

Staunton River Regional Industrial Facility Authority

Pittsylvania County, Virginia
Town of Hurt, Virginia
City of Danville, Virginia

AGENDA

August 21, 2020

12:00 P.M.

Chatham Community Center
115 S. Main Street
Chatham, Virginia 24531

County of Pittsylvania Members

Tim W. Dudley, Vice Chairman
Ben L. Farmer
Dr. Charles H. Miller, Alternate

Town of Hurt Members

Shirley Barksdale-Hill
Steve Watson
Collin Adams, Alternate

City of Danville Members

Sherman M. Saunders, Chairman
J. Lee Vogler, Jr.
Larry Campbell, Alternate

Staunton River Regional Industrial Facility Authority

1. MEETING CALLED TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT PERIOD

Members of the public who desire to comment on a specific agenda item will be heard during this period. The Chairman/Vice Chairman of the Authority may restrict the number of speakers. Each speaker must identify themselves and state their address, and each speaker shall be limited to a total of three minutes for comments. *[Please note that the public comment period is not a question-and-answer session between the public and the Authority.]*

4. APPROVAL OF MINUTES OF THE JUNE 23, 2020 MEETING

5. NEW BUSINESS

- A. General Expenditures Reports as of June 30, 2020 and July 31, 2020 – Kim Van Der Hyde, Director of Finance, Pittsylvania County

- B. Consideration of Resolution No. 2020-08-21-5B, ratifying that certain Proposal for Professional Engineering Services: Master Planning for Southern Virginia Multimodal Park, Hurt, VA, dated July 20, 2020, recommended by Authority Staff and executed on behalf of the Authority in accordance with the Authority's Amended and Restated Cost and Revenue Sharing Agreement, authorizing Dewberry Engineers, Inc. to provide professional engineering services for a lump sum fee of \$9,500.00, to master plan the Southern Virginia Multimodal Park, on the terms and conditions set forth in such Proposal, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference, and on such additional terms and conditions as may be approved by the Authority's Chairman or Vice Chairman, either of whom may act independently of the other, the execution of same by the Authority's Chairman or Vice Chairman to conclusively establish his approval of any further terms and conditions, so long as the total cost thereof does not exceed a fifteen percent (15%) increase to the original lump sum fee, and (ii) authorizing and directing staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated in the Proposal or as they in their discretion deem necessary or appropriate in order to carry out the intent and purpose of this Resolution *[NO SEPARATE WRITTEN RESOLUTION]* – Matthew Rowe, Director of Economic Development, Pittsylvania County, Virginia

- C. Consideration of Resolution No. 2020-08-21-5C, (i) ratifying that certain Proposal dated August 4, 2020, recommended by Authority Staff and executed on behalf of the Authority in accordance with the Authority's Amended and Restated Cost and Revenue Sharing Agreement, authorizing Dewberry Engineers, Inc. to prepare, for a lump sum fee of \$6,500.00, a subdivision plat for the new Staunton River Plastics facility to be located at the Southern Virginia Multimodal Park, on the terms and conditions set forth in such Proposal, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference, and on such additional terms and conditions as may be approved by the Authority's Chairman or Vice Chairman, either of whom may act independently of the other, the execution of same by the Authority's Chairman or Vice Chairman to conclusively establish his approval of any

further terms and conditions, so long as the total cost thereof does not exceed a fifteen percent (15%) increase to the original lump sum fee, and (ii) authorizing and directing staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated in the Proposal or as they in their discretion deem necessary or appropriate in order to carry out the intent and purpose of this Resolution *[NO SEPARATE WRITTEN RESOLUTION]* – Mr. Rowe

- D. Consideration of Resolution No. 2020-08-21-5D, formally supporting the applications for the Southside Economic Development Grant submitted by Pittsylvania County and the City of Danville for grading a proposed fifty (50) acre pad at the Southern Virginia Multimodal Park for future use, and authorizing and directing the Chairman or Vice Chairman of the Authority, either of whom may act independently of the other, to provide a formal letter of support for such applications *[NO SEPARATE WRITTEN RESOLUTION]* – Mr. Rowe

6. CLOSED SESSION

[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]

- A. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) those certain confidential proprietary records voluntarily provided by private business pursuant to a promise of confidentiality from the Authority, and used by the Authority for business and trade development and (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code § 2.2-3705.1(12) and Virginia Code § 2.2-3705.1(8) (appraisals and cost estimates of real property in one or more of the Authority's projects subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); and
- B. As permitted by Virginia Code § 2.2-3711(A)(3) for discussion or consideration of the acquisition and/or the disposition of publicly held real property commonly known as the Southern Virginia Multimodal Park, in Hurt, Virginia, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority; and
- C. As permitted by Virginia Code § 2.2-3711(A)(5) for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

RETURN TO OPEN SESSION

- D. Confirmation of Motion and Vote to Reconvene in Open Meeting
- E. Motion to Certify Closed Meeting

F. Consideration of Resolution No. 2020-08-21-6F, (i) approving the following business terms for a proposed standard option agreement to purchase approximately six (6) acres located in the Southern Virginia Multimodal Park for Project Doc: (a) \$40,000/acre, (b) typical commercial ninety (90) day due diligence period, (c) three year option period - \$15,000 for first year, \$20,000 for second year, and \$25,000 for third year, with all option fees paid being credited towards the purchase price of the land at closing; and (ii) authorizing Authority Staff to negotiate and enter into such agreement on such terms, for subsequent ratification by the Authority Board *[NO SEPARATE WRITTEN RESOLUTION]* – Mr. Rowe

7. COMMUNICATIONS FROM:

- Authority Staff
- Authority Board Members

8. NEXT MEETING – Special Called Meeting TBD

9. ADJOURN

STAUNTON RIVER REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

June 23, 2020

The regular meeting of the Staunton River Regional Industrial Facility Authority was convened at 12:08 p.m. on the above date at the Community Center, 115 South Main Street, Chatham, VA 24531. Present were Pittsylvania County members Ben Farmer and alternate Dr. Charles H. Miller. Town of Hurt members present were Shirley Barksdale-Hill and Steve Watson. City of Danville members present were Sherman Saunders, and alternate Lee Vogler.

County/Town/City staff members attending were: County Administrator David Smitherman; City Manager Ken Larking; County Director of Economic Development Matt Rowe; Interim City Director of Economic Development Corrie Bobe; County Finance Director Kim Van Der Hyde; Secretary Hollye Keese; and Clement Wheatley Attorney Jennifer Burnett.

ROLL CALL AND CONFIRMATION OF QUORUM

Hollye Keese, Secretary, read the roll call and confirmed that a quorum was present.

PUBLIC COMMENT PERIOD

No one desired to be heard.

APPROVAL OF MINUTES

Upon **Motion** by Mr. Vogler and **seconded** by Ms. Barksdale-Hill, minutes of the January 24, 2020, April 24, 2020 and May 8, 2020 meetings were approved as presented.

NEW BUSINESS

- A. General Expenditures Reports as of April 30, 2020 and May 31, 2020 – Kim Van Der Hyde, Director of Finance, Pittsylvania County

Mrs. Van Der Hyde went over the two months of General Expenditure Reports and there were no questions.

Dr. Miller **moved** to accept the Treasurer's Report; the Motion was **seconded** by Mr. Vogler and unanimously approved.

- B. Consideration of Resolution No. 2020-06-23-5B, approving the Authority's Fiscal Year 2021 Budget – Ms. Van Der Hyde [*NO WRITTEN RESOLUTION*]

The submitted budget states that it is amended but it is not. The funding reflects the new percentages that was discussed at the last meeting. The three entities will be contributing a total of \$100,000. Ms. Van Der Hyde stated that she has not received the funds from the Town of Altavista yet. Ms. Van Der Hyde went over the breakdown of expenditures.

Mr. Farmer **moved** to approve Resolution 2020-06-23-5B; the Motion was **seconded** by Mr. Vogler and carried by the following vote:

VOTE: 6-0

AYE: Farmer; Miller; Barksdale-Hill; Watson; Saunders; Vogler (6)

NAY: None (0)

C. Next Meeting Date/Time/Place

The next meeting was scheduled to be held at the Community Center in Chatham on August 21, 2020 at 12 p.m.

CLOSED SESSION

[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]

At 12:18 p.m. Mr. Farmer **moved** that the meeting of the Staunton River Industrial Facility Authority be recessed in a closed meeting for the following purposes:

- A. As permitted by Virginia Code § 2.2-3711(A)(39) for discussion or consideration of records excluded under Virginia Code § 2.2-3705.6(3) (including without limitation (i) those certain confidential proprietary records voluntarily provided by private business pursuant to a promise of confidentiality from the Authority, and used by the Authority for business and trade development and (ii) those certain memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the Authority); such information being excluded from mandatory disclosure under Virginia Code § 2.2-3705.1(12) and Virginia Code § 2.2-3705.1(8) (appraisals and cost estimates of real property in one or more of the Authority's projects subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease); and
- B. As permitted by Virginia Code § 2.2-3711(A)(3) for discussion or consideration of the acquisition and/or the disposition of publicly held real property commonly known as the Southern Virginia Multimodal Park, in Hurt, Virginia, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority; and

- C. As permitted by Virginia Code § 2.2-3711(A)(5) for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; and
- D. As permitted by Virginia Code §§ 2.2-3711(A)(7) and 2.2-3711(A)(8) for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

The Motion was **seconded** by Mr. Vogler and carried by the following vote:

VOTE: 6-0

AYE: Farmer; Miller; Barksdale-Hill; Watson; Saunders; Vogler (6)

NAY: None (0)

RETURN TO OPEN SESSION

E. Confirmation of Motion and Vote to Reconvene in Open Meeting

On **Motion** by Dr. Miller and **seconded** by Mr. Vogler and by unanimous vote at 1:10 p.m., the Authority returned to open meeting.

F. Motion to Certify Closed Meeting

Mr. Farmer **moved** for adoption of the following resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open meeting requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was **seconded** by Mr. Watson and carried by the following vote:

VOTE: 6-0

AYE: Farmer; Miller; Barksdale-Hill; Watson; Saunders; Vogler (6)

NAY: None (0)

G. Consideration of Resolution No. 2020-06-23-6G, regarding settlement agreement with Altavista related to Altavista's withdrawal from the Authority – Jennifer H. Burnett, Clement & Wheatley, Authority Legal Counsel [NO WRITTEN RESOLUTION]

Ms. Barksdale-Hill **moved** to approve Resolution 2020-06-23-6G; the Motion was **seconded** by Mr. Farmer and carried by the following vote:

VOTE: 6-0

AYE: Farmer; Miller; Barksdale-Hill; Watson; Saunders; Vogler (6)

NAY: None (0)

COMMUNICATIONS

Mr. Saunders asked Ms. Bobe and Mr. Rowe if the current pandemic is hurting projects or prospects. Ms. Bobe stated that prospect activity is about thirty percent higher than this time last year. They have been spending more time with existing business to make sure that they are making their way through new protocols and new ways of doing business. Not being able to meet with clients on site, staff has created videos as presentations for prospects. Mr. Rowe stated that there was still a demand for products, that interest rates are low and now is the time to borrow money for a large project. Mr. Rowe stated that the community is communicating and working well together to pool resources together and that is allowing us to take advantage of the crisis. He went on to thank the Board and staff for helping out during this time. Mr. Saunders concluded by saying that we were fortunate to Ms. Bobe and Mr. Rowe to have them.

Meeting adjourned at 1:18 p.m.

Chairman

Secretary to the Authority

Staunton River Regional Industrial Facility Authority
 General Expenditures for Fiscal Year 2020
 As of June 30, 2020

	Cash Balance	Current Rev/Exp	YTD Rev/Exp	Budget	Balance
Cash Balance-July 1, 2019	63,997.06				
Prior Year A/P-Paid in July 2019	-3,542.00				
Funding					
Locality Contributions:					
City of Danville		-	23,000.00	23,000.00	-
Pittsylvania County		-	50,000.00	50,000.00	-
Town of Altavista		-	-	23,000.00 **	23,000.00
Town of Hurt		-	4,000.00	4,000.00	-
Interest		0.63	32.02	-	-
Total Funding		0.63	77,032.02	100,000.00	23,000.00
Expense					
Accounting-Audit Fees		-	4,000.00	5,200.00	1,200.00
Legal Fees		4,908.00	19,251.50	40,000.00	20,748.50
Land Option Fee		-	40,000.00	50,000.00	10,000.00
Postage, Mailing Service		11.00	11.00	100.00	89.00
Supplies		-	972.61	1,200.00	227.39
Meetings and Incidentals		139.96	605.90	675.00	69.10
Insurance		-	1,625.00	1,625.00	-
Unobligated		-	-	1,200.00	1,200.00
Total Expense		5,058.96	66,466.01	100,000.00	33,533.99
Net Income		(5,058.33)	10,566.01		
Current Year A/P-Paid in July 2020	2,750.00				
Cash on Hand	73,771.07				

****Amount not yet received**

Staunton River Regional Industrial Facility Authority
 General Expenditures for Fiscal Year 2020
 As of July 31, 2020

	Cash Balance	Current Rev/Exp	YTD Rev/Exp	Budget	Balance
Cash Balance-July 1, 2020	73,771.07				
Prior Year A/P-Paid in July 2020	-2,750.00				
Funding					
Locality Contributions:					
City of Danville		35,000.00	35,000.00	35,000.00	-
Pittsylvania County		61,000.00	61,000.00	61,000.00	-
Town of Altavista		15,000.00	15,000.00	15,000.00 **	-
Town of Hurt		4,000.00	4,000.00	4,000.00	-
Interest		1.06	1.06	-	-
Total Funding		<u>115,001.06</u>	<u>115,001.06</u>	<u>115,000.00</u>	<u>-</u>
Expense					
Accounting-Audit Fees		-	-	5,000.00	5,000.00
Legal Fees		-	-	40,000.00	40,000.00
Land Option Fee		40,000.00	40,000.00	40,000.00	-
Postage, Mailing Service		-	-	100.00	100.00
Supplies		-	-	1,200.00	1,200.00
Meetings and Incidentals		-	-	800.00	800.00
Insurance		1,625.00	1,625.00	1,625.00	-
Unobligated		-	-	26,275.00	26,275.00
Total Expense		<u>41,625.00</u>	<u>41,625.00</u>	<u>115,000.00</u>	<u>73,375.00</u>
Net Income		<u>73,376.06</u>	<u>73,376.06</u>		

Cash on Hand 144,397.13

****Counted as a receivable in FY2020**



Dewberry Engineers Inc. | 434.797.4497
 551 Piney Forest Road | 434.797.4341 fax
 Danville, VA 24540 | www.dewberry.com

July 20, 2020

Staunton River Regional Industrial Facility Authority (SRRIFA)

c/o:

Mr. David Smitherman
 County Administrator
 Pittsylvania County
 1 Center Street
 Chatham, VA 24531

Mr. Ken Larking
 City Manager
 City of Danville
 P.O. Box 3300
 Danville, VA 24543

**Re: Proposal for Professional Engineering Services:
 Master Planning (Project)
 Southern Virginia Multimodal Park (Site)
 Hurt, VA**

Dear Gentlemen:

Dewberry Engineers Inc. (Dewberry) appreciates the opportunity to submit herewith our proposal for professional engineering services.

UNDERSTANDING OF THE PROJECT

The Southern Virginia Multimodal Park (SVMP) is an 850 acre± business industrial park located at the former Burlington Industries-Klopman Mills site in Hurt, VA. SRRIFA has been proactively working in collaboration with the Site's owner (SVMP, LLC) to proactively market the Site to prospective industries. Bulk utility infrastructure and rail exists to serve development of the Site. Recently Staunton River Plastics, LLC announced plans to construct and operate a new, approximately 250,000 SF facility in SVMP. To determine the development potential of SVMP, SRRIFA seeks to develop a phased master plan to evaluate feasible growth potential of the Site.

RELEVANT EXPERIENCE

Over the past several years, Dewberry has assisted SVMP, LLC and SRRIFA in marketing efforts for the site. These efforts have included participation in visits from prospective industries and preparation of conceptual layouts. Currently Dewberry is supporting Staunton River Plastics, LLC with their project. We also worked to classify the Site as part of the Virginia Economic Development Partnership's (VEDP) Business Ready Site program. Dewberry has amassed decades of history on this Site. Our company's founder, Mr. Sid Dewberry, was born and raised in Hurt. We possess intimate knowledge of the Site and supporting infrastructure. In addition, Dewberry has maintained a presence and remained engaged in Southside Virginia for over 40 years.

SCOPE OF SERVICES

Dewberry proposes to perform the following Scope of Services:

1. **Master Planning** – Initial Master Planning efforts will include the following tasks:
 - **Conceptual Site Plan** - Dewberry will develop a conceptual site plan depicting the full development potential of the entire Site based on current Site conditions. The plan will include a phased approach based on factors such as development costs, topography, environmental

Mr. David Smitherman
Mr. Ken Larking
July 20, 2020

factors and other identified constraints. Available mapping will be used. No additional surveying will be completed at this time. The plan will include proposed lot areas and potential expansions of rail, roads and other critical infrastructure.

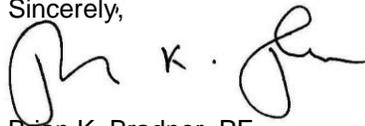
- **Letter Summary** – Dewberry will prepare a brief letter report summarizing the contents of the conceptual site plan. The letter report will also include cost estimates and recommendations.
- **Presentation** – Following review and approval of the plan and summary from City/County staff, Dewberry will present the plan and summary to the SRRIFA Board for their review and discussion.

FEE

Dewberry proposes to perform the Scope of Services listed above for a lump sum fee of \$9,500. Once authorized to begin work, Dewberry will begin work immediately.

This proposal is subject to our Standard Terms and Conditions included herewith as Attachment A. The return of an executed copy of this proposal will serve as our authorization to begin work. Please do not hesitate to call if you have any questions or wish to discuss the proposal.

Sincerely,



Brian K. Bradner, PE
Vice President | Branch Manager

Attachment A – Standard Terms & Conditions (3/19)

R:\Proposal Letters\Engineering\2020.07.20.-Southern Virginia Multimodal Park Master Planning.docx

The foregoing proposal of Dewberry Engineers Inc. is accepted:

Matthew D. Rowe, Staff, Staunton River RIFA

Print (Type) Individual, Firm, or Corporate Name

Matthew D. Rowe

7/27/2020

Signature of Authorized Representative Date

Pittsylvania County Director of Econ. Dev.

Print (Type) Name of Authorized Representative and Title

This proposal includes information that shall not be disclosed outside of the CLIENT and shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of, or in connection with, the submission of this information, CLIENT shall have the right to duplicate, use, or disclose the information to the extent provided in the resulting contract. This restriction does not limit CLIENT's right to use information contained in this information if it is obtained from another source without restriction.

ATTACHMENT A
STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions ("STCs") are incorporated by reference into the foregoing agreement or proposal, along with any future modifications or amendments thereto made in accordance with Paragraph 23 below (the "Agreement") between Dewberry ("we" or "us" or "our") and its client ("you" or "your") for the performance of services as defined in our proposal ("Services"). These STCs are fully binding upon you just as if they were fully set forth in the body of the Agreement, and shall supersede any term or provision elsewhere in the Agreement in conflict with these STCs.

1. **Period of Offer.** Unless we decide, in writing, to extend the period for acceptance by you of our proposal, you have 90 days from our proposal date to accept our proposal. We have the right to withdraw the proposal at any time before you accept. Delivery of a signed proposal—whether original or copy—to us constitutes your acceptance of the proposal, including attachments expressly incorporated into the proposal by reference. The proposal and incorporated attachments shall constitute the entire Agreement between you and us. If you request us to render Services before you deliver a signed proposal to us, and we render Services in accordance with the proposal, you agree that the proposal and these STCs constitute the Agreement between you and us even if you fail to return a signed proposal to us.
2. **Scope of Services.** For the fee set forth in the Agreement, you agree that we shall only be obligated to render the Services expressly described in the Agreement. Our Services shall not be construed as providing legal, accounting, or insurance services. Unless the Agreement expressly requires, in no event do we have any obligation or responsibility for:
 - a. The correctness or completeness of any document which was prepared by another entity.
 - b. The correctness or completeness of any drawing prepared by us, unless it was properly signed and sealed by a registered professional on our behalf.
 - c. Favorable or timely comment or action by any governmental entity on the submission of any construction documents, land use or feasibility studies, appeals, petitions for exceptions or waivers, or other requests or documents of any nature whatsoever.
 - d. Taking into account off-site circumstances other than those clearly visible and actually known to us from on-site work.
 - e. The actual location (or characteristics) of any portion of a utility which is not entirely visible from the surface.
 - f. Site safety or construction quality, means, methods, or sequences.
 - g. The correctness of any geotechnical services performed by others, whether or not performed as our subcontractor.
 - h. The accuracy of earth work estimates and quantity take-offs, or the balance of earthwork cut and fill.
 - i. The accuracy of any opinions of construction cost, financial analyses, economic feasibility projections or schedules for the Project.Should shop drawing review be incorporated into the Services, we shall pass on the shop drawings with reasonable promptness. Our review of shop drawings will be general, for conformance with the design concept of the Project to which this Agreement relates ("Project") and compliance with the information given in the construction documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual field conditions. Our review shall not be construed as permitting any departure from contract requirements nor as relieving your contractor of the sole and final responsibility for any error in details, dimensions or otherwise that may exist.
3. **Your Oral Decisions.** You, or any of your directors, officers, partners, members, managers, employees or agents having apparent authority from you, may orally: (a) make decisions relating to Services or the Agreement; (b) request a change in the scope of Services under the Agreement; or (c) request us to render additional Services under the Agreement, subject to our right to require you to submit the request in writing before your decision or request shall be considered to have been effectively made. You may, at any time, limit the authority of any or all persons to act orally on your behalf under this Paragraph 3, by giving us seven 7 days advance written notice.
4. **Proprietary Rights.** The drawings, specifications and other documents prepared by us under this Agreement are instruments of our service for use solely for the Project and, unless otherwise provided, we shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyright and rights to any Dewberry trademarks. Upon payment in full for our Services, you shall be permitted to retain copies, including reproducible copies of our instruments of service for information and reference for the Project. Our instruments of service shall not be used by you or others on other projects for any reason or for completion or modification of this Project by other professionals, unless you enter into a written agreement with us allowing for such use. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication inconsistent with our reserved rights. You shall defend, indemnify and hold us harmless, and release us, from any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of any use (including, without limitation, the means or media of transfer, possession, use, or alteration) of our instruments of service by (i) you, if such use is inconsistent with our reserved rights or this Paragraph 4, or (ii) any third party, regardless of the manner of use, if such third party received our instruments of service directly or indirectly from you (including if we or others have transmitted such instruments of service to the third party at your request or direction, for your benefit, or, and without limiting the foregoing, pursuant to a contractual obligation that is directly or indirectly derived (or flowed down) from a contract to which you have privity).
5. **Fees and Compensation.** If you request us to render services not specifically described in the Agreement, or, if we or anyone in our employ, is called upon to be deposed or to testify in a matter in which we are not a named party, that relates to the Project, you agree to compensate us for such services in accordance with the hourly rates as set forth on Attachment A of this Agreement or in any subsequently effective schedule, unless otherwise agreed in writing. If no compensation rate is set forth on Attachment A, or through written agreement between you and us, we shall be compensated for such services at our then current hourly rates. We may unilaterally increase our lump sum or unit billing rates on each anniversary of your acceptance of this Agreement by as much as five percent or the percentage increase in the CPI-W (U.S. Department of Labor Consumer Price Index-Washington), whichever is greater. Hourly rates are subject to periodic revision at our discretion.
6. **Period of Service.** The provisions of this Agreement and the compensation provided for under the Agreement have been established in anticipation of the orderly and continuous progress of the Project. Our obligation to render the Services will extend only for that period which may reasonably be required to complete the Services in an orderly and continuous manner and we may then, at our sole option, terminate the Agreement.
7. **Reimbursable Expenses.** Unless the Agreement otherwise provides, you shall reimburse us, or our affiliates, for all expenses we incur to render the Services for you under this Agreement, plus fifteen percent. We may submit invoices for reimbursable expenses separately from invoices for Services.
8. **Payment Terms.** We may submit invoices at any time to you for Services and for reimbursable expenses incurred. Invoices are payable within 30 days of the invoice date, and you agree to pay a finance charge of 1½% per month on any unpaid balance not received by us within 30 days of the invoice date. If you require payment via credit card, Dewberry will assess a 3% processing fee on the total amount invoiced. Invoices may be based either upon our estimate of the proportion of the total Services actually completed at the time of billing for lump sum or fixed fee services, or in the case of hourly services, upon rendering of the Services. If any invoice is not paid within 30 days of the invoice date, we shall have the right either to suspend the performance of our Services until all invoices more than 30 days past due are fully paid or to terminate the agreement and to initiate proceedings to recover amounts owed by you. Additionally, we shall have the right to withhold from you the possession or use of any drawings or documents prepared by us for you under this or any other agreement with you until all delinquent invoices are paid in full. You shall not offset payments of our invoices by any amounts due, or claimed to be due for any reason. If you do not give us written notice disputing an invoice within 20 days of the invoice date, the invoice shall conclusively be deemed correct. All payments made by you should specify the invoice numbers being paid. If we receive payments that do not specify the invoices being paid, you agree that we may apply payments in our sole discretion. Time is of the essence of your payment obligations; and your failure make full and timely payment shall be deemed a material breach.
9. **Information from You and Public Sources.** You shall furnish us all plans, drawings, surveys, deeds and other documents in your possession, or that come into your possession, which may be related to the Services, and shall inform us in writing about all special criteria or requirements related to the Services (together, "Information"). We may obtain deeds, plats, maps and any other information filed with or published by any governmental or quasi-governmental entity (together, "Public Information"). Unless we are engaged in writing as an additional service to independently verify such, we may rely upon Information and Public Information in rendering Services. We shall not be responsible for errors or omissions or additional costs arising out of our reliance on Information or Public Information. You agree to give prompt notice to us of any development or occurrence that affects the scope or timing of Services, or any defect in the final work submitted by us, or errors or omissions of others as they are discovered. We shall not be responsible for any adverse consequence arising in whole or in part from your failure to provide accurate or timely information, approvals and decisions, as required for the orderly progress of the Services.
10. **Plan Processing.** We may submit plans and related, or other, documents to public agencies for approval. However, it may be necessary, in order to serve your interests and needs, for us to perform special processing, such as attending meetings and conferences with different agencies, hand carrying plans or other documents from agency to agency, and other special services. These special services are not included in the basic fee and shall be performed as additional services on an hourly fee basis in accordance Paragraph 5 above.

11. **Meetings and Conferences.** To the extent the Agreement provides, we will attend meetings and conferences that you, or your representatives, reasonably require. Furthermore, we will meet on an as-needed basis with public agencies that might be involved in the Project. Because we cannot forecast the scope and nature of these meetings and conferences, we will perform meeting and conference services on an hourly fee basis in accordance with our applicable hourly rate schedule.
12. **Your Claims.** You release us from, and waive, all claims of any nature for any and all errors or omissions by us related to our performance under this Agreement, or in the performance of any supplementary services related to this Agreement, unless you have strictly complied with all of the following procedures for asserting a claim, as to which procedures time is of the essence:
 - a. You shall give us written notice within 10 days of the date that you discover, or should, in the exercise of ordinary care, have discovered that you have, or may have, a claim against us. If you fail to give us written notice within such 10 days, then such claim shall forever be barred and extinguished.
 - b. If we accept the claim, we shall have a reasonable time to cure any error or omission and any damage. This shall be your sole remedy, and you must not have caused the error or omission, or any damage resulting from the error or omission, to be cured, if we are ready, willing and able to do so.
 - c. If we reject the claim, we shall give you written notice of our rejection within 30 days of our receipt of your notice of claim. You shall then have 60 days to give us an opinion from a recognized expert in the appropriate discipline, corroborating your claim that we committed an error or omission, and establishing that the error or omission arose from our failure to use the degree of care ordinarily used by professionals in that discipline in the jurisdiction local to the Project. If you fail to give us such an opinion from a recognized expert within 60 days from the date we send you notice of our rejection of the claim, then such claim shall forever be barred and extinguished.
 - d. We shall have 60 days from receipt of your expert's written opinion to reevaluate any claim asserted by you. If we again reject such claim, or if the 60 day period from receipt of the written opinion of your expert elapses without action by us, then you may have recourse to such other remedies as may be provided under this Agreement.
13. **Hazardous or Toxic Wastes or Substances, Pollution or Contamination.** You acknowledge that Services rendered under this Agreement may be affected by hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances. To induce us to enter into this Agreement, you agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, that relate, in any way, to both (a) hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances, and (b) the performance by us of our obligations under the Agreement, whether or not such performance by us is claimed to have been, or was, or may have been, negligent. Unless otherwise expressly set forth in this Agreement, we shall have no responsibility for searching for, or identifying, any hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances; but if we discover or suspect the presence of any such wastes, substances, pollution or contamination due to the presence of hazardous or toxic wastes or substances, then we, in our sole discretion, and at any time, may stop work under, or terminate, this Agreement, in which event we will have no further liability to you for performance under this Agreement, and you shall make the payments to us required by Paragraph 14 of the STCs.
14. **Termination.** Either party may terminate the Agreement if the other party materially breaches the Agreement and does not cure the breach within 7 days after receiving notice of the breach from the non-breaching party. You shall immediately pay us for our Services rendered and expenses incurred through the termination date, including fees and expenses that we incur as a result of the termination.
15. **Payment of Other Professionals.** If this Agreement includes continuation of services begun by other architects, engineers, planners, surveyors, or other professionals, we may suspend our Services until you make arrangements satisfactory to such other professionals for payment. If satisfactory arrangements have not been made within a time determined by us to be reasonable, then we may in our sole discretion terminate this Agreement.
16. **Assignment and Third-Party Beneficiaries.** Neither party shall assign or transfer any rights, interests or claims arising under this Agreement without the written consent of the other, provided, however, that we are permitted to (i) employ independent consultants, associates, and subcontractors as we may deem necessary to render the Services, (ii) assign our right to receive compensation under this Agreement, and (iii) transfer the Agreement to an affiliate of ours, in our sole discretion, with written notice to you (an affiliate for purposes of this Paragraph 16 is defined as any other business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, us). This Agreement does not confer any benefit or right upon any person or entity other than the parties, except that our partners, members, managers, directors, officers, employees, agents and subcontractors shall have and be entitled to the protection afforded us under Paragraphs 9, 12, 13, 16, 20 and 22 of this Agreement.
17. **Applicable Law and Forum Selection.** The Commonwealth of Virginia's laws shall govern this Agreement in all respects, including matters of construction, validity, and performance. Except as provided in Paragraph 18, the parties agree that the courts of Fairfax County, Virginia, and the Federal District Court, Eastern District of Virginia, Alexandria Division, (together, "Courts") shall have exclusive jurisdiction over any controversy, including matters of construction, validity, and performance, arising out of this Agreement. The parties consent to the jurisdiction of the Courts and waive any objection either party might otherwise be entitled to assert regarding jurisdiction. The parties irrevocably waive all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to this Agreement.
18. **Arbitration of Our Claims for Compensation.** Instead of proceeding in court, we, in our sole and absolute discretion, may submit any claim for compensation due us under this Agreement to arbitration in Fairfax County, Virginia in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court having jurisdiction. You agree not to assert any counterclaim or any defense by way of set-off in such arbitration, and that the arbitrator or panel shall have no authority to consider, or to render, an award based upon any such counterclaim or defense by way of set-off. We shall have the right to withdraw our demand for arbitration at any time before the arbitration hearing starts by giving written notice to the arbitrator or panel and you; and upon the giving of such notice by us, the arbitration shall terminate, no award shall be rendered, and we may then pursue our remedies in accordance with Paragraph 17 above.
19. **Severability.** If any part, term, or provision of this Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.
20. **Limitations on Liability.** In recognition of the relative risks and benefits of the Project to you and us, you agree, that our liability for any loss, damages, property damages or bodily injury of or to you caused in whole or in part by us in the performance of this Agreement or any supplementary services in any way related to this Agreement, shall be limited in the aggregate to the amount of fees that you have paid to us for the Services. The parties intend that the foregoing limitation on liability shall apply to all claims, whether sounding in tort, contract, warranty, or otherwise. You release, waive, and shall not seek contribution from, or indemnification by, us for any claims of any nature made against you by any other person who may suffer any loss, damages, property damages or bodily injury in any manner associated with our services, or any supplementary services in any way related to this Agreement. Notwithstanding anything to the contrary elsewhere in the Agreement, we shall not be liable to you, in any event or for any amount, for delays; or for consequential, special or incidental damages; or for punitive or exemplary damages; or for the cost to add an item or component that we omitted from the instruments of service due to our negligence, to the extent that item or component would have otherwise been necessary, or adds value or betterment, to the Project. Should you find the terms of this Paragraph 20 unacceptable, we are prepared to negotiate a modification in consideration of an equitable surcharge to pay our additional insurance premiums and risk.
21. **Payment of Attorney's Fees.** The losing party shall pay the winning party's reasonable attorney's fees and expenses for the prosecution or defense of any cause of action, claim or demand arising under this Agreement in any court or in arbitration.
22. **Indemnification.** You agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of acts or omissions by you, or your contractor, subcontractor or other independent company or consultant employed by you to work on the Project, or their respective partners, members, managers, directors, officers, employees, agents or assigns; or arising out of any other operation, no matter by whom committed or omitted, for and on behalf of you, or such contractor, subcontractor or other independent company or consultant, whether or not due in part to errors or omissions by us in the performance of this Agreement, or in the performance of any supplementary service in any way related to this Agreement, provided that you are not required to indemnify and hold us harmless under this Paragraph 22 in the event of our sole negligence.
23. **Integration Clause.** The Agreement represents the entire agreement of the parties. No prior representations, statements, or inducements made by either us, you, or the respective agents of either, that is not contained in the Agreement shall enlarge, modify, alter, or otherwise vary the written terms of the Agreement unless they are made in writing and made a part of the Agreement by attachment, incorporated by reference in the Agreement or signed or initialed on behalf of both parties.
24. **Notice.** Any notices issued to us shall be sent to our project manager with a copy sent via email to Notices@dewberry.com or mailed to 8401 Arlington Blvd, Fairfax VA 220131, Attn: Director of Contracts.



Dewberry Engineers Inc. | 434.797.4497
 551 Piney Forest Road | 434.797.4341 fax
 Danville, VA 24540 | www.dewberry.com

August 4, 2020

Staunton River Regional Industrial Facility Authority (SRRIFA)

c/o:

Mr. David Smitherman
 County Administrator
 Pittsylvania County
 1 Center Street
 Chatham, VA 24531

Mr. Ken Larking
 City Manager
 City of Danville
 P.O. Box 3300
 Danville, VA 24543

**Re: Staunton River Regional Industrial Facility Authority (SRRIFA)
 Staunton River Plastic Subdivision Plat**

Dear Gentlemen:

Dewberry Engineers Inc. (Dewberry) is pleased to present herein our proposal to prepare a subdivision plat for the Staunton River Plastic's new facility. Staunton River Plastic's will construct a new 200,000 SF facility on a portion of County Parcel 2545-69-2418.

SCOPE OF SERVICES

Dewberry will prepare a Boundary Survey (18VAC10-20-370) of a portion of County Parcel ID 2545-69-2418 containing approximately 122.31 acres. Dewberry will prepare a subdivision plat creating two (2) new lots in accordance with Pittsylvania County subdivision ordinance. The new Staunton River Plastics lot will create a ±29-acre lot with the remaining ±93.31 acres creating the second lot. Dewberry will submit plat to Pittsylvania County and respond to comments (anticipate minor comments) and two (2) submissions.

FEE - \$6,500 Lump Sum

This proposal is subject to our Standard Terms & Conditions included herein as Attachment A.

Again, we appreciate the opportunity to submit this proposal and look forward to continuing to work with you on this project. Please do not hesitate to call if you have questions or wish to discuss the proposal or project further. The return of an executed copy of this proposal will serve as our authorization to proceed. Dewberry will not begin work under this contract until authorized by SRRIFA and/or City/County staff.

Sincerely,

Shawn R. Harden, PE
 Senior Associate | Project Manager

Brian K. Bradner, PE
 Vice President | Branch Manager

SRH/srh/vnl

Attachment A – Standard Terms & Conditions (3/19)

R:\Proposal Letters\Engineering\2020.08.04 Staunton River Plastics Subdivision Plat.docx

Mr. David Smitherman
Mr. Ken Larking
August 4, 2020

The foregoing proposal of Dewberry Engineers Inc. is accepted:

Staunton River RIFA

Print (Type) Individual, Firm, or Corporate Name

Matthew D. Rowe

8/7/2020

Signature of Authorized Representative

Date

Matthew D. Rowe, Pittsylvania County, Director of Economic Development

Print (Type) Name of Authorized Representative and Title

This proposal includes information that shall not be disclosed outside of the CLIENT and shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of, or in connection with, the submission of this information, CLIENT shall have the right to duplicate, use, or disclose the information to the extent provided in the resulting contract. This restriction does not limit CLIENT's right to use information contained in this information if it is obtained from another source without restriction.

ATTACHMENT A
STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions ("STCs") are incorporated by reference into the foregoing agreement or proposal, along with any future modifications or amendments thereto made in accordance with Paragraph 23 below (the "Agreement") between Dewberry ("we" or "us" or "our") and its client ("you" or "your") for the performance of services as defined in our proposal ("Services"). These STCs are fully binding upon you just as if they were fully set forth in the body of the Agreement, and shall supersede any term or provision elsewhere in the Agreement in conflict with these STCs.

1. **Period of Offer.** Unless we decide, in writing, to extend the period for acceptance by you of our proposal, you have 90 days from our proposal date to accept our proposal. We have the right to withdraw the proposal at any time before you accept. Delivery of a signed proposal—whether original or copy—to us constitutes your acceptance of the proposal, including attachments expressly incorporated into the proposal by reference. The proposal and incorporated attachments shall constitute the entire Agreement between you and us. If you request us to render Services before you deliver a signed proposal to us, and we render Services in accordance with the proposal, you agree that the proposal and these STCs constitute the Agreement between you and us even if you fail to return a signed proposal to us.
2. **Scope of Services.** For the fee set forth in the Agreement, you agree that we shall only be obligated to render the Services expressly described in the Agreement. Our Services shall not be construed as providing legal, accounting, or insurance services. Unless the Agreement expressly requires, in no event do we have any obligation or responsibility for:
 - a. The correctness or completeness of any document which was prepared by another entity.
 - b. The correctness or completeness of any drawing prepared by us, unless it was properly signed and sealed by a registered professional on our behalf.
 - c. Favorable or timely comment or action by any governmental entity on the submission of any construction documents, land use or feasibility studies, appeals, petitions for exceptions or waivers, or other requests or documents of any nature whatsoever.
 - d. Taking into account off-site circumstances other than those clearly visible and actually known to us from on-site work.
 - e. The actual location (or characteristics) of any portion of a utility which is not entirely visible from the surface.
 - f. Site safety or construction quality, means, methods, or sequences.
 - g. The correctness of any geotechnical services performed by others, whether or not performed as our subcontractor.
 - h. The accuracy of earth work estimates and quantity take-offs, or the balance of earthwork cut and fill.
 - i. The accuracy of any opinions of construction cost, financial analyses, economic feasibility projections or schedules for the Project.Should shop drawing review be incorporated into the Services, we shall pass on the shop drawings with reasonable promptness. Our review of shop drawings will be general, for conformance with the design concept of the Project to which this Agreement relates ("Project") and compliance with the information given in the construction documents, and will not include quantities, detailed dimensions, nor adjustments of dimensions to actual field conditions. Our review shall not be construed as permitting any departure from contract requirements nor as relieving your contractor of the sole and final responsibility for any error in details, dimensions or otherwise that may exist.
3. **Your Oral Decisions.** You, or any of your directors, officers, partners, members, managers, employees or agents having apparent authority from you, may orally: (a) make decisions relating to Services or the Agreement; (b) request a change in the scope of Services under the Agreement; or (c) request us to render additional Services under the Agreement, subject to our right to require you to submit the request in writing before your decision or request shall be considered to have been effectively made. You may, at any time, limit the authority of any or all persons to act orally on your behalf under this Paragraph 3, by giving us seven 7 days advance written notice.
4. **Proprietary Rights.** The drawings, specifications and other documents prepared by us under this Agreement are instruments of our service for use solely for the Project and, unless otherwise provided, we shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyright and rights to any Dewberry trademarks. Upon payment in full for our Services, you shall be permitted to retain copies, including reproducible copies of our instruments of service for information and reference for the Project. Our instruments of service shall not be used by you or others on other projects for any reason or for completion or modification of this Project by other professionals, unless you enter into a written agreement with us allowing for such use. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication inconsistent with our reserved rights. You shall defend, indemnify and hold us harmless, and release us, from any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of any use (including, without limitation, the means or media of transfer, possession, use, or alteration) of our instruments of service by (i) you, if such use is inconsistent with our reserved rights or this Paragraph 4, or (ii) any third party, regardless of the manner of use, if such third party received our instruments of service directly or indirectly from you (including if we or others have transmitted such instruments of service to the third party at your request or direction, for your benefit, or, and without limiting the foregoing, pursuant to a contractual obligation that is directly or indirectly derived (or flowed down) from a contract to which you have privity).
5. **Fees and Compensation.** If you request us to render services not specifically described in the Agreement, or, if we or anyone in our employ, is called upon to be deposed or to testify in a matter in which we are not a named party, that relates to the Project, you agree to compensate us for such services in accordance with the hourly rates as set forth on Attachment A of this Agreement or in any subsequently effective schedule, unless otherwise agreed in writing. If no compensation rate is set forth on Attachment A, or through written agreement between you and us, we shall be compensated for such services at our then current hourly rates. We may unilaterally increase our lump sum or unit billing rates on each anniversary of your acceptance of this Agreement by as much as five percent or the percentage increase in the CPI-W (U.S. Department of Labor Consumer Price Index-Washington), whichever is greater. Hourly rates are subject to periodic revision at our discretion.
6. **Period of Service.** The provisions of this Agreement and the compensation provided for under the Agreement have been established in anticipation of the orderly and continuous progress of the Project. Our obligation to render the Services will extend only for that period which may reasonably be required to complete the Services in an orderly and continuous manner and we may then, at our sole option, terminate the Agreement.
7. **Reimbursable Expenses.** Unless the Agreement otherwise provides, you shall reimburse us, or our affiliates, for all expenses we incur to render the Services for you under this Agreement, plus fifteen percent. We may submit invoices for reimbursable expenses separately from invoices for Services.
8. **Payment Terms.** We may submit invoices at any time to you for Services and for reimbursable expenses incurred. Invoices are payable within 30 days of the invoice date, and you agree to pay a finance charge of 1½% per month on any unpaid balance not received by us within 30 days of the invoice date. If you require payment via credit card, Dewberry will assess a 3% processing fee on the total amount invoiced. Invoices may be based either upon our estimate of the proportion of the total Services actually completed at the time of billing for lump sum or fixed fee services, or in the case of hourly services, upon rendering of the Services. If any invoice is not paid within 30 days of the invoice date, we shall have the right either to suspend the performance of our Services until all invoices more than 30 days past due are fully paid or to terminate the agreement and to initiate proceedings to recover amounts owed by you. Additionally, we shall have the right to withhold from you the possession or use of any drawings or documents prepared by us for you under this or any other agreement with you until all delinquent invoices are paid in full. You shall not offset payments of our invoices by any amounts due, or claimed to be due for any reason. If you do not give us written notice disputing an invoice within 20 days of the invoice date, the invoice shall conclusively be deemed correct. All payments made by you should specify the invoice numbers being paid. If we receive payments that do not specify the invoices being paid, you agree that we may apply payments in our sole discretion. Time is of the essence of your payment obligations; and your failure make full and timely payment shall be deemed a material breach.
9. **Information from You and Public Sources.** You shall furnish us all plans, drawings, surveys, deeds and other documents in your possession, or that come into your possession, which may be related to the Services, and shall inform us in writing about all special criteria or requirements related to the Services (together, "Information"). We may obtain deeds, plats, maps and any other information filed with or published by any governmental or quasi-governmental entity (together, "Public Information"). Unless we are engaged in writing as an additional service to independently verify such, we may rely upon Information and Public Information in rendering Services. We shall not be responsible for errors or omissions or additional costs arising out of our reliance on Information or Public Information. You agree to give prompt notice to us of any development or occurrence that affects the scope or timing of Services, or any defect in the final work submitted by us, or errors or omissions of others as they are discovered. We shall not be responsible for any adverse consequence arising in whole or in part from your failure to provide accurate or timely information, approvals and decisions, as required for the orderly progress of the Services.
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11. **Meetings and Conferences.** To the extent the Agreement provides, we will attend meetings and conferences that you, or your representatives, reasonably require. Furthermore, we will meet on an as-needed basis with public agencies that might be involved in the Project. Because we cannot forecast the scope and nature of these meetings and conferences, we will perform meeting and conference services on an hourly fee basis in accordance with our applicable hourly rate schedule.
12. **Your Claims.** You release us from, and waive, all claims of any nature for any and all errors or omissions by us related to our performance under this Agreement, or in the performance of any supplementary services related to this Agreement, unless you have strictly complied with all of the following procedures for asserting a claim, as to which procedures time is of the essence:
 - a. You shall give us written notice within 10 days of the date that you discover, or should, in the exercise of ordinary care, have discovered that you have, or may have, a claim against us. If you fail to give us written notice within such 10 days, then such claim shall forever be barred and extinguished.
 - b. If we accept the claim, we shall have a reasonable time to cure any error or omission and any damage. This shall be your sole remedy, and you must not have caused the error or omission, or any damage resulting from the error or omission, to be cured, if we are ready, willing and able to do so.
 - c. If we reject the claim, we shall give you written notice of our rejection within 30 days of our receipt of your notice of claim. You shall then have 60 days to give us an opinion from a recognized expert in the appropriate discipline, corroborating your claim that we committed an error or omission, and establishing that the error or omission arose from our failure to use the degree of care ordinarily used by professionals in that discipline in the jurisdiction local to the Project. If you fail to give us such an opinion from a recognized expert within 60 days from the date we send you notice of our rejection of the claim, then such claim shall forever be barred and extinguished.
 - d. We shall have 60 days from receipt of your expert's written opinion to reevaluate any claim asserted by you. If we again reject such claim, or if the 60 day period from receipt of the written opinion of your expert elapses without action by us, then you may have recourse to such other remedies as may be provided under this Agreement.
13. **Hazardous or Toxic Wastes or Substances, Pollution or Contamination.** You acknowledge that Services rendered under this Agreement may be affected by hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances. To induce us to enter into this Agreement, you agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, that relate, in any way, to both (a) hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances, and (b) the performance by us of our obligations under the Agreement, whether or not such performance by us is claimed to have been, or was, or may have been, negligent. Unless otherwise expressly set forth in this Agreement, we shall have no responsibility for searching for, or identifying, any hazardous or toxic wastes or substances, or pollution or contamination due to the presence of hazardous or toxic wastes or substances; but if we discover or suspect the presence of any such wastes, substances, pollution or contamination due to the presence of hazardous or toxic wastes or substances, then we, in our sole discretion, and at any time, may stop work under, or terminate, this Agreement, in which event we will have no further liability to you for performance under this Agreement, and you shall make the payments to us required by Paragraph 14 of the STCs.
14. **Termination.** Either party may terminate the Agreement if the other party materially breaches the Agreement and does not cure the breach within 7 days after receiving notice of the breach from the non-breaching party. You shall immediately pay us for our Services rendered and expenses incurred through the termination date, including fees and expenses that we incur as a result of the termination.
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16. **Assignment and Third-Party Beneficiaries.** Neither party shall assign or transfer any rights, interests or claims arising under this Agreement without the written consent of the other, provided, however, that we are permitted to (i) employ independent consultants, associates, and subcontractors as we may deem necessary to render the Services, (ii) assign our right to receive compensation under this Agreement, and (iii) transfer the Agreement to an affiliate of ours, in our sole discretion, with written notice to you (an affiliate for purposes of this Paragraph 16 is defined as any other business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, us). This Agreement does not confer any benefit or right upon any person or entity other than the parties, except that our partners, members, managers, directors, officers, employees, agents and subcontractors shall have and be entitled to the protection afforded us under Paragraphs 9, 12, 13, 16, 20 and 22 of this Agreement.
17. **Applicable Law and Forum Selection.** The Commonwealth of Virginia's laws shall govern this Agreement in all respects, including matters of construction, validity, and performance. Except as provided in Paragraph 18, the parties agree that the courts of Fairfax County, Virginia, and the Federal District Court, Eastern District of Virginia, Alexandria Division, (together, "Courts") shall have exclusive jurisdiction over any controversy, including matters of construction, validity, and performance, arising out of this Agreement. The parties consent to the jurisdiction of the Courts and waive any objection either party might otherwise be entitled to assert regarding jurisdiction. The parties irrevocably waive all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to this Agreement.
18. **Arbitration of Our Claims for Compensation.** Instead of proceeding in court, we, in our sole and absolute discretion, may submit any claim for compensation due us under this Agreement to arbitration in Fairfax County, Virginia in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court having jurisdiction. You agree not to assert any counterclaim or any defense by way of set-off in such arbitration, and that the arbitrator or panel shall have no authority to consider, or to render, an award based upon any such counterclaim or defense by way of set-off. We shall have the right to withdraw our demand for arbitration at any time before the arbitration hearing starts by giving written notice to the arbitrator or panel and you; and upon the giving of such notice by us, the arbitration shall terminate, no award shall be rendered, and we may then pursue our remedies in accordance with Paragraph 17 above.
19. **Severability.** If any part, term, or provision of this Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.
20. **Limitations on Liability.** In recognition of the relative risks and benefits of the Project to you and us, you agree, that our liability for any loss, damages, property damages or bodily injury of or to you caused in whole or in part by us in the performance of this Agreement or any supplementary services in any way related to this Agreement, shall be limited in the aggregate to the amount of fees that you have paid to us for the Services. The parties intend that the foregoing limitation on liability shall apply to all claims, whether sounding in tort, contract, warranty, or otherwise. You release, waive, and shall not seek contribution from, or indemnification by, us for any claims of any nature made against you by any other person who may suffer any loss, damages, property damages or bodily injury in any manner associated with our services, or any supplementary services in any way related to this Agreement. Notwithstanding anything to the contrary elsewhere in the Agreement, we shall not be liable to you, in any event or for any amount, for delays; or for consequential, special or incidental damages; or for punitive or exemplary damages; or for the cost to add an item or component that we omitted from the instruments of service due to our negligence, to the extent that item or component would have otherwise been necessary, or adds value or betterment, to the Project. Should you find the terms of this Paragraph 20 unacceptable, we are prepared to negotiate a modification in consideration of an equitable surcharge to pay our additional insurance premiums and risk.
21. **Payment of Attorney's Fees.** The losing party shall pay the winning party's reasonable attorney's fees and expenses for the prosecution or defense of any cause of action, claim or demand arising under this Agreement in any court or in arbitration.
22. **Indemnification.** You agree to indemnify, defend and hold us harmless from and against any and all liability, loss, damages, claims and demands for loss, damages, property damages or bodily injury, arising out of acts or omissions by you, or your contractor, subcontractor or other independent company or consultant employed by you to work on the Project, or their respective partners, members, managers, directors, officers, employees, agents or assigns; or arising out of any other operation, no matter by whom committed or omitted, for and on behalf of you, or such contractor, subcontractor or other independent company or consultant, whether or not due in part to errors or omissions by us in the performance of this Agreement, or in the performance of any supplementary service in any way related to this Agreement, provided that you are not required to indemnify and hold us harmless under this Paragraph 22 in the event of our sole negligence.
23. **Integration Clause.** The Agreement represents the entire agreement of the parties. No prior representations, statements, or inducements made by either us, you, or the respective agents of either, that is not contained in the Agreement shall enlarge, modify, alter, or otherwise vary the written terms of the Agreement unless they are made in writing and made a part of the Agreement by attachment, incorporated by reference in the Agreement or signed or initialed on behalf of both parties.
24. **Notice.** Any notices issued to us shall be sent to our project manager with a copy sent via email to Notices@dewberry.com or mailed to 8401 Arlington Blvd, Fairfax VA 220131, Attn: Director of Contracts.