

REQUEST FOR PROPOSALS ( RFP)  
ENGINEERING SERVICES  
RFP # INI-CDA-SWRIMP-FY22-01  
CENTRAL DRAINAGE AREA SEWER REPLACEMENT

**1.01 NAME OF SOLICITING BODY**

Town of Colonial Beach  
315 Douglas Avenue  
Colonial Beach, VA 22443  
Telephone (804) 224-7181  
Fax (804) 224-7185

**1.02 PROJECT LOCATION**

Town of Colonial Beach

**1.03 PROJECT CODE**

INI-CDA-SWRIMP-FY22-01

**1.04 BACKGROUND AND PURPOSE**

The Town is experiencing significant inflow and infiltration (I&I) in the Central Drainage area of the sanitary sewer system during rain events. In particular, the manhole east of the intersection of Colonial Ave and Washington Ave has repeatedly overflowed during rain events. Under a separate task, the Town contracted and received a hydraulic sewer model of the Central Drainage Basin to evaluate the existing sanitary sewer capacity (primarily during wet weather events), evaluate flow projections for known development projects, and recommend immediate capacity improvement needs. The model validated the sanitary sewer overflow at the manhole with a simulation of a rain event.

To address the immediate issue of the sanitary sewer overflow manhole (SSO MH), a scenario of replacing the existing 8-inch and 10-inch diameter sewer main pipes with 12-inch diameter pipes between the SSO MH and Boundary Street Pump Station was simulated with future development flows and wet weather flows. The upgraded 12-inch diameter pipe was shown to have capacity for the wet weather event and known future development flows and eliminate the SSO. Based on this analysis, the Town wishes to proceed with the design, bidding, and construction phase services for the sewer replacement project identified in the June 29, 2021 letter report. The project limits include approximately 2,500 linear feet of existing gravity sewer main and ten (10) manholes along the following Town roads: Colonial Ave, Washington Ave, Dennison St, and Beach Terrace.

**Awarded firm** will prepare construction documents for the sewer replacement based on a survey of the existing sanitary sewer corridor. The scope of the design also includes completing CCTV inspection of the sewer to determine the quantity and location for reconnection of existing sanitary sewer laterals.

## 1.05 INSTRUCTIONS TO PROPOSERS

A. Procurement of engineering services shall be conducted in accordance with procurement laws of the Commonwealth of Virginia.

B. Signed original and three copies of the proposal shall be submitted to:

India Adams-Jacobs  
Town Manager  
Town of Colonial Beach  
315 Douglas Avenue  
Colonial Beach, VA 22443  
Telephone (804) 224-7181  
Fax (804) 224-7185

C. Questions related to the requirements of the Request for Proposal shall be directed in writing or by e-mail to:

Rob Murphy  
Deputy Town Manager/PW Dir.  
Town of Colonial Beach  
315 Douglas Avenue  
Colonial Beach, VA 22443  
[rmurphy@colonialbeachva.net](mailto:rmurphy@colonialbeachva.net)

All questions must be received by 2:00 p.m. Thursday, September 16, 2021 to ensure that questions can be accurately answered prior to the due date. The Town will assume no responsibility for oral instructions, suggestion or interpretation of the RFP.

D. All questions will be compiled and responded to in writing via Addendum to the RFP by 2:00 PM Thursday, September 23, 2021. Such addendum shall be provided to all prospective proposers that have received a RFP package from the Town of Colonial Beach. Said addendum shall be added as attachment to the eVa solicitation.

Proposals must be submitted in a sealed envelope with the outside marked in the lower left hand corner as follows: RFP# INI-CDA-SWRIMP-FY22-01 CENTRAL DRAINAGE AREA SEWER REPLACEMENT.

E. Proposals will be time stamped upon receipt and retained unopened in a secure location until opening.

F. All proposals shall be received by 2:00 p.m. Thursday, September 30, 2021. No consideration will be given to date of postmark.

Modification of or corrections to proposals are not acceptable after proposals have been opened. Erroneous proposals may be reclaimed or superseded at any time prior to time of opening. Any new proposal must be marked: RFP# INI-CDA-SWRIMP-FY22-01 CENTRAL DRAINAGE AREA SEWER REPLACEMENT with the additional notation "Supersedes all previous submissions."

G. Proposers must submit proposals that provide evidence that the Proposer has the

capabilities, professional expertise, and the experience to provide services as described in the RFP.

- H. Proposers shall be responsible for familiarizing themselves with the RFP. There will be no Pre-Proposal Conference prior to the due date.
- I. The Town anticipates the following timetable for selecting an architectural/engineering firm.

Activity	Date
RFP Issued	9/14/2021
2:00 P.M. Deadline for Submitting Questions	9/24/2021
2:00 P.M. Deadline for Submitting Proposals	10/01/2021
Begin Evaluation of Proposals	10/04/2021
Notify Top Ranked Proposers to be Interviewed	10/08/2021
Begin Interviews with Top Ranked Proposer(s)	10/11/2021
Receive Approval from Town Council to Award Contract to the Firm Selected by the Town of Colonial Beach	10/20/2021
Notify Successful Proposers	10/21/2021

- J. The selection process shall be governed by public procurement laws of the Commonwealth of Virginia.
- K. Review of Proposal. Using criteria from Sections 1.04, 1.05, 1.06, and 1.07 with primary emphasis on experience, professional competence and punctuality, the Colonial Beach Town Manager, the Town of Colonial Beach’s Deputy Town Manager and other members of the Town of Colonial Beach’s Project Management Team shall review all proposals to determine if the Proposers are fully qualified, responsible, and suitable to provide the engineering services set forth by the RFP.
- L. Interviews. The Colonial Beach Project Management Team’s Designee(s) will conduct phone interviews with a minimum of three Proposers deemed to be qualified, responsible, and suitable to provide the engineering services set forth by the RFP. Interviews will be used to further evaluate the Proposers’ experience and expertise regarding the Central Drainage Area Sewer Replacement.
- M. Evaluation and Ranking. The Colonial Beach Town Manager, the Town of Colonial Beach’s Deputy Town Manager, and other members of the Town of Colonial Beach’s Project Management Team will then select two or more proposals whose professional qualifications are deemed to be meritorious. Negotiations will then be conducted with the top proposer. If a contract is mutually satisfactory and advantageous to the Town, and the Proposer can be negotiated at a fair and reasonable price, the award will be made to the highest ranking proposer. Otherwise, negotiations will be conducted with the second ranking proposers until a Contract can be negotiated at a fair and reasonable price.
- N. Award of Contract. The Town of Colonial Beach will notify all proposers in writing when a contract has been awarded to a successful proposer.

## 1.06 SCOPE OF SERVICES

The selected firm is to provide engineering consulting services including but not limited to:

### A. Survey

- a. Conduct minimal land research to identify road right-of-way boundaries, as it is assumed the existing gravity sanitary sewer is located in road right-of-way for the length of the proposed project.
- b. Establish horizontal control and benchmarks.
- c. Where sewer replacement is proposed, selected firm will perform a field topographic survey primarily within the limits of pavement to capture items such as edge of pavement, manhole rims and inverts, and MISS UTILITY field-markings of underground utilities. Should the existing gravity sewer “drift” towards the edge of the road where excavation could exceed the limits of pavement, then the survey crew will also locate additional items such as significant trees, hedge rows and landscaping, property corners, fences, edges of pavement, ditches, visible utilities, top of meters, top of cleanouts, and any other visible manmade improvements located in the right-of-way. The maximum limits of the survey will be the road right-of-way.
- d. Survey will be tied to Virginia State Plane Coordinates – North Zone, NAD 83 horizontal and NAVD 1988 vertical, and will be tied into local County geodetic monumentation.
- e. GIS data provided by the Town can be used to supplement collected survey data.

### B. Closed Circuit Television (CCTV) Inspection

- a. CCTV inspection will be provided by the selected firm’s qualified sub-consultant.
- b. CCTV sub-consultant will provide cleaning of the existing sewer main and complete CCTV inspection of the pipe.
- c. No lateral inspections are anticipated within this project area.
- d. Inspection logs will be prepared during the CCTV inspection that record the location and orientation of sanitary sewer lateral connections and any notable features and defects within the sewer main. CCTV logs with digital photographs and a DVD with video of the inspection shall be provided.
- e. CCTV sub-consultant shall assume minor traffic control (signs and cones) for the completion of the cleaning and CCTV. The cost for additional traffic control (lane closures or flaggers) shall not be included in this proposal.
- f. It may be assumed that a disposal site will be provided by the Town for any debris removed from the sewer during the cleaning process.

C. 50% Design Phase

- a. Develop design plans and specifications for the Central Drainage Area Sewer Replacement project for review by the Town.
- b. The 50% submission will include the following:
  - i. Cover sheet with location map, sheet index, and project title
  - ii. General notes and legend sheet
  - iii. Completed field topographic survey with control points
  - iv. Horizontal and vertical pipeline alignment (plan and profile) with stationing
  - v. Horizontal layout of sewer service connections that require reconnection
  - vi. Anticipated limits of disturbance
  - vii. Existing utilities including results of utility designations
  - viii. Pipeline trenching and bedding details (if applicable)
  - ix. Preliminary opinion of probable construction cost
- c. Selected firm will meet with the Town virtually to review the 50% submission and address all comments received from the Town.

D. 95% Design Phase

- a. Develop 95% design plans and specifications for the Central Drainage Area Sewer Replacement project for review by the Town and necessary review agencies.
- b. The 95% submission will build upon the 50% submission and will include the following:
  - i. Updated limits of disturbance (if applicable)
  - ii. Construction phasing/sequencing plan
  - iii. Traffic control plans, notes and details
  - iv. E&S plans showing staging areas (if applicable)
  - v. Technical specifications
  - vi. Updated opinion of probable construction cost
- c. Selected firm will develop a Project Manual to contain contract documents, bidding documents, and technical specifications.
- d. Selected firm will meet with the Town to review the 95% submission, address further comments received from the Town and address comments based on review by necessary review agencies.

E. Final Design Phase

- a. Selected firm will prepare final design plans and specifications based on review comments from the Town and necessary review agencies. This will include a 100% submittal for final review and approval.
- b. Final plans will update all information contained in the 95% plans for required permitting, approvals, bidding, and construction.
- c. Selected firm will prepare a final opinion of probable construction cost.

F. **Bidding Phase**

- a. Selected firm will assist the Town with preparation of the Advertisement for Bids, and coordinate the distribution of the bid package, including all bid documents, plans, and

specifications.

- b. Selected firm will conduct a pre-bid meeting for the project.
- c. Selected firm will address questions and requests for information from prospective bidders for the project.
- d. Selected firm will prepare any addenda required, coordinate review of the addenda, and assist the Town with addenda distribution.
- e. Selected firm will attend the bid opening, tabulate and review the bids, contact any Contractor references, and make a recommendation for award to the lowest responsive, responsible bidder.

**G. Construction Phase (Assuming a 6-month duration)**

- a. Selected firm will conduct a pre-construction meeting in order to establish policies and procedures for submissions, permits, inspections, and scheduling during construction.
- b. Selected firm will review and recommend for approval or resubmission shop drawings or other submittals from the Contractor.
- c. Selected firm will assist construction inspection personnel by providing consulting services to answer design-related questions and assist in determining if the work is proceeding in accordance with contract documents.
- d. Selected firm will attend monthly construction progress/pay request meetings to discuss the status of the work.
- e. Selected firm will attend the substantial completion inspection and assist with preparation of the project punch list.
- f. Selected firm will transfer field notes from the Town’s inspector and the Contractor to develop final record drawings for the project.

**H. OPTION – Construction Inspection Services**

- a. Provide full-time construction inspector for trench excavation, removal/replacement of pipe, backfill, and compaction.
- b. Inspector shall monitor Contractor’s work and verify compliance with contract documents and prepare Daily Inspection Reports with photos of observations.

**I. SCHEDULE**

**Time is of the essence. The Town desires final design submission on or before June 30, 2022, with appropriate milestones included in the proposed schedule.**

	<b>DATE</b>
<b>Est. Notice to Proceed</b> .....	<b><u>October 21, 2021</u></b>
<b>Field Engineering (Survey and CCTV)</b> .....	_____
<b>50% Design Submission</b> .....	_____
<b>Town Review</b> .....	_____
<b>95% Design Submission</b> .....	_____
<b>Town/Agency Review</b> .....	_____
<b>Final Design Submission (100%)</b> .....	_____

**J. FEES**

Design Services (Lump Sum)

1. Field Engineering (Survey and CCTV) .....	\$ _____
2. 50% Design Phase .....	\$ _____
3. 95% Design Phase .....	\$ _____
4. Final Design Phase .....	\$ _____
<b>Subtotal Design Services (Lump Sum) .....</b>	<b>\$ _____</b>

Bidding and Construction Services (Lump Sum)

5. Bidding Phase .....	\$ _____
6. Construction Phase .....	\$ _____
<b>Subtotal Bidding and Construction Services (Lump Sum).....</b>	<b>\$ _____</b>

**Total (Design + Bidding / Construction) .....**\$ \_\_\_\_\_

**OPTION – Construction Inspection (40 hrs/wk @ \$\_\_\_\_/hr for 24 weeks). \$ \_\_\_\_\_**

## 1.07 PROPOSAL REQUIREMENTS

- A. Proposals shall be signed by an authorized representative of the Engineering firm. By submitting a proposal, the proposer certifies that all information provided in the response to this Request for Proposals is true and accurate. Failure to provide information required by this RFP will ultimately result in the rejection of this proposal.
- B. The respondent's package shall include a completed and signed Certificate of No Collusion and one manually signed original and three copies of the proposal.
- C. Proposals shall be single volume booklets bound such that they lay flat when opened. Elaborate brochures and other representations beyond those sufficient for presenting a complete and effective proposal are neither required nor desired. Sections shall be indexed and tabbed for easy reference to the material contained within. Tabs shall be labeled and extend beyond the page width. All proposals shall be no longer than 20 pages (8.5x11 letter size format, double-sided preferred; up to two of those pages may be 11x17 fold out sheets for maps or charts only) and adhere to the following format and include, at a minimum:
  - 1. Introduction
    - a. Introductory letter including a clear, concise explanation as to why the Town should select your firm for this work
    - b. Firm name, contact person, address and telephone number
    - c. Table of Contents
  - 2. Firm Experience
    - a. Detailed description of experience on similar projects
    - b. Provide a minimum of five (5) projects similar in scope to the work described in this RFP, including a name and telephone number of a contact for each client who can verify the information provided
    - c. List of projects completed for the Town of Colonial Beach
  - 3. Firm Personnel Experience
    - a. Organizational chart of the proposed project team and role of each member
    - b. Name, location and brief summary of staff members available to work on project
    - c. Experience of all firm personnel who will actually work directly on this project including, years of relevant experience, education (school, degree and year of graduation), professional registration and availability to work on this project
    - d. Firm name, contact person, address and telephone number for each sub-consultant proposed to work on this project, as well as experience and qualifications of each
  - 4. Project Approach
    - a. Coordinate with specific project tasks listed in the scope of services
    - b. Sub-tasks may be added to clarify project approach
    - c. Suggestions for additional services which may enhance the value of this project



- d. Proposed project management and communications approach for this project

5. Project Schedule

- a. Coordinate with specific project tasks listed in the scope of services.
  - b. A proposed time schedule from kickoff through completion of the contract, listing the individual items included in the contract
  - c. Identify opportunities to expedite completion
  - d. Demonstrate the firm's procedures and methods for assuring that the time schedule will be met
  - e. Identify the person responsible for assuring schedule compliance
- D. Proposals should be prepared simply and economically, providing a straightforward concise description of the Architectural/Engineering firm's capabilities for satisfying the requirements of the RFP. Emphasis should be placed on the completeness and the clarity of the document.

**1.08 EVALUATION CRITERIA**

Evaluation criteria shall include the following factors that shall be considered in a descending order of importance:

- A. Experience of the Proposer in providing the specified engineering services for other similar sized municipal water utilities.
- B. Understanding of the purpose and functions of the engineer's role and contribution to providing the specified engineering services for the Town of Colonial Beach and other similar sized municipal water utilities.
- C. Qualifications of the Proposer's engineers, project manager and project team and overall qualifications and experience of the Proposer and any subcontractors to be used.
- D. Quality of the content of the Proposer's proposal and the Proposer's responsiveness to the request of the proposal.
- E. The sufficiency of financial resources and ability of the Proposer to perform the contract or provide the services for the duration of any resulting contract.
- F. References.
- G. The location of the Proposer's office that will have the responsibility for providing the services and the ability of the Proposer to respond quickly to requests and requirements of the Town.

**1.09 GENERAL TERMS AND CONDITIONS**

- H. RFP Proposal and Clarification. The Town of Colonial Beach reserves the right to request clarification of information submitted and to request additional information of one or more

Proposers. Each Proposer shall examine the RFP documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries, suggestions or requests concerning interpretation, clarification or additional information pertaining to the RFP shall be made in writing to the Town of Colonial Beach's Deputy Town Manager. The Town of Colonial Beach shall not be responsible for oral interpretations given by any employee, representative, or others. The issuance of a written addendum signed by the Town of Colonial Beach's Town Manager and/or Deputy Town Manager is the only official method whereby interpretation, clarification, or additional information can be given. The Town of Colonial Beach will provide by mail to all Official RFP holders any addenda that are issued to this RFP. Official RFP holders are those who: 1) obtain an RFP upon request from the Town of Colonial Beach Town Clerk, Heather Oliver, 315 Douglas Avenue, Colonial Beach, Va. 22443, Tel. 804-224-7181 [holiver@colonialbeachva.net](mailto:holiver@colonialbeachva.net) 2) receive an RFP included with a solicitation letter from either the Town of Colonial Beach Town Manager, India Adams-Jacobs [iadamsjacobs@colonialbeachva.net](mailto:iadamsjacobs@colonialbeachva.net) or the Town of Colonial Beach Deputy Town Manager, Rob Murphy [rmurphy@colonialbeachva.net](mailto:rmurphy@colonialbeachva.net) OR 3) download a bonafide copy from the eVa procurement website

- I. Proposal Withdrawal. Any proposal may be withdrawn up until the time set above for the opening of the proposal. Any proposals not so withdrawn shall constitute an irrevocable offer for a period of 90 days to provide to the Town of Colonial Beach the services set forth in this RFP.
- J. Contract Award. Town of Colonial Beach reserves the right to accept or reject any or all proposals, to waive irregularities and technicalities, and to request resubmission or additional information. The Town of Colonial Beach reserves the right to award the contract to the most responsible and responsive Proposer, resulting in a negotiated agreement, which is most advantageous to and in the best of interest of the Town of Colonial Beach. The Town of Colonial Beach shall be the sole judge of the proposal and the resulting negotiated agreement that is in its best interests, and the Town of Colonial Beach's decision shall be final.
- K. Contract Documents. The contract entered into by the Town of Colonial Beach, and the Engineer shall consist of this RFP, any addendum issued, the submitted proposal by the Engineer, the Town of Colonial Beach's Standard Form Agreement, and any approved change orders issued, all of which shall be referred to collectively as the Contract Documents.
- L. Termination for Convenience. The Town of Colonial Beach shall have the right to terminate at the Town of Colonial Beach's convenience, with or without cause, any contract resulting from this RFP by specifying the date of termination in a written notice. In this event, the Engineer shall be entitled to just and equitable compensation for any satisfactory work completed. All work produced shall become the property of the Town of Colonial Beach.
- M. Assignment of Interest. The Engineer shall not assign any interest in the resulting contract and shall not transfer any interest in the same without prior written consent of the Town of Colonial Beach, of which the Town of Colonial Beach shall be under no obligation to grant.

- N. Release of Data. No reports, information or data given to or prepared by the Engineer under the resulting contract shall be made available to any individual or organization by the Engineer without the prior written approval of the Town of Colonial Beach, which approval the Town of Colonial Beach shall be under no obligation to grant.
- O. Gender Reference. Words of any gender used in any contract resulting from this RFP shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context otherwise requires.
- P. Binding Effect. The terms, provisions, covenants and conditions contained in any resulting contract shall apply to, insure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, legal representatives, successors, and permitted assigns except as otherwise expressly provided.
- Q. Governing Law. The laws of the Commonwealth of Virginia shall govern any contract resulting from this RFP.
- R. Non-Discrimination. During the performance of any contract resulting from this RFP, the Engineer agrees:
  - 1. Not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or handicap, except where religion, sex, national origin or age is a bona fide occupational qualification reasonably necessary to the normal operation of the Engineer. The Engineer shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - 2. To conform to the provisions of the federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended where applicable, and Section 11-51 of the Code of Virginia.
  - 3. That in all solicitations or advertisements for employees placed by or on behalf of the Engineer to state that the Engineer is an equal opportunity employer.
  - 4. The Engineer shall include the provisions of the foregoing paragraphs 1, 2, and 3 in every purchase order for vendor(s) associated with the Town of Colonial Beach.
- S. During the performance of any contract resulting from this RFP, the Engineer shall have and keep current insurance whichever is greater in scope or amount as follows:
  - 1. Worker's Compensation Insurance in compliance with all states in which Engineer does business, including coverage B Employer's liabilities in not less than the following amounts:
    - a. Bodily Injury by accident, \$100,000 for each accident;
    - b. Bodily injury by disease, \$500,000 policy limit;
    - c. Bodily Injury by disease, \$100,000 for each employee.

2. Public Liability Insurance in amount not less than \$1,000,000 for any occurrence involving bodily injury, and not less than \$1,000,000 for any occurrence involving property damage. This coverage shall include contractual liability, broad form property damage, independent Engineers, and personal injury.
  3. Automobile liability insurance in an amount not less than \$500,000 combined single limit bodily injury and property damage. This coverage shall include liability for the use of hired and non-owned vehicles.
  4. The insurance specified herein shall name the Town of Colonial Beach as additional insured with regard to work performed under any subsequent contract. The policy(ies) shall provide that the Town of Colonial Beach is to receive written notice by certified mail, sixty (60) days in advance of cancellation or alteration of the policy(ies). Engineer shall provide the Town of Colonial Beach with copies of certification of insurance coverage and proof of payment of all premiums.
- T. Ethics in Public Contracting. Engineer hereby certifies that it has familiarized itself with Article 4 of Title 11 of the Virginia Public Procurement Act, Section 11-72 through 80, Virginia Code Annotated, and that all amounts received by it, pursuant to this procurement, are proper and in accordance therewith.
- U. Partial Invalidity. Neither any payment for, nor acceptance of, the whole or any part of the services by the Town of Colonial Beach, nor any extension of time, shall operate as a waiver of any provision of any contract resulting from this RFP, nor of any power herein reserved to the Town of Colonial Beach, or any right to damages herein provided, nor shall any waiver of any breach of any contract be held to be a waiver of any other or subsequent breach. Failure of the Town of Colonial Beach to require compliance with any term or condition of any contract shall neither be deemed a waiver of such term or condition nor a waiver of the subsequent enforcement thereof.
- V. Release and Ownership of Information. The Town of Colonial Beach shall make a good faith effort to identify and make available to the Engineer all non-confidential technical and administrative data in the Town of Colonial Beach's possession which the Town of Colonial Beach may lawfully release including, but not limited to contract specifications, drawings, correspondence, and other information specified and required by the Engineer and relating to its work under this contract. The Town of Colonial Beach reserves their rights of ownership to all material given to the Engineer by the Town of Colonial Beach and to all background information, documents, and computer software and documentation developed by the Engineer in performing any contract resulting from this RFP.
- W. Subcontractors and Assignments. The Engineer shall not sublet or assign this contract or any portion thereof without the prior written consent of the Town of Colonial Beach. In seeking consent for any subcontract or assignment, the Engineer shall furnish all information required by the Town of Colonial Beach to permit the Town of Colonial Beach to ascertain the qualifications of the proposed Subcontractor to perform the work, and the Engineer shall submit a copy of the subcontract to the Town of Colonial Beach for approval. The subcontract shall incorporate by reference all provisions and conditions of

the contract resulting from this RFP.

The Town of Colonial Beach's approval of a Subcontractor shall not relieve the Engineer of any of its responsibilities, duties or liabilities hereunder. The Engineer shall continue to be responsible to the Town of Colonial Beach for performance of the Subcontractor and the Subcontractor, for all purposes, shall be deemed to be an agent or employee of the Engineer. Nothing in the contract resulting from this RFP or any subcontract shall create any contractual relationship between any Subcontractor and the Town of.

- X. Examination of Records. The Engineer agrees that the Town of Colonial Beach or any duly authorized representatives shall, until the expiration of three (3) years after final payment hereunder, have access to and the right to examine any and copy any directly pertinent books, documents, papers, and records of the Engineer involving transactions related to any Contract resulting from this RFP. The period of access provided in this paragraph for records, books, documents, and papers and software which may be related to any arbitration, litigation, or the settlement of claims arising out of the performance of any subsequent contract or any subsequent Contracts with vendors shall continue until disposition of any appeals, arbitration, litigation, or claims.
- Y. Hold Harmless. The Engineer, in any Contract resulting from this RFP, shall pay all royalties and license fees necessary for performance of the Contract. The Engineer shall defend all suits or claims for infringement of any patent rights or any other proprietary rights arising from or related to performance of the resulting contract and shall save the Town of Colonial Beach harmless from any and all loss, including reasonable attorney's fees, on account thereof.
- Z. Attorney's Fees. In the event of any action brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.
- AA. Utilization of Information. As may be allowed by law, any information, ideas, or concepts that the Town of Colonial Beach receives during the procurement process from any Proposer's written proposal, any discussion or interview with the Proposer or as a result of any portion of the procurement process for the services described in this RFP shall become the property of the Town of Colonial Beach. The Town of Colonial Beach may use this information for any purpose without compensation to the Proposer from whom the information was received.

#### **1.10 SPECIAL TERMS AND CONDITIONS**

The following Special Terms and Conditions are required by the Virginia Public Procurement Act (§ 2.1-4300 et seq. of the Code of Virginia) and the funding agency, the Virginia Department of Health, Office of Drinking Water. These Special Terms and Conditions shall be included in any contract entered into under this RFP/IFB. By submitting a proposal, Offeror agrees to comply with the following should it be awarded the contract:

- A. Employment Discrimination. During the performance of this contract, the Contractor agrees as follows:

1. Contractor will not discriminate against any employee or applicant for employment due to race, religion, color, sex, national origin, age or handicap, except where religion, sex, national origin or age is a bona fide occupational qualification reasonably necessary to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination disclosure.
  2. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor will state that Contractor is an equal opportunity employer.
  3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this subsection.
- B. Drug Free Workplace. During the performance of this contract, Contractor agrees to (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; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Contractor that 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.
- C. Illegal Immigrants. Contractor does not and shall not during the performance of this contract knowingly employ an unauthorized alien as defined in the Federal Immigration and Reform and Control Act of 1986.
- D. Authorization to transact business in Virginia. SCC Identification Number (Note: This provision is applicable to all Offerors prior to the award of contract.) Offeror, whether organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a 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. Contractor 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, to be revoked or cancelled at any time during the contract.

Any Offerer 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 the proposal its identification number issued by the Virginia State Corporation Commission. Any Offerer not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include a statement in the proposal describing why the Offerer is not required to be so authorized.

The Town of Colonial Beach may void any contract with any Offerer that fails to remain in compliance with this section pursuant to Section 2.2-4311.2 of the Code of Virginia.

- E. Indemnification. Under this contract, the successful Offeror agrees to indemnify, defend and hold harmless the Town of Colonial Beach, its officers, agents and employees from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any services, or the use of *any* services or materials furnished (or made available) by the successful Offeror, provided that such liability is not attributable to the Town of Colonial Beach's sole negligence. The Contractor shall notify the Town of Colonial Beach of any suit, claim, demand, loss or action made or filed against the Contractor immediately upon the Contractor's receipt or learning of it.

The Town of Colonial Beach will not agree to any limitation of damages, waiver of incidental or consequential damages, or indemnification clauses in the contract resulting from this procurement. By submitting a bid or proposal, the proposer agrees not to request such clauses in the resulting contract.

In addition, the Town of Colonial Beach is committed to fostering the utilization of Disadvantaged Business Enterprises (DBEs) in all its procurement activities. MBE/WBE firms are encouraged to submit proposals. Proposers must comply with the following: the President's Executive Order #11246 prohibiting discrimination in employment regarding race, color, creed, sex, or national origin; the President's Executive Orders # 12138 and 11625 regarding utilization of MBE/WBE/DBE firms; and the Civil Rights Act of 1964. Proposers must certify that they do not or will not maintain or provide for their employees any facilities that are segregated on the basis of race, color, creed, or national origin.

Accordingly offers shall make good-faith efforts to ensure that DBEs have maximum practicable opportunity to compete for subcontract work in connection with this project. For this project the Town has not established a numerical DBE-participation goal. While the Town has established no DBE participation goals for this project, their offer is encouraged to faithfully consider DBEs for all subcontracting opportunity pursuant to procurement policy for this project.

#### Definitions.

- A. **Minority-Owned Business Enterprise (MBE)** is a business concern with at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals.
- B. **Woman-Owned Business Enterprise (WBE)** is a business concern with at least 51 percent owned by one or more woman who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more woman and whose management and daily business operations are controlled by one or more of such individuals.
- C. **Disadvantaged Business Enterprise (DBE)** collectively refers to Minority-Owned Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) for the procurement

compliance requirements of this contract.

- D. **Small Business Enterprise (SBE)** is an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.
- E. **Engineer's Obligation.** During the term of the contract/purchase order, the Engineer shall make good faith efforts to ensure that DBEs are committed to in the proposal to have maximum opportunity to successfully perform in the contract. These efforts shall include but not be limited to the following:
1. Negotiating in good faith to attempt to finalize and execute subcontract agreement with DBEs committed to in the Proposal.
  2. Continuing to provide service assistance to DBE subcontractors or suppliers in obtaining bonding lines of credit, etc., if required by the Engineer.
  3. Notifying a DBE in writing of any potential problem prior to formally requesting Approval from Town of Colonial Beach to substitute for the DBE subcontractor.
  4. As with all subcontractors, timely payment of all monies due and owing to DBE subcontractors and suppliers.
  5. Timely submittal of complete and accurate DBE monthly reports in accordance with paragraph G below.
- F. **Substitution of Engineers.** If an Engineer requests a substitution of DBE subcontractors or suppliers, the Engineer shall exert a good faith effort to replace a DBE subcontractor subject to the approval of the Town of Colonial Beach.
- G. **Change in Contract Amount.** The dollar amount of change orders, or any other contract modifications that increase or decrease the work area in which DBEs participation has been committed to in the proposal shall be commensurately added to, or subtracted from, the total contract base figure used to compute actual dollars paid to DBEs. Revised total contract dollar values shall be reflected in the compliance reporting submitted to the Virginia Department of Health.
- H. **DBE Certification.** DBE firms need not be certified as of the proposal date, but must be certified prior to contract award.
- I. A current list of DBE Firms may be obtained online at [www.dmbv.virginia.gov](http://www.dmbv.virginia.gov) or by contacting: the Virginia Department of Minority Business Enterprise 200-202 9th Street, 11 th Floor, Richmond, VA or by calling (804) 786-8585.