACTOR'S FIXED PRICE FORM
("BUILDER'S AGREEMENT" OR "AGREEMENT")**

This contract for construction is entered into this ___ day of _____, 2019 by and between OWNER, Goochland County, Virginia, P.O. Box 10, Goochland, Virginia, 23063-0010, and GENERAL CONTRACTOR (or CONTRACTOR) _____, with its principal place of business at _____.

PROJECT IDENTIFICATION INFORMATION:

Project Title: **IFB 2019-19 Bridgewater Subdivision Roads and Drainage Improvements**

Project Description: Roads and Drainage improvements

ADDRESSES and AUTHORIZED REPRESENTATIVES: The addresses and authorized representatives of Owner, General Contractor and any Professional (e.g., Architect or Engineer) working with the County in connection with this Agreement are as follows:

OWNER:

Representative: Debra Byrd, Assistant Director of Community Development
Mailing Address: P.O. Box 119, 1800 Sandy Hook Road, Suite 280,
Goochland, Virginia, 23063
Telephone: 804.556.5849
Facsimile: 804.556.5654
E-mail: dbyrd@goochlandva.us

Representative: Wanda St. P. Tormey, Purchasing Director
Mailing Address: P.O. Box 10, 1800 Sandy Hook Road, Suite 352,
Goochland, Virginia, 23063
Telephone: 804.556.5802
Facsimile: 804.556.5676
E-mail: wtormey@goochlandva.us

GENERAL CONTRACTOR:

Representative:
Mailing Address:
Telephone:
Facsimile:
E-mail:
General Contractor's License No.
FEIN/ SSN #:

ENGINEER

Representative: Malachi Mills, P.E., RK&K
Mailing Address: 2100 East Cary Street, Suite 309, Richmond, Virginia 23223
Telephone: 804.782.1903
Facsimile: 804.782.2142
E-mail: mmills@rkk.com

WHEREAS, Owner intends to complete the Project pursuant to certain Plans, Drawings, and Specifications, and is engaging General Contractor to perform certain labor, supervision and services and to provide certain equipment, goods and materials for the Project; and

WHEREAS, Owner and General Contractor each acknowledge that they will act in good faith in carrying out their duties and obligations; and

WHEREAS, Owner's engagement of the General Contractor is based upon General Contractor's representations to Owner that it: (i) is experienced in the type of labor and services Owner is engaging General Contractor to perform; (ii) is authorized and licensed to perform the type of labor and services for which it is being engaged to perform; (iii) is qualified, willing and able to perform labor and services for the Project; and (iv) has the expertise and ability to provide labor and services which will meet Owner's objectives and requirements, and which will comply with the requirements of all governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project; and

WHEREAS, Owner and General Contractor each acknowledge that it has reviewed and familiarized itself with this Agreement, including the documents enumerated in Contract Documents, and agree to be bound by the terms and conditions contained therein.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. **APPLICABLE LAW**. This Agreement and the services provided will be governed in all respects by the laws of Virginia, except its choice of law provisions. Venue for any litigation arising out of this Agreement will be brought in the courts of Goochland County, Virginia. Contractor shall comply with all applicable federal, state, and local laws and regulations.
2. **CONTRACT AMOUNT**. Owner shall pay and General Contractor shall accept, as full and complete payment for General Contractor's timely and complete performance of its obligations under the Contract Documents the Contract Price (or Contract Sum) of \$_____.00. The Contract Price includes the aggregate amount of all allowances and any unit price items to be furnished or installed.
3. **CONTRACT DOCUMENTS**. The Contract Documents shall consist of this Agreement and all attached documents and appendices, Goochland County's General Conditions for Construction, which include the General Conditions of the Contract for Construction AIA Document A201, 2017 edition, as amended by the terms and provisions in Goochland County's General Conditions for Construction, the Instructions for Bidders, the Invitation for Bids and Bid Form and all attachments or addenda thereto; Drawings and Specifications ("Plans"), attached as Exhibit A, and The Bid and

required documents submitted by General Contractor in response to the Invitation for Bids, Exhibit B, together with all written modifications to any of these documents, if any, all of which are incorporated herein and made a part hereof. The provisions of this Agreement will govern in the event of any conflict with any other provisions of the Contract Documents. In like manner Exhibit A will govern over Exhibit B. The Contract Documents constitute the entire and exclusive agreement between the parties and supersede any and all prior communications, discussions, negotiations, understandings, and agreements.

Documents not included nor expressly contemplated nor incorporated by reference herein do not, and shall not, form any part of the Contract Documents.

4. ELECTRONIC RECORD. The parties agree that this Agreement can be executed through an electronic signature, and that an electronic record of this Contract is as valid and enforceable as an original.

5. ETHICS IN PUBLIC CONTRACTING. This Agreement incorporates by reference any applicable state or federal law related to ethics, conflicts of interest, or bribery, including the Virginia Conflict of Interests Act, the Virginia Governmental Frauds Act, and the Virginia Code. Contractor certifies that its offer is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with this solicitation, and that it has not conferred on any public employee having official responsibility for this solicitation any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

6. GOOCHLAND COUNTY TAXES. Contractor shall pay all County taxes when due. County may offset the amounts of any County taxes which are due and owing against sums otherwise due to Contractor by paying such amounts to the County Treasurer on Contractor's behalf.

7. IMMIGRATION REFORM AND CONTROL ACT OF 1986. Contractor shall not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

8. INSURANCE AND BOND REQUIREMENTS. General Contractor agrees to provide and maintain insurance as required in Article 11 of the General Conditions. Moreover, General Contractor agrees to provide Owner payment and performance bonds, approved as to form by County Attorney, within 10 days of County's issuing the Intent to Award. Such bonds shall be included as part of this Agreement. The amount of the bond premiums shall be included in the Contract Price.

9. MODIFICATION OF CONTRACT DOCUMENTS. In addition to the provisions regarding modification in the General Conditions, this Agreement may be supplemented, modified, or amended by the mutual agreement of the parties hereto, set forth in writing. No supplement, modification or amendment shall be enforceable unless set forth within a writing signed by both Owner and General Contractor.

Notwithstanding the foregoing, the Contract Price may not be increased by more than twenty-five percent (25%) of the amount of the Contract Price or \$50,000, whichever is greater, without advance approval of the Goochland County Board of Supervisors.

10. NO PERSONAL LIABILITY. Nothing herein shall be construed to create any personal liability on the part of any elected or appointed official, agent, or employee of Owner.

11. NON-WAIVER. No failure on the part of Owner to enforce any of the terms or conditions set forth in the Contract Documents shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by Owner of any default or failure to perform by General Contractor shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance or payment of any rentals, fees and/or charges by Owner, and/or the performance of all or any part of the Work by Owner, for or during any period(s) following a default or failure to perform by General Contractor, shall not be construed as or deemed to be a waiver by Owner of any rights hereunder.

12. PARTIES' RELATIONSHIP. Contractor shall be legally considered an independent contractor, and neither Contractor nor its employees will, under any circumstances, be considered employees or agents of Owner. Owner shall not be legally responsible for any negligence or other wrongdoing by Contractor, its employees, or agents. Owner shall not withhold payments to Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, Owner shall not provide Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by Owner for its employees.

13. PERSONNEL AND CONSULTANTS. General Contractor shall identify the Superintendent, Project Manager and Key Personnel as directed in the Bid Form and Article 3.9 of the General Conditions. General Contractor shall promptly inform Owner in writing of any proposed replacements, the reasons therefor, and the name(s) and qualification(s) of proposed replacement(s). Owner shall have the right to reject any proposed replacement. Under no circumstances shall Owner be required to consent to a proposed replacement under circumstances where such replacement would result in an increase in the Contract Price.

General Contractor shall prepare and provide Owner and Architect a list of the General Contractor's Subcontractors and Suppliers as provided in Article 5 of the General Conditions, listing by name and general Project responsibility each Subcontractor and supplier who will be utilized by General Contractor to provide goods or services with respect to the Project. General Contractor shall not enter into any agreement(s) with any Subcontractor(s) or Supplier(s) to which Owner raises a reasonable, timely objection. General Contractor shall promptly inform Owner in writing of any proposed replacements, the reasons therefor, and the name(s) and qualification(s) of proposed replacement(s). Owner shall have the right to reject any proposed replacement. Under no circumstances shall Owner be required to consent to a proposed replacement under circumstances where such replacement would result in an increase in the Contract Price.

Owner shall prepare and provide General Contractor a list, by name and general project duties, of each consultant retained by Owner to provide services with respect to the Project. Owner reserves the right to engage any other consultants which it may deem necessary or desirable.

14. SCOPE OF SERVICES. General Contractor shall furnish or cause to be furnished, and shall pay for out of the Contract Price: all management, supervision, financing, goods, products, materials, equipment, systems, labor, services, permits, licenses, construction machinery, transportation and other facilities necessary for proper execution and completion of the construction of Bridgewater Subdivision roads and drainage improvements (referenced as Project #IFB 2019-19- or the Project).

15. SEVERABILITY. In the event that any term, provision or condition of the Contract Documents, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Contract Documents, and the application of any term, provision or condition contained herein to any person or circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby.

16. TIME FOR PERFORMANCE.

A. Commencement of the Work. General Contractor shall commence work on the Project within thirty (30) calendar days after the Notice to Proceed is given.

B. Substantial Completion shall be within thirty (30) consecutive calendar days after the Notice to Proceed is issued.

C. Final Completion shall be within ten (10) consecutive calendar days after the date of Substantial Completion as determined by Owner.

D. Time Is of The Essence. The parties hereto mutually understand and agree that time is of the essence in the performance of this Agreement and that Owner will incur damages if General Contractor's scope of the Work is not completed in accordance with the required dates of Substantial Completion and Final Completion. General Contractor shall, at all times, carry out its duties and responsibilities as expeditiously as possible and shall begin, perform and complete its services so that:

- (1) the Work commences as directed in the Notice to Proceed;
- (2) the Work progresses in accordance with the Construction Schedule and to meet the date for Substantial Completion; and
- (3) the Work is complete by the date of Final Completion.

E. General Contractor shall, not less than 15 days after Contract execution, prepare and submit a Construction Schedule to Owner and Architect, in accordance with the requirements of the General Conditions.

F. Liquidated Damages. Article 9 of the General Conditions governs the assessment and collection of liquidated damages by Owner for failure or delay by General Contractor in the completion of the Work. The daily amount of liquidated damages shall be \$400.00.

17. TRANSACTING BUSINESS IN VIRGINIA. Contractor must be authorized to transact business in Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in Virginia to be revoked or canceled at any time during this Agreement. Owner may void this Agreement if Contractor fails to remain in compliance with the provisions of this section.

18. WORKPLACE PROVISIONS. During performance of the Agreement, Contractor shall abide by the following workplace provisions. If Contractor engages any subcontractor or vendor to provide services hereunder, then Contractor shall include these provisions in every subcontract or purchase order over \$10,000:

- A. Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Also, Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that it is an equal opportunity employer.
- B. Contractor shall: (i) provide a drug-free workplace for 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 Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace. For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done in connection with the Contract awarded to Contractor in accordance with this procurement transaction, where Contractor's employees 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.
- C. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation will be deemed sufficient for the purpose of meeting the requirements of these sections.

IN WITNESS WHEREOF, the parties do hereby set forth their signatures, representing that the individuals who affix their signatures hereto have been duly authorized to bind each party to the terms and conditions of the foregoing Agreement:

OWNER:
Goochland County, Virginia

GENERAL CONTRACTOR:

By: _____

John A. Budesky
County Administrator

By: _____

Name: _____

Date: _____

Title: _____

Date: _____

Approved as to Form

Goochland County Attorney's Office