



Berryville Police Department

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W. Neal White – Chief of Police

Police and Security Committee Meeting

Minutes

September 5, 2012

Attendance: Mary Daniel – Chair, Dave Tollett, Keith Dalton – Town Manager, Neal White – Police Chief

The meeting was called to order at 10:00 am by committee chair Mary Daniel.

Chief White updated the committee with regards to the status of filling the open position within the department. The initial forty applications have been reviewed and thirteen applicants were selected for interviews. The application pool will be further narrowed to continue in the selection process. It is hoped that a candidate will be in place on or around the first of November.

Chief White supplied committee members with a document containing the data from the traffic counter that had been deployed on Mosby Boulevard to monitor traffic associated with the opening of the new high school. The document was discussed as well as department efforts that have taken place thus far to keep traffic moving in a safe fashion around the school.

The committee discussed the lane markings that had been re-established on Hermitage Boulevard after the application of the slurry coat. Neither staff nor committee members had received any comments from the public since the application of the lane markings.

Chief White advised the committee that Master Patrol Officer Dan Morozewicz had received an award from MADD for his efforts in the reduction of impaired driving in the community.

Chief White advised that the department would be hosting a free child safety seat inspection at the Food Lion parking lot on September 22, 2012.

Town Manager Keith Dalton presented the committee with a draft of an ordinance concerning emergency key access boxes attached to certain structures. The draft document was discussed by the committee. The penalty schedule of the ordinance (section g) will be further evaluated in order to document a process for dealing with second and subsequent violations of the ordinance. There was also discussion concerning section d of the draft regarding the



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percentage of modification to a structure when the ordinance would take effect. The language in the current draft set the threshold at a 50% increase in footprint or value. Mr. Dalton was going to research the percentage requirement that ADA utilizes when modifications are made to a structure.

The next meeting for this committee was set for November 7, 2012 at 10:00 am in the A/B meeting room of the Joint Government Center.

Being no further business, the meeting was adjourned at 11:30 am.

Submitted By: Chief W. Neal White

**BERRYVILLE TOWN COUNCIL
BUDGET AND FINANCE COMMITTEE
Wednesday, September 5, 2012
Berryville-Clarke County Government Center
Town Council Conference Room
Called Meeting
1:30 p.m.**

MINUTES

Roll:

Town Council:

Present: Recorder Jay Arnold, Chair; Mary Daniel

Staff: Keith Dalton, Town Manager; Desi Moreland, Treasurer; Celeste Heath Town Clerk

Press: None

1. Call to Order – The meeting was called to order at 1:35 p.m.

2. Discussion – Procurement and Fuel Cards and Purchasing Policy

Mr. Dalton and Mrs. Moreland briefed the committee on progress on implementing procurement and fuel cards.

Mrs. Moreland presented an updated procurement policy manual for review. She said the policy changes are few but since the town has reached a population at which we are governed by the VPPA the policies must be adjusted accordingly.

The committee agreed that staff should continue to proceed with enrollment in the card programs and present the new procurement policy manual for adoption by Town Council at the September meeting.

3. Adjourn

The committee meeting was adjourned at 2:25 p.m.

Keith R. Dalton, Town Manager

MINUTES
BERRYVILLE TOWN COUNCIL
Tuesday, September 11, 2012
Berryville-Clarke County Government Center
Regular Meeting
7:30 p.m.

Roll:

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Douglas Shaffer; David Tollett; Mary Daniel

Staff: Keith Dalton, Town Manager; Desiree Moreland, Assistant Town Manager/Treasurer; Christy Dunkle, Assistant Town Manager/Planner; Celeste Heath, Town Clerk

Press: Val Van Meter, Winchester Star; Ed Leonard, ClarkeDailyNews.com

1. Public Hearing – Loudoun Propane (Dale Schulz, President, Agent, Agent), requests a Text Amendment in order to allow Petroleum Bulk Stations and Terminals as a use by Special Use Permit in the Business Park (BP) Zoning District. Further, it is proposed that BP Zoning District regulations be amended to update the North American Industry Classification System (NAICS) code number and to exclude 424710 from the list of Prohibited Uses.

Mayor Kirby called the Public Hearing to order at 7:30 p.m. Council member Kitselman recused himself and left the room because of a business relationship with the applicant.

There was no public comment.

Mayor Kirby recognized the applicant, Dale Schulz, who gave a brief overview of his business.

The Public Hearing was closed at 7:32 p.m.

2. Call to Order: Wilson Kirby, Mayor

Mayor Kirby called the regular meeting to order at 7:33 p.m.

3. Approval of Minutes

August 14, 2012

Upon motion by Recorder Arnold, seconded by Council member Kitselman, the minutes of the August 14, 2012 meeting were unanimously approved.

4. Citizen's Forum

Gary Braithwaite, 12 Lincoln Avenue, spoke about water drainage issues at his house. He said that he has been working with town staff on this. He said that he believes that water drainage from new development and flow constriction from a driveway on his neighbor's lot is causing water in his basement and flooding in his back yard.

Ernie Carnevale, CEO of Blue Ridge Hospice spoke about non-local clothing donation bins in town and how they affect Blue Ridge Hospice. See attached statement. (Attachment 1)

5. Report of the Mayor

Mayor Kirby reported that the yard sale last Saturday was a success and encouraged the organizers to continue to host it.

6. Planning and Zoning Matters

Action Item – Public Hearing – Text Amendment

Loudoun Propane, (Dale Schulz, President, Agent), is requesting a Text Amendment in order to allow 424710 Petroleum Bulk Stations and Terminals as a use by Special Permit establishing Section 612.4(m) of the Town of Berryville Zoning Ordinance. As a part of this request, Section 612.5(y) of the Town of Berryville Zoning Ordinance will be modified to update the North American Industry Classification System (NAICS) code number and to exclude 424710 from the Prohibited Uses.

Council member Kitselman left the room at 7:41 p.m.

Ms. Dunkle reported that the Planning Commission sponsored this text amendment and recommended that the Town Council approve it as presented.

Upon motion by Council member Shaffer, seconded by Council member Daniel the Council of the Town of Berryville approved a Text Amendment in order to allow 424710 Petroleum Bulk Stations and Terminals as a use by Special Permit establishing Section 612.4(m) of the Town of Berryville Zoning Ordinance. As a part of this request, Section 612.5(y) of the Town of Berryville Zoning Ordinance will be modified to update the North American Industry Classification System (NAICS) code number and to exclude 424710 from the Prohibited Uses.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Douglas Shaffer
David Tollett
Mary Daniel

Nays:

None

Absent:

Allen Kitselman

Abstain:

Harry Lee Arnold, Jr., Recorder

Mr. Kitselman returned to the room at 7:43 p.m.

Clarke County High School Stormwater Pond

Ms. Dunkle reported that she has requested an as-built for the stormwater pond at the high school. She said that the contractor had to remove a significant amount of sediment from the pond, which changes the configuration thus requiring a new as-built plan.

Mr. Dalton said Mr. Braithwaite's concerns began when the contractor began de-watering the pond which was holding a significant amount of water. He said that the stormwater channel at the intersection of Main and Lincoln was flowing for two weeks because of this dewatering and that is when Mr. Braithwaite observed water in his yard and basement. Mr. Dalton said that Mr. Braithwaite met with him, Ms. Dunkle and the school's engineer on site. He said that the new as-builts that are being completed will be reviewed to make sure that the pond is now working properly. Mr. Dalton said that staff will continue to work with Mr. Braithwaite. Mr. Braithwaite then left photos of his water problem.

Clothing Donation Bins

Ms. Dunkle addressed Mr. Carnevale's concerns about donation bins stating that she has tried to get in touch with the companies responsible for the bins because of some other issues that have come up about them but has had difficulty in contacting the owners of the bins. She said that she is in touch with the City of Winchester about language they are developing to deal with these bins. There was a general discussion between Mr. Carnevale and the Town Council about the nature of the collection bins.

Proposed Tree Planting Project

The Mayor then recognized Alison Teetor, Clarke County Natural Resource Planner to speak about a proposed tree planting project at the south entrance to town and at the new sewer plant. She introduced Bryan Seipp, Watershed Manager with the Center for Watershed Protection to talk about the project. He said that the proposal is to plant trees at the Southgate subdivision along Craig's Run to improve water quality. He said that the second proposal is to plant trees at the new sewer plant using leftover funds from the project. Mr. Seipp said that he spoke to landowners from Southgate, who were present at the Council meeting. He said that he is looking for support from the Town and that this is a good way to meet clean water objectives in a cost effective way.

Mr. Dalton said that he met with Ms. Teetor and Mr. Seipp and that this is a good opportunity to improve water quality and aesthetics. Council member Kitselman asked what type of permission is needed to do the project. Ms. Teetor said that she talked to Bob Mitchell who looked into the status of the HOA since they own the property in question. He said that since the HOA is essentially dissolved permission can be sought from the last known existing board. Ms. Teetor said that she has gotten verbal permission from the former board members who are still in the area and that she has sent letters to adjacent property owners. She said that she has spoken to VDOT and Rappahannock Power and they both have no issue with project as long as the trees are out of the safety zone (VDOT) and Miss Utility is called (Rappahannock).

Mr. Dalton asked if anything was needed from the Town Council for the Southgate project. Mr. Seipp said that it appears that since the Town does not own any of the land that no authorization is needed from the Town Council.

There was then a discussion of long term maintenance of the area. Ms. Teetor said that the property owners who currently maintain the area are willing to continue mowing around the trees.

The Council then discussed the proposed planting project at the sewer plant. Mr. Dalton said that he will speak to Mr. Tyrrell and DEQ about the project if the Town Council has no objection. The Town Council had no objections to Mr. Dalton pursuing the project.

7. Report of Town Manager

Halloween

Upon motion by Councilmember Daniel, seconded by Council member Kitselman the Town Council unanimously set October 31, 2012 from 6:00 p.m. to 8:30 p.m. as the time for trick-or-treating within the corporate limits of the Town of Berryville.

Sewer Plant Update

Mr. Dalton said that things are moving quickly at the plant and that wastewater will be introduced into the plant on September 17 in order to “seed” the plant and get the biology started. He said the plan is to introduce wastewater from the town on the following Wednesday.

Mayor Kirby asked if a ribbon cutting is planned. Mr. Dalton said that he would like to discuss how the plant will be presented to the public. Mayor Kirby suggested that this be addressed at the next Streets and Utilities meeting.

Holiday Lights

Recorder Arnold said that Berryville Main Street has been discussing ways to enhance downtown during the holidays and would like to investigate lighting 10 of the downtown trees. Mayor Kirby said that this issue can also be addressed at the Streets and Utilities Committee meeting

8. Standing Committee Reports

a) BADA Liaison – Allen Kitselman
Nothing to add.

b) Budget Finance / CIP – Jay Arnold

Approval of Minutes

September 5, 2012

Upon motion by Recorder Arnold, seconded by Council member Daniel, the minutes of the September 5, 2012 Budget and Finance Committee meeting were unanimously approved.

Procurement Policy

Ms. Moreland presented an updated Procurement Policy Manual. She said that it has been changed to reflect the fact that the Town must now abide by the Virginia Public Procurement Act. Recorder Arnold said that the Budget and Finance Committee

discussed this at length and recommends adoption of the VPPA and the Manual as the Town's purchasing policy.

Upon motion by Council member Daniel, seconded by Recorder Arnold the Council of the Town of Berryville adopted the Virginia Public Procurement Act of the Code of Virginia and the attached Procurement Policy Manual as its Procurement Policy (Attachment 2.)

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Douglas Shaffer David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

c) Community Improvements – Allen Kitselman
Nothing to add.

d) Planning Commission – Doug Shaffer
Nothing to add to report.

e) Police and Security – Mary Daniel
Chief White reported that the department will hold a child safety seat check on September 22 and a Walk to School day on October 3. He reported that Officer Dan Morozewicz received an award from MADD for apprehension of impaired drivers.

Approval of Minutes

September 5, 2012

Upon motion by Council Member Tollett, seconded by Council member Daniel, the minutes of the September 5, 2012 Police and Security Committee meeting were unanimously approved.

f) Streets and Utilities – Wilson Kirby
Mayor Kirby said that the Streets and Utilities Committee will set a meeting for this month. Mr. Dalton reported that staff has met with the Virginia Department of Emergency Management regarding the disaster designation for the derecho storm and that the Town should get some reimbursement of costs associated with that storm.

g) Personnel / Appointments – Jay Arnold
Recorder Arnold reported that staff is working on appointments.

9. Closed Session –

The Berryville Town Council will enter closed session in accordance with §2.2-3711-A-29, Code of Virginia, for discussion of contract negotiations.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member Daniel that the Council of the Town of Berryville enter Closed Session pursuant to §2.2-3711-A-29, Code of Virginia, for discussion of contract negotiations.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman David Tollett Doug Shaffer
Nays:	None
Absent:	None
Abstain:	None
Absent During Vote:	None

b. Enter Closed Session

The Town Council entered closed session at 8:31 p.m.

c. Reconvene Open Session

The Town Council reconvened in open session at 8:46 p.m.

d. Certification of Closed Session

**Town of Berryville
RESOLUTION**

MEETING DATE: September 11, 2012

MOTION BY: Allen Kitselman

SECOND BY: Dave Tollett

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia (Council), has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by 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 Council.

VOTE:

Recorded Vote:

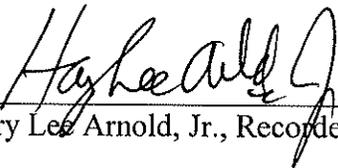
Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Allen Kitselman
Mary Daniel
David Tollett
Doug Shaffer

Nays: None

Absent: None

Abstain: None

Absent During Vote: None



Harry Lee Arnold, Jr., Recorder

Action Item – Agreements Regarding Berryville Graphics, Inc. Economic Development Project

Mr. Dalton said that there are two action items before the Council related to the Closed Session discussion. Mr. Dalton explained that Governor McDonnell, Clarke County and the Town of Berryville have been working with Berryville Graphics to expand their operations. He said that localities must match the funds coming from the Governor's Opportunity Fund and that the Town's portion of the match is \$94,000. He said that the first agreement under consideration is between the Town and County regarding the matching funds and the second is with the IDA because they will be advancing the \$94,000 contribution to the Town and the Town must agree to repayment over three years.

Mr. Dalton said that both the Town and County will experience increased tax revenue and increased job growth from this investment.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Council of the Town of Berryville adopted the attached County and Town Agreement Regarding Berryville Graphics, Inc. Economic Development Project and authorized the Mayor to sign on behalf of the Town Council. (Attachment 3)

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Douglas Shaffer David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

Upon motion by Council member Kitselman, seconded by Recorder Arnold the Council of the Town of Berryville adopted the attached Town and IDA Agreement Regarding Berryville Graphics, Inc. Economic Development Project and authorized the Mayor to sign on behalf of the Town Council. (Attachment 4)

VOTE:

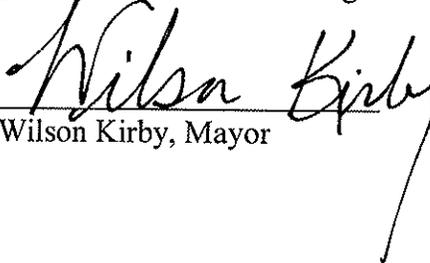
Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Douglas Shaffer David Tollett Mary Daniel
Nays:	None

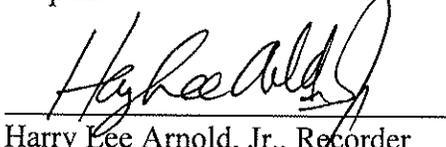
Absent: None
Abstain: None

11. Adjourn

Upon motion by Council member Kitselman, seconded by Council member Daniel and passed, the Council meeting was adjourned at 8:53 p.m.



Wilson Kirby, Mayor



Harry Ee Arnold, Jr., Recorder

**Berryville Town Council
Meeting of September 11, 2012**

- Good evening. My name is Ernie Carnevale, and I'm the President and CEO of Blue Ridge Hospice.
- As many of you may know, this is a milestone year for our not-for-profit hospice organization, as we are celebrating our 30th anniversary.
- Founded by two area residents, Helen Zearth and Gail Rodgers, Blue Ridge Hospice has grown and greatly expanded our services in response to community need and healthcare changes.
- We now provide hospice care to 8 area counties, including Clarke County, and the City of Winchester. Last year our 200 employees traveled 604,217 miles to care for our patients in their homes, nursing and assisted living facilities, and local hospitals.
- Eleven years ago, we served 405 patients. Last year, we served 1,054.
- Our 6 thrift shops provide good-value shopping, a place to donate no longer needed items, as well as the income to help defray hospice care for our patients who can't afford services. In addition to our 6 shops, Blue Ridge Hospice operates a clothes-baling operation in Winchester that recycles clothing and soft goods that are not sold in our thrift shops.
- As a not-for-profit hospice, last year we returned \$349,701 in charity care to these patients.
- **Why are all these facts and figures important?**
- Because, as part of the area's non-profit community, Blue Ridge Hospice is concerned about the yellow, white, but predominately blue, clothing bins that are popping up at shopping centers, convenience stores, and in well-traveled rural places.
- Most likely, you've seen them, and perhaps you even thought they belonged to Blue Ridge Hospice or another local not-for-profit organization. They DO NOT.
- Actually, these bins have NO local connection, and further investigation (see copy of *Warren County Report*) points to the fact that items left in them only serves to siphon funds away from reputable local organizations, such as the Salvation Army, Goodwill, SPCA, Habitat for Humanity, and yes, Blue Ridge Hospice.

- Additionally, as our staff travels to the areas we serve, we are noticing that these bins are often becoming dumping places, creating litter, and turning into community eyesores.
- My request to you this evening is to consider passing an ordinance, such as many other towns and communities have already done, to prohibit the drop-off of these bins.
- I have included a sample ordinance from one of these communities that is dealing with this problem.
- On behalf of Blue Ridge Hospice, I'm appreciative of this opportunity to come before you this evening.
- And, if it is appropriate, I am happy to take any questions that you may have now, or please get in touch with me later.
- Thank you.



The Town Of Berryville

Procurement Policy Manual

On September 11, 2012, the Town Council of the Town of Berryville adopted the Virginia Public Procurement Act of the Code of Virginia and this manual as its procurement policy.

I. Purpose, General

The policies contained herein have been developed pursuant to the Virginia Public Procurement Act of the Code of Virginia (“VPPA”). The VPPA has certain mandatory provisions and allows for the use of certain optional policies provided they are adopted in writing by the governing body and are based on competitive principles.

These policies are intended to provide the framework for procurement of materials, supplies, equipment, and services at the lowest possible cost consistent with the quality needed for the proper operation of municipal services. Our goal is the promotion of the Town's best interest through intelligent action and fair dealing which will result in obtaining the optimum value for each dollar spent as well as strengthening the public confidence in the integrity of public purchasing.

II. Policy

The Town of Berryville adopted the VPPA and this Policy Manual on (DATE) as its procurement policy. A copy of the VPPA is included in this policy manual as Attachment A.

III. Applicability

These policies and procedures apply to all contracts for the procurement of goods, services, insurance and construction entered into by the Town involving any expenditure of public funds except those specifically exempted herein.

IV. Procurement Authority and Responsibility

The Town Manager has the ultimate responsibility to ensure that the acquisition of goods and services does not violate or circumvent state law, regulations, town ordinances or the provisions of this manual.

V. Delegation

The Town Manager may delegate the procurement of any goods or services to the Treasurer, Purchasing Agent or other responsible officials.

VI. General Procurement Policies

Adequate Competition

A sufficient number of sources must be solicited for the procurement of goods or services consistent with the method of procurement used.

Bidder's List

The Purchasing Agent shall be responsible, with the assistance from the various Department Heads, to maintain a current file of sources of goods, services, construction, etc., to be known as the Bidder's List. Any vendor can be included on the Bidder's List upon their request.

Ethics

See § 2.2-4367 to § 2.2-4377 of the VPPA.

Solicitations

Amending a Solicitation

If it is necessary to amend a solicitation, prepare, post, and send an addendum to all potential bidders or offerors who received a copy of the solicitation or who attended a pre-bid or pre-proposal conference.

Canceling a Solicitation

An Invitation for Bids, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. When canceling a written solicitation all vendors who have been issued a solicitation must be notified, and the notice must be publicly posted.

Performance and Payment Bonds

Upon the award of any public construction contract exceeding \$100,000 awarded to any prime contractor, such contractor shall furnish the town with the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract.
2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the furtherance of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

Each of the bonds shall be executed and made payable to the Town of Berryville by one or more surety companies selected by the contractor that are authorized to do business in Virginia and filed with the purchasing office that awarded the contract or a designated official thereof within 10 days after receipt of the purchase order or notice of award.

Nothing in this section shall preclude the town from requiring payment or performance bonds for construction contracts below \$100,000.

Alternative Forms of Security

A certified check or cash escrow may be accepted in lieu of a bid, payment, or performance bond. If approved by the Town Attorney, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.

Contract/Purchase Order Modification Restrictions

A contract or purchase order may not be modified or renewed unless provided for in the original contract or solicitation. No additional consideration or increase in contract price may be paid to the contractor because of renewal unless specifically authorized under the original contract.

- Purchases Up to the VPPA limit - Cumulative contract modifications to purchases made under small purchase procedures shall not exceed 25% of the original contract price without advance written approval of the Town Manager.
- Purchases over the VPPA limit - A contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25% of the original amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Town Manager.

Documentation of Files

A complete file should be maintained in one place for each purchase transaction, containing all the information necessary to understand the why, who, what, when, where and how of the transaction.

Nondiscrimination

In the solicitation, awarding or administration of contracts, the Town shall not discriminate because of the race, religion, color, sex, age, disability, or national origin of the bidder, offeror, or contractor (Code of Virginia, § 2.2-4310A).

Employment Discrimination Prohibited

Employment discrimination by contractor prohibited; required contract provisions. -- All public bodies shall include in every contract of more than \$10,000 the following provisions:

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor

agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

Preferences

Berryville Vendors and Products

Preference is given to goods produced in Berryville, goods or services or construction provided by Berryville persons, firms or corporations, in the event of a tie bid. In the event that this provision does not resolve the tie preference is given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations.

Recycled Paper and Paper Products Preference

In determining the award of any contract for paper and paper products the town shall award to the lowest responsible bidder offering recycled paper and paper products of a quality suitable for the purpose intended, so long as the bid price is not more than 10% greater than the bid price of the low responsive and responsible bidder.

Public Access to Procurement Records

- Except as provided in this section, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
- Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Town Manager decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

- Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Town Manager decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.
- Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

Publicly Posted Notices

All solicitations for goods and services over \$50,000 shall be posted in the Town Office.

Award Notices over \$50,000 must be posted in the Town Office for a ten (10) day period immediately following the actual time of award. The procurement records must be available for review by any bidder or offeror at the time a Notice of Intent To Award or an Award Notice is posted.

Responsible Bidder or Offeror

In determining a responsible bidder or offeror, a number of factors, including but not limited to the following, are considered. The vendor should:

- be a regular dealer, supplier, or when required in the solicitation an authorized dealer of the goods or services offered;
- have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments;
- have a satisfactory record of performance;
- have a satisfactory record of integrity; and
- have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the purchase order or contract.

Responsive Bid

- To be considered for an award, a bid must comply in all material respects with the Invitation for Bids.
- Responsiveness relates to compliance with the provisions of the solicitation, including specifications and terms and conditions.

- Failure to comply with the requirements set forth in the Invitation for Bids may result in a bid being declared nonresponsive, e.g., failure to sign a bid, failure to return the required bid documents, substitution of vendor's terms, deletion of terms and conditions stated in the Invitation for Bids, failure to offer a product or service that meets the requirements of the Invitation for Bids, etc.
- A bidder who fails to provide prices for all categories of labor in the pricing schedule of a time and materials service contract is considered nonresponsive.
- This is true whether the price was left blank or the bidder entered a figure of \$0. Bidders who provide multiple prices for performing a service where a single price was solicited are also nonresponsive.

VII. Guidelines for Procurement

This section contains general guidelines for procuring goods and services.

Administrative Lead-Time

Administrative lead-time is that period of time from initiation of the requirement by the user to issuance of an award. For routine procurements where informal written solicitations are used, the minimum time required to prepare, solicit, evaluate, and make an award may take from three (3) days up to thirty (30) days. When competitive sealed bidding or competitive negotiation is used, the time required by the purchasing office may be longer.

Selection of Procurement Method

It is important to select the proper procurement method. The estimated or anticipated value of the contract must be determined first, unless the purchase is an emergency. The anticipated value of the contract includes the dollar value for the initial period of the contract, and includes all possible renewal periods. The expected trade-in value of equipment should not be considered when determining the anticipated value of a contract.

Preparing the Written Solicitation

Solicitations should convey to the reader, in a clear, concise and logical sequence, the information necessary to answer the basic questions of who, what, why, where, when and how.

Terms and Conditions

See section VIII of this manual.

Contract Period

- Term contracts normally cover a 12 month period or cite a specific time for completion for the project or service.
- A solicitation for a multi-year contract, or one that includes an option on the part of the town to renew the contract for an additional period, may be advantageous and should be considered; however, in determining the value of the contract and procurement method, all possible renewal periods must be included.

- Multi-year programs are subject to availability of funds, and each solicitation covering a multi-year period must contain an availability of funds clause.
- If price adjustments are to be permitted during the contract period, the conditions under which they are authorized must be specified in the original solicitation and resulting contract.
- The town should review all multi-year contracts at least annually to determine if the goods or services are still required, if prices are fair and reasonable based on the current market conditions, and if performance is satisfactory.
- Multi-year contracts including options to renew normally should not exceed 5 years.

Specifications

Solicitations of offers, whether by formal advertising or negotiations, shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be purchased. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description (see Use of Brand Names below) may be used as a means to define the performance or other salient requirements of a procurement.

Invitations for bids and requests for proposals shall clearly set forth all requirements which bidders must fulfill in order for bids and proposals to be properly evaluated. Factors to be used in evaluating bids or proposals shall be clearly stated in the solicitation to enable bidders to know how their bids or proposals will be evaluated. If a solicitation requires a listing of subcontractors or sub-item vendors, a bidder's failure to list such shall make that bid nonresponsive.

Use of Brand Names

Unless otherwise provided in the Invitation for Bid, the name of a certain brand does not restrict bidders to a specific brand, make or manufacturer's name, but conveys the general style, type, character and quality of the article desired. Any article that the Town, in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended shall be acceptable.

Vendor Assistance in Specification Preparation

Advice or assistance may be received from a vendor in identifying the features and characteristics needed by the town; however, no person who, for compensation, prepares an Invitation to Bid or Request for Proposal for or on behalf of a public body shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public.

Order Splitting Prohibition

The placement of multiple orders within other than a reasonable time period to one or more vendors for the same, like, or related goods or services to avoid using the appropriate method of procurement or to remain within delegated purchasing authority is prohibited. Order splitting results in higher

administrative cost to the town. Requirements should be combined when practical to obtain quantity discounts and other administrative efficiencies.

Freight

F.O.B. Destination is the basic policy of the Town of Berryville to solicit bids for goods F.O.B. (free on board) Destination, which means that freight charges are paid by the seller who owns and assumes all risk for the goods until they are accepted at the designated delivery point. The cost of shipping the goods may be included in the quoted price or by the bidder or offeror as a separate line item.

Insurance

Whenever work is to be performed on town owned or leased property or facilities, the contractor shall be required to have Workers' Compensation, Employer's Liability, Commercial General Liability and Automobile Liability, and in certain types of programs Professional Liability/Errors and Omissions insurance coverage.

VIII. General Terms and Conditions

These General Terms and Conditions are required for use in written solicitations issued by the Town for procurements. You should edit the wording to fit the type of solicitation (IFB or RFP) by either deleting or lining out the inappropriate words in all parenthesis.

APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

ANTI-DISCRIMINATION: By submitting their (bids/proposals), (bidders/offerors) certify to the Town of Berryville that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA).

Employment discrimination by contractor prohibited; required contract provisions. -- All public bodies shall include in every contract of more than \$10,000 the following provisions:

During the performance of this contract, the contractor agrees as follows:

- a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

ETHICS IN PUBLIC CONTRACTING: By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

DEBARMENT STATUS: By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Town of Berryville from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

MANDATORY USE OF TOWN TERMS AND CONDITIONS FOR IFBs AND RFPs (Insert wording below appropriate to the solicitation type as indicated):

1. (For Invitation For Bids): Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Town reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Town may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

2. (For Request For Proposals): Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Town reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

BILL PAYMENT POLICY

The Town Treasurer shall make payment in full (unless and alternate payment plan has been agreed upon) for all goods delivered or services rendered within thirty days of receipt of the bill.

No goods or services shall be deemed received until such goods are completely delivered and found acceptable by the department head and the receiving report (Form REC-1) is completed. For purposes of determining whether or not payment was made in accordance with this policy, payment in full shall be considered to be made on the date the check for payment was mailed or otherwise transmitted.

When a bill submitted to the Town of Berryville is incorrect or when there is a defect or impropriety in a bill submitted, the respective department head shall notify the creditor in writing prior to the date on which payment in full is due. The notice shall contain a description of the defect or impropriety and any other additional information to enable the creditor to correct the bill. Upon receiving a corrected bill, the Town of Berryville shall make payment in full on or before the thirtieth calendar day after receipt of the corrected bill.

To Subcontractors:

A contractor awarded a contract under this solicitation is hereby obligated:

To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Town for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

To notify the town and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

PRECEDENCE OF TERMS: In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

QUALIFICATIONS OF (BIDDERS/OFFERORS): The Town may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the Town all such information and data for this purpose as may be requested. The Town reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The Town further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the Town that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

TESTING AND INSPECTION: The Town reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Town.

CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:

The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

The Town may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Town a credit for any savings. Said compensation shall be determined by one of the following methods:

1. By mutual agreement between the parties in writing; or
2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Town's right to audit the contractor's records and/or to determine the correct number of units independently; or
3. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Town with all vouchers and records of expenses incurred and savings realized. The Town shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Town within thirty (30) days from the date of receipt of the written order from the Town. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Town or with the performance of the contract generally.

DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Town, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town may have.

TAXES: Sales to the Town are normally exempt from State sales tax. State sales and use tax certificates of exemption will be issued upon request.

(NOT NORMALLY REQUIRED FOR SERVICE CONTRACTS)

USE OF BRAND NAMES: Unless otherwise provided in this solicitation, Unless otherwise provided in the Invitation for Bid, the name of a certain brand does not restrict bidders to a specific brand, make or manufacturer's name, but conveys the general style, type, character and quality of the article desired. Any article that the Town, in its sole discretion determines to be the equal of that specified,

considering quality, workmanship, economy of operation and suitability for the purpose intended shall be acceptable.

(NOT NORMALLY REQUIRED FOR SERVICE CONTRACTS)

TRANSPORTATION AND PACKAGING: By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used.

(NOT NORMALLY REQUIRED FOR SERVICE CONTRACTS)

INSURANCE: By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded as well as any other insurance requirements laid out in the request for bid or proposal. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Town of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Town of Berryville, Virginia must be named as an additional insured and so endorsed on the policy.

(Note to Purchaser: When the requirement is for parking facilities and garages for motor vehicle maintenance contracts, the forgoing sentence should be changed to read: These coverages should include Garage Owner's Liability. Contracts with movers or truck transporters should also require motor carrier's liability.)

4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

NOTE: In addition, various Professional Liability/Errors and Omissions coverages are required when soliciting those services as follows:

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection, Abatement Contractor	\$1,000,000 per occurrence, \$3,000,000 aggregate
Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Engineer	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

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

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

NONDISCRIMINATION OF CONTRACTORS: A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless Town has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

IX. Small Purchase Policy

In this section *VPPA Limit* shall be defined as the threshold amount requiring competitive negotiation set in the VPPA.

The competitive pricing methods set forth below shall be followed for purchases not expected to exceed the VPPA Limit.

1. Single Quotation (Up to \$5,000)
 - Where the Town's estimated cost of goods or nonprofessional services is \$5,000 or less, purchases may be made upon receipt of a minimum of one (1) written, telephone (oral) or electronic quotation.
 - Additional sources may also be solicited.

- A record of the quotation must be kept with the file.
- If a telephone (oral) quote is solicited, a record shall be kept of the name and address of the vendor(s) contacted, the item description or service offered, price quoted, delivery dates and F.O.B. point, names of persons giving and receiving the prices and the date the information was obtained. Notation on the requisition form is considered to be an adequate record.
- If more than one quote is solicited, the award will be made to the lowest responsive and responsible bidder.
- Employees should seek additional competition whenever there is reason to believe a quotation is not a fair and reasonable price.

Unsealed Bidding (Over \$5,000 to VPPA limit)

- Where the Town's estimated cost of goods or nonprofessional services is over \$5,000 to the small purchase limits set in the VPPA, solicit four (4) valid sources, if available.
- If fewer than the required number of sources are solicited, the reasons shall be documented.

Unsealed Proposals (Over \$5,000 to VPPA limit)

- The Town may obtain required goods or services using an informal Request for Proposal up to the small purchase limits set in the VPPA.
- A written determination for the use of competitive negotiation is not required for unsealed or informal RFPs.
- The solicitation should include a cover sheet, a general description of what is being sought, the factors and weights to be used in evaluation, the Town's General Terms and Conditions (either in full or by reference), and any special terms and conditions including unique capabilities or qualifications that will be required.
- Offers may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and hour stated in the solicitation.
- In lieu of an evaluation committee, the buyer or end user may solely evaluate and rank offers. Upon completion of the evaluation, negotiations shall be conducted with the offerors selected.

X. Large Purchases (Over VPPA limits)

In this section *VPPA Limit* shall be defined as the threshold amount requiring competitive negotiation set in the VPPA.

Competitive Sealed Bidding (IFB)

Competitive sealed bidding is the preferred method for acquiring goods, printing, capital outlay construction and non-professional services for public use when the estimated cost is over the VPPA limit.

- The goods or service to be procured when using this method must be capable of being described so that bids submitted by potential contractors can be evaluated against the description in the Invitation for Bids (IFB) and an award made to the lowest responsive and responsible bidder.
- When the terms and conditions of multiple awards are so provided in the Invitation for Bids, awards may be made to more than one bidder.
- Competitive sealed bidding includes the issuance of a written IFB containing the specifications or scope of work/purchase description and the contractual terms and conditions applicable to the procurement.
- The terms or conditions of the solicitation must include how the Town will publicly post the notice of the award or make the announcement of the decision to award the contract.
- IFBs must describe the requirements accurately and completely. Unnecessarily restrictive specifications or terms and conditions that unduly limit competition must be avoided.
- In addition to the public notice, bids are to be solicited directly from potential bidders. Any such direct solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.
- In the competitive sealed bid process, bids are publicly opened and read aloud. The bids are evaluated based upon the requirements set forth in the IFB (if multiple awards are so provided in the solicitation, awards may be made to the lowest responsive and responsible bidders).

Preparation and Issuance of IFBs

Format:

- Prepare the IFB using the above guidelines.
- Establish a due date and time that will allow sufficient time for potential bidders to seek clarification and for the issuance of an addendum, if necessary.
- The due date shall not be less than 10 days from the issue date of the IFB.

Scope:

- Specify in detail the materials, equipment, and supplies to be furnished or the scope of work to be performed by the contractor, including or incorporating by reference the specifications, drawings and contractual terms and conditions applicable to the procurement.

Conferences/Site visits:

- All prebid conferences and/or site visits shall be mentioned in both the IFB and any advertisement.
- If attendance at such a conference or site visit is a prerequisite for bidding, the public notice period shall be long enough to provide adequate opportunity for potential bidders to obtain a copy of the IFB and attend.
- Any changes in the requirements of the solicitation must be made by written addendum.
- The due date for receipt of bids should not be less than 10 days after the issue date of the addendum.

Sources:

- Solicit at least six (6) valid sources, including a minority or women-owned businesses, if available.
- If fewer than the required number of sources are solicited, the reasons must be documented in writing and placed in the purchase file.

Sealed Bids

Receipt, Opening, Evaluation, and Award:

Receipt:

- Bids shall be received until the date and time specified in the IFB.
- Bids are then publicly opened and read aloud.
- Late bids shall not be considered.

Opening:

- After bid opening, each bid is evaluated to determine if it is responsive to the IFB.
- The responsive bids are then evaluated according to the criteria and/or evaluation procedure described in the IFB to determine which is the lowest bid.

Evaluation:

- The lowest responsive bidder is then evaluated to determine if the firm is responsible.

Award:

- The contract is awarded to the lowest responsive and responsible bidder.

Competitive Negotiation (RFP)

General:

- The Town shall use competitive negotiation for the procurement of all professional services estimated over the VPPA limit.
- Competitive negotiation may be the procurement method used for goods and nonprofessional services when it is not practicable or fiscally advantageous to use competitive sealed bidding.

Preparation and Issuance of a Request for Proposal (RFP):

- A written RFP is issued to describe in general terms that which is to be procured.
- The RFP must specify and list the specific requirements to be addressed by the offerors that will be used in evaluating the proposals and will contain other applicable contractual terms and conditions, including any unique capabilities or qualifications required of the contractor.
- When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- The terms or conditions of the RFP must state the manner in which public notice of the award or the announcement of the decision to award shall be given by the public body.

Format:

- Establish a proposal submission due date and time which provide sufficient time for potential offerors to develop a proposal.
- The minimum time period is ten (10) days from issue date of the RFP.
- The time period used may be greater than the required ten (10) days based on the complexity of the requirement and whether or not a preproposal conference is required.

Sources:

- RFPs shall be sent to at least six (6) valid sources, including a minority or women-owned businesses, if available.
- If fewer than the required number of sources are solicited, the reasons must be stated in writing and placed in the purchase file.

Preproposal Conferences:

- All preproposal conferences or site visits must be mentioned in the RFP and any advertisement of it.
- If attendance at such a conference or site visit is a prerequisite for submitting a proposal, the public notice period must be at least ten (10) days after issuance to provide adequate opportunity for potential offerors to obtain a copy of the RFP and attend.

Sealed Proposals (RFPs)**Receipt and Evaluation****Opening:**

- Public openings of proposals are not required.
- If a public opening is held, the names of the individuals, or the names of firms submitting proposals in a timely manner, is the only information read aloud and made available to the offerors and general public.

Evaluation:

- The proposals are evaluated by the buyer, contracting officer, or an evaluation team.
- As an option, evaluators may request presentations or discussions with offerors, as necessary, to clarify material in the offerors proposals, to help determine those fully qualified and best suited.
- Proposals are then evaluated on the basis of the criteria set forth in the RFP, using the scoring weights previously determined.
- All RFP responses are to be evaluated.
- Proposals not meeting requirements should be scored lower.
- Only bids in response to an IFB may be determined to be nonresponsive.
- Offerors may be given an opportunity to correct a deficiency in their proposals, within an appropriate period of time, as determined by the purchasing office.
- Offerors who fail to submit required documentation or meet mandatory requirements, in such time, for evaluation purposes may be eliminated from further consideration.
- Two or more offerors determined to be fully qualified and best suited are then selected for negotiation.
- Price is considered, but need not be the sole determining factor.

During the evaluation phase it may be determined that only one offeror is fully qualified, or that one offeror is CLEARLY more highly qualified than the others under consideration. A written determination shall be prepared and retained in the contract file to document the meaningful and convincing facts supporting the decision for selecting only one offeror and negotiating with that offeror. The determination shall be signed by the Town Manager.

Negotiation and Award.

- Negotiations are conducted with each of the offerors so selected.
- Negotiation allows modification of proposals, including price.
- Offers and counter offers may be made as many times with each offeror as is necessary to secure a reasonable contract.
- After negotiations have been conducted with each of the selected offerors, the Town selects the offeror which, in its opinion, has made the best proposal.
- In all cases, written confirmation shall be obtained from the offeror on any modifications of the original proposal.
- Once an Intent to Award notice is posted, no further negotiation shall be conducted.

The Town may cancel a RFP, or reject proposals at any time prior to making an award.

The award documents shall incorporate, by reference, the terms and conditions of the RFP and the contractor's proposal, together with all written modifications thereof.

Sole Source Procurement

Definition:

A sole source procurement is authorized when there is only one source practicably available for the goods or services required. Competition is not available in a sole source situation; thus distinguishing it from a proprietary purchase where the product required is restricted to the manufacturer(s) stipulated, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. For sole source requirements exceeding \$5,000, a written quotation must be obtained from the vendor.

Approval for Sole Source Procurements up to the VPPA limit:

- All sole source procurements for goods and services up to the VPPA limit must be approved in advance by the Town Manager or designee, which shall be the chief purchasing officer.
- The written determination documenting that there is only one source practicably available for that which is to be procured, must be included in the procurement file.
- In addition, a memorandum must be attached to the request which addresses the four points shown in the next section. The writing shall document the basis for the determination, which should include any market analysis conducted in order to ensure that the good or service required was practicably available from only one source.

Approval for Sole Source Procurements Over the VPPA limit:

All sole source procurements for goods and services over the small purchase limits set by the VPPA must be approved by the Town Manager prior to commencement of the actual procurement. A memorandum must accompany the request, which addresses the following four points:

1. Explain why this is the only product or service that can meet the needs of of the town.
2. Explain why this vendor is the only practicably available source from which to obtain this product or service.
3. Explain why the price is considered reasonable.
4. Describe the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

Negotiating and Award:

A contract shall be negotiated and awarded without competitive sealed bidding or competitive negotiation. In making sole source procurement, it is the buyer's or contracting officer's responsibility to negotiate a contract that is in the best interest of the Town.

Price Reasonableness Determination:

The buyer or contracting officer should carefully research the good or service and determine what is a fair and reasonable price.

Posting Requirements.:

For sole source procurements over \$50,000 public award notices may be posted in the Town Office.

Award Document:

The Town must issue an award document (PO or contract) for sole source purchases. When a quote has been obtained from the vendor and no further negotiations are needed, a purchase order is acceptable.

Emergency Procurement

General:

- An emergency is an occurrence of a serious and urgent nature that demands immediate action.
- Emergency procedures may be used to purchase only that which is necessary to cover the requirements of the emergency.
- Subsequent requirements shall be obtained using normal purchasing procedures.
- The potential loss of funds at the end of a fiscal year is not considered an emergency.

Types of Emergency Procurements:

- The nature of the emergency will determine what pre-award action may be taken.
- For an emergency purchase required to protect personal safety or property, efforts should be directed to finding a source and directing the contractor to proceed; however, such procurement shall be made with such competition as is practicable under the circumstances.
- For other types of emergencies, competition should also be sought to the maximum extent practicable.

Award of Emergency Procurements:

- The Town must prepare a confirming contract or purchase order, as soon as practicable, after directing the contractor to proceed.
- Care should be taken to include in detail any agreements, including price, that were made orally with the contractor.

- Prepare a written determination for signature by the Town Manager or designated representative indicating the nature of the emergency, the reason for selection of the particular contractor and include such determination with the file.

XII. Contract Administration

General:

Contract administration begins after award of the contract. Its purpose is to assure that the contractor's and Town's total performance is in accordance with the terms and conditions of the contractual agreement. The integrity of the public purchasing system demands that goods or services be furnished, received, invoiced and paid as specified in the contract.

Contract Administrator:

- The administrator should be the end user of the contract or one who has a vested interest in the procurement who will be responsible for the proper adherence to all contract specifications by the contractor.
- Contract administration shall be delegated by the buyer designating a specific individual or position, highlighting important aspects of the contract, and distinguishing between the administrator's authority and that which must remain a function of the purchasing office.

Procurement Records:

- A complete file should be maintained in the Town Office for each purchase transaction, containing all the information necessary to understand the why, who, what, when, where and how of the transaction.
- Generally, records are open to the public in accordance with the Virginia Freedom of Information Act and should be made available for review after the award has been made.

Bill Payment Policy

The Town Treasurer shall make payment in full (unless and alternate payment plan has been agreed upon) for all goods delivered or services rendered within thirty days of receipt of the bill.

Department heads shall submit bills for payment by the fifth and twentieth of each month.

No goods or services shall be deemed received until such goods are completely delivered and found acceptable by the department head. For purposes of determining whether or not payment was made in accordance with this policy, payment in full shall be considered to be made on the date the check for payment was mailed or otherwise transmitted.

When a bill submitted to the Town of Berryville is incorrect or when there is a defect or impropriety in a bill submitted, the respective department head shall notify the creditor in writing prior to the date on

which payment in full is due. The notice shall contain a description of the defect or impropriety and any other additional information to enable the creditor to correct the bill. Upon receiving a corrected bill, the Town of Berryville shall make payment in full on or before the thirtieth calendar day after receipt of the corrected bill.

The Treasurer, Town Manager and a designated member of Town Council shall review bills submitted for payment before payment is made. Bill payments will be processed at least twice a month.

A register of all checks issued each month shall be presented to Town Council.

Contract Renewal and Extension

Renewal:

- A term contract may contain a renewal clause describing the conditions under which it may be renewed for a stipulated period of time.
- However, no contract may be renewed and no additional consideration may be paid unless specifically provided for in the original contract.
- Price increases should not be given automatically at renewal.
- It is the responsibility of the contractor to request a price increase, if desired, up to the amount authorized by the index referenced in the contract. The Town may then negotiate the amount of the increase up to the indexed amount.

Extension:

The town may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract. No additional consideration exceeding the contracted price may be paid to the contractor. Also, in exceptional or extenuating circumstances a contract may be extended by mutual consent for a limited period of time, not to exceed six (6) months. This action should be taken in writing prior to the expiration of the current contract.

Vendor Performance

Default. A contractor is considered in default if he or she fails to perform in accordance with the terms and conditions of the contract.

If it is determined that a contractor is in default, a Complaint to Vendor form (Form CA-1) should be issued and distributed followed by a "Notice to Cure" if unacceptable vendor response, resolution, or action is received. A cure letter may also be issued at the same time as the Complaint to Vendor form.

Vendor Performance Complaints. Complaints and/or discrepancies on vendor performance should be reported as they occur using the Complaint to Vendor Form (Form CA-1). Vendors are required to respond to the Town within ten days. Failure to do so may result in removal from the Vendors List.

Notice to Cure. A Cure letter is used when a contractor has failed to perform or deliver as substantiated by a Complaint to Vendor form. It provides the contractor a period of time to correct or

“cure” the deficiency and places the contractor on notice as to the consequences for failure to take the required corrective action. The notice may be given either orally or in writing advising the contractor that non delivery or non conformance is a breach of a contract and, if the deficiency is not corrected within a stated number of days, the Town will terminate the contract for default and hold the contractor liable for any excess costs.

Termination for Default and Repurchase Costs. Upon the expiration of the time period stated in the “Notice to Cure,” if a satisfactory resolution has not been reached, send the contractor a Termination for Default letter and take repurchase action. This letter states that the contract is being terminated for default and that when the Town repurchases the goods or services, any additional cost will be billed to the Vendor in default. If the repurchase results in increased costs to the Town, a letter shall be sent to the delinquent contractor demanding payment of the excess costs. Until the excess repayment costs have been received, the contractor shall be removed from the Vendors List. If repayment has not been made by the end of the specified period of time, subsequent collection action shall be taken in accordance with the Town’s collections procedures.

Debarment. In addition to the above default procedures, concurrent action to have the defaulted contractor debarred shall be initiated by sending a letter to the Town Manager recommending debarment and providing all the pertinent facts to support that recommendation. Debarment means action taken by the Town Manager to exclude individuals or firms from contracting with the Town. Debarment does not relieve the contractor of responsibility for existing obligations.

RTM/ks
09/05/12

COUNTY AND TOWN
AGREEMENT REGARDING
BERRYVILLE GRAPHICS, INC. ECONOMIC DEVELOPMENT
PROJECT

THIS AGREEMENT dated the _____ day of _____, 2012, is by and between the County of Clarke County, Virginia ("County") and the Town of Berryville, Virginia ("Town").

WHEREAS, both the County and the Town desire to help Berryville Graphics, Inc. ("Berryville Graphics") expand its business in Berryville; and

WHEREAS, the Commonwealth of Virginia has offered to provide Berryville Graphics with a \$200,000.00 grant from the Governor's Opportunity Fund and \$67,200.00 in support through the Virginia Jobs Investment Program; and

WHEREAS, the Governor's Opportunity Fund requires a match of \$200,000.00 from the participating localities; and

WHEREAS, both the County and Town will receive additional tax revenues from Berryville Graphics as a result of its expansion and are willing to share the cost of the \$200,000.00 local match; and

WHEREAS, the Industrial Development Authority of Clarke County, Virginia ("IDA") has also agreed to support Berryville Graphics' expansion

by acting as the entity for the distribution of the state and local funds and by advancing the Town's portion of the local match; and

WHEREAS, the County, Berryville Graphics, and the IDA have entered into a Performance Agreement setting forth performance requirements by Berryville Graphics and provisions for the administration of the state and local funds; and

WHEREAS, the County must request the Governor's Opportunity Fund grant by September 30, 2012, and the grant and the local match must be paid by the IDA to Berryville Graphics within 30 days of receipt of the grant by the County; and

WHEREAS, the County and the Town desire to set forth their agreement for providing local match and for fiscal administration of the provisions of the Performance Agreement for the state and local funds.

NOW, THEREFORE, the County and Town agree as follows:

1. The County will pay \$106,000.00 (53.0%) of the local match.
2. The Town will pay \$94,000.00 (47.0%) of the local match, which amount shall be advanced by the IDA pursuant to a separate agreement between the Town and the IDA.
3. Clarke County shall act as fiscal agent for receiving the Governor's Opportunity Fund grant and distributing the grant to the IDA, for

monitoring Berryville Graphic's compliance with the Performance Agreement, and for receiving and distributing any repayments under the Performance Agreement.

4. If Berryville Graphics does not meet its targets under the Performance Agreement and repayments are made by Berryville Graphics, the local portion of such repayments shall be distributed 53% to the County and 47% to the Town.

COUNTY OF CLARKE, VIRGINIA

Date: _____ By: _____

(name)

(title)

TOWN OF BERRYVILLE, VIRGINIA

Date: _____ By: _____

(name)

(title)

RTM/ks
09/04/12

TOWN AND IDA
AGREEMENT REGARDING
BERRYVILLE GRAPHICS, INC. ECONOMIC DEVELOPMENT
PROJECT

THIS AGREEMENT dated the _____ day of _____, 2012, is by and between the Town of Berryville, Virginia ("Town") and the Industrial Development Authority of Clarke County, Virginia ("IDA").

WHEREAS, both the County and the Town desire to help Berryville Graphics, Inc. ("Berryville Graphics") expand its business in Berryville; and

WHEREAS, the Commonwealth of Virginia has offered to provide Berryville Graphics with a \$200,000.00 grant from the Governor's Opportunity Fund and \$67,200.00 in support through the Virginia Jobs Investment Program; and

WHEREAS, the Governor's Opportunity Fund requires a match of \$200,000.00 from the participating localities; and

WHEREAS, both the County and Town will receive additional tax revenues from Berryville Graphics as a result of its expansion, and the Town has agreed to provide \$94,000.00 towards the \$200,000.00 local match; and

WHEREAS, the IDA of Clarke County, Virginia ("IDA") has also agreed to support Berryville Graphics' expansion by acting as the entity for

the distribution of the state and local funds and by advancing the Town's portion of local match with an interest free loan; and

WHEREAS, the Town agrees to reimburse the IDA over three years, as added tax revenues from the Berryville Graphics expansion are anticipated by the Town to begin to be received by the Town during that period; and

WHEREAS, the Town and the IDA desire to set forth their agreement on the advancing of funds by the IDA.

NOW, THEREFORE, the Town and the IDA agree as follows:

1. The IDA will advance on behalf of the Town, without interest, the \$94,000.00 portion of the local funding.

2. The Town will repay the IDA as follows:

(a) \$10,000.00 in November, 2013

(b) \$30,000.00 in November, 2014

(c) \$54,000.00 in November, 2015

TOWN OF BERRYVILLE, VIRGINIA

Date: _____

By: _____

(name)

(title)

INDUSTRIAL DEVELOPMENT AUTHORITY
OF CLARKE COUNTY, VIRGINIA

Date: _____

By: _____

(name)

(title)