



# TOWN OF ROMNEY

"First in West Virginia - Est. 1762"

340 E. Main Street  
Romney, WV 26757

Main: 304-822-5118  
Fax: 304-822-5793

## Checklist for Required Bid Documents

The purpose of this checklist is to inform Contractors what documents should be included with the Bid Submission and to perform Work on the Romney Barn Phase 1 Stabilization Project; this is for informational purposes only, solely for the benefit of respondents, and is not required to be submitted.

### **Items to be Submitted with Bid Response:**

- Bid Response ..... (One Page)
- Bid Cost/Summary Sheet..... (One Page)
- State of West Virginia Contractor's License .....(One Page)

### **Items to be Submitted After Notice of Intent to Award:**

- Certificate of Liability Insurance .....(One Page)
- Certificate of Property Insurance .....(One Page)
- Contractual Documents.....(Varies)
- Subcontractor List (if applicable) .....(One Page)
- W9 .....(One Page)
- City Romney Contractor's License (if working within city limits).....(One Page)



# TOWN OF ROMNEY

*"First in West Virginia - Est. 1762"*

340 E. Main Street  
Romney, WV 26757

Main: 304-822-5118  
Fax: 304-822-5793

October 12, 2022

## INVITATION TO BID

### Romney Barn Phase 1 Stabilization Project

INVITATION NO.: RFP/22-03

DATED: Nov 25, 2022

SEALED BIDS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN FOR THE PURCHASE OF ITEM AND/OR ITEMS LISTED IN THIS INVITATION WILL BE RECEIVED UNTIL THE TIME, DATE, AND THE PLACE INDICATED BELOW, AND THEN PUBLICLY OPENED.

TIME OF OPENING: 13:00 p.m.

DATE OF OPENING: Wednesday Dec 21, 2022

PLACE OF OPENING: TOWN HALL BUILDING

340 E Main St, Romney, WV 26757

PERFORMANCE BOND: None

ORDINANCE NO.:

NA

**DO NOT BIND OR STAPLE SUBMITTED BID.**

**WHEN PRINTING PACKET: MAKE SURE PAGES ARE PRINTED SINGLE-SIDED.**



# TOWN OF ROMNEY

*"First in West Virginia - Est. 1762"*

340 E. Main Street  
Romney, WV 26757

Main: 304-822-5118  
Fax: 304-822-5793

## SEALED BID – INVITATION AND INSTRUCTIONS TO BIDDERS

DUE DATE: Wednesday Dec 21, 2022, 11:00 a.m.  
**2022 Romney Barn Phase 1 Stabilization Project**

### **PURPOSE OF BID**

The Town of Romney intends to purchase the subject services from the lowest and best responsible bidder or bidders (each, a “Contractor”) in accordance with the conditions and specifications contained or referenced in the Contract Documents and Bidding Documents provided with this Invitation to Bid.

### **BID REQUEST**

Please submit a sealed bid for furnishing all materials and services (“Work”) relating to the 2022 Romney Barn Phase 1 Stabilization Project in accordance with all terms and conditions specified in the Contract Documents and Bidding Documents included herewith.

### **QUESTIONS**

Upon delivery or pickup of the accompanying Bidding Documents, an interested party will also be listed as a registered bidding document holder. All Bidding Document requests for information, substitution requests, site visit requests, and correspondence shall be submitted in writing and directed via email to [bkeadle@townofromney.org](mailto:bkeadle@townofromney.org). Any questions about the meaning and intent of this invitation to bid and the specifications must be submitted no later than five business days before the Bid submission deadline.

Addenda will be issued by the Town of Romney to registered bidding document holders only, who will automatically receive all addenda in electronic format (PDF) via file transfer email.

### **OFFER/ACCEPTANCE**

Your Bid shall be considered an offer, which offer shall be deemed accepted upon the issuance of a notice of Award. Bids may not be withdrawn for a period of ninety (90) days without the consent of the Town of Romney.

### **TAXPAYER IDENTIFICATION NUMBER/W-9**

Each bidder must return a completed IRS Form W-9 (Request for Taxpayer Identification Number and Certification). Time extensions for submitting this form are allowable on request.

### **BID COST/SUMMARY SHEET**

Each bidder must return, along with the provided bid response, a bid cost/summary sheet detailing all subtasks and materials associated with the Work as specified in the Contract Documents, along with corresponding costs for each item. Bid cost/summary sheet can be provided in a format convenient to Contractor.

### **LOWEST AND BEST RESPONSIBLE BIDDER (AWARD)**

Any award will be made to the lowest and best qualified responsible bidder or bidders. The determination of the lowest and best responsible bidder may involve, but are not limited to: price, conformity to specifications, financial ability to perform, previous performance, materials, compliance with related awards/laws/ordinances, availability of supply, delivery promise, and other objective factors. The Town reserves the right to accept any Bid that, in the judgment of the proper Town officials, is in the best interest of the Town.

## **NOTICE OF BID RESULTS**

A bid tabulation or comparable document will be developed after bid opening.

If you would like a copy of the bid tabulation or comparable document mailed to your firm, you must enclose a self-addressed, stamped envelope, sent to the Town of Romney at the address above.

## **PRICING CLARIFICATIONS**

Prices to remain firm over the period specified in the Contract Documents.

## **REJECTION OF BID**

The Town of Romney through its duly authorized constituted officials, reserves the right to reject any, part of any, or all bids, to waive informality in any bid, to award the purchase in the best interest of the Town and its Citizens, to hold all bids for 90 days before acceptance, and/or re-bid.

## **RESERVATIONS FOR REJECTION AND AWARD**

The Town also reserves the right to waive minor variation to specifications (interpretation of minor variances will be made by applicable Town representative).

## **SIGNATURE**

All bids must be signed with the bidder's name and by an officer or employee having authority to bind the bidder by his or her signature.

## CONSTRUCTION SERVICES AGREEMENT

THIS CONSTRUCTION SERVICES AGREEMENT (this “Agreement”) is made as of \_\_\_\_\_ (the “Effective Date”), between the Town of Romney, a West Virginia municipal corporation and political subdivision (the “Town”) and \_\_\_\_\_, (the “Contractor”), (together the “Parties”).

### RECITALS

- A. The Town advertised for bids (the “Bid Request”) for construction services, the emergency stabilization of the Romney State Barn located at 199 Depot St. Romney,
- B. WV (the “Services”).
- C. The Contractor responded to the Bid Request, a copy of which Bid Response is attached as **Exhibit A**, and incorporated herein by reference, and the Town desires to enter into this Agreement with the Contractor for the Contractor to perform the Services.
- D. Contractor certifies that it is ready, able and willing to timely furnish the labor and materials required to complete the contract and is in compliance with all applicable laws of the State of West Virginia.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Project Description. Contractor shall do and perform, or cause to be done and performed in accordance with this Agreement, the Services necessary for the project entitled “2022 Romney Barn Phase 1 Stabilization Project” (the “Project”) in accordance with and as more fully described in the Romney Barn Phase 1 Stabilization Project Scope of Work (the “Scope”), attached hereto and incorporated herein by reference as **Exhibit B**. Performance of the Services according to the Scope as set forth in **Exhibit B** is referred to herein as the “Work.” The Work must be performed and completed in accordance with all requirements of law and no Work shall be undertaken until Contractor has been issued all required permits and has received a Notice to Proceed from the Town.

2. Contract Time. The Work shall be completed by the later to occur of (i) 120 days from the date the Town issues a Notice to Proceed, or (ii) April 15, 2023, whichever is sooner (the “Contract Time”). **It is expressly understood that should Contractor fail to complete the Work covered hereby within the Contract Time, the Contractor agrees to pay and shall pay to the Town upon request therefore, as liquidated damages, and not as a penalty, a sum of \$200 for each calendar day of delay beyond the Contract Time.**

3. Compensation; Payment.

3.1 Price. The Town shall pay Contractor a price not to exceed \_\_\_\_\_ for the Work (the “Agreement Price”), in accordance with the Contractor’s Bid Response For Work set forth in the exhibits attached hereto.

3.2 Payment.

A. Prior to the execution of this Agreement, the Parties will establish a table of Project Work subcomponents and subtasks which establishes milestones for 25%, 50%, and 75% project completion (Project Completion and Payment Schedule).

B. Upon notification to the Town from Contractor that a project milestone has been reached, the Town will within 5 business days, confirm that all subtasks on the Project Completion and Payment Schedule for the respective milestone have been substantially completed.

(i) If the Town does not send a representative to confirm that all subtasks on the Project Completion and Payment Schedule for the respective milestone have been substantially completed within 5 business days, such milestone is deemed to have been completed.

(ii) If the Town does send a representative to confirm that all subtasks on the Project Completion and Payment Schedule for the respective milestone have been substantially completed within 5 business days, but said representative is unable to confirm that all subtasks for a given milestone have been substantially completed: 1) the Town will notify the Contractor of any discrepancies within two business days; 2) the Town has sole discretion to withhold payment until it is satisfied that all subtasks for each milestone have been substantially completed.

C. Upon the execution of this Agreement by both parties, and prior to the start of any construction under this Agreement, the Town will tender payment for an amount constituting the cost of materials for the project, as agreed on by the Town and demonstrated in a signed writing by the Contractor.

D. The Remaining Payment Amount (Agreement Price less that amount paid for materials under Subsection 3.2(C) above) will be disseminated as set forth in Subsection 3.2(E) below.

E. Upon verification of milestone substantial completion by the Town or the deeming of such completion as described in subsection 3.2(B)(i), the Town will within ten business days, pay an amount equal to 20% of the Remaining Payment Amount for that section upon substantial completion of all Work to be performed on such Work section, withholding at each milestone 5% of the Remaining Payment Amount as retainage until final completion of all of the Work to the satisfaction of the Town (the “Retainage”).

F. The remaining 25% of the Remaining Payment Amount, along with the 15% of the Remaining Payment Amount withheld as Retainage (equating to 40% of the Remaining Payment Amount in total) will be paid upon final completion of all of the Work to the satisfaction of the Town.

3.3 Adjustment. No adjustment will be made to the Contract Price except by Change Order signed by the Mayor or the City Administrator of the Town (collectively and individually, the “Authorized Representative”). Neither the final payment nor the Retainage shall become due until the Contractor submits to the Town all required data to establish the appropriateness of payment and satisfaction of all if the Contractor’s obligations.

3.4 Payment Contingent on Funding. All payments set forth under this Agreement are contingent on the Town’s receipt of funds from the grant funder of this project. A good faith effort will be made by both parties to ensure that no work is completed, materials ordered, or other costs incurred prior to the receipt of such funds by the Town.

4. Standards. The Contractor shall perform the Work required in conformance with, and to the standards and Specifications set forth in, the Scope (the “Standards”). Contractor shall perform all Work to a standard that is in compliance with the International Property Maintenance Code.

5. Inspection, Safety and Compliance. The Contractor certifies that it has informed itself fully of the existing physical conditions relating to the construction of the Project and the employment of labor thereon. Failure to do so will not relieve the Contractor of its obligation to furnish all material and labor necessary to carry out the provisions of this Agreement. Contractor affirms that it has inspected the jobsite and has thoroughly reviewed this Agreement including, without limitation, the Specifications incorporated in **Exhibit B**, and is not relying on any opinions or representations of Town. Contractor agrees to perform and complete such Work in strict accordance with this Agreement. Contractor agrees that any exclusions of any Work must be approved in writing by the Authorized Representative of the Town prior to acceptance of this Agreement or same shall not be excluded hereunder. Contractor is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs. Contractor shall take all reasonable precautions for the safety of and provide reasonable protection to prevent damage, injury or loss to: (i) Contractor employees, Town employees and members of the public on or around the Project, (ii) the Work and materials and (iii) other property of the Town and all property adjacent to the Project. Contractor shall designate a responsible person on the Project whose duty shall be prevention of accidents. Contractor shall provide all competent supervision necessary to execute all Work and any Work incidental thereto in a thorough, first-class, workmanlike manner. It is Contractor’s

responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with, all applicable federal, state, county and city laws, codes, ordinances, regulations and orders of public authorities bearing on performance of the Work.

6. Changes in the Work. The Town may, without invalidating this Agreement, order changes in the Work consisting of additions, deletions or other revisions to this Agreement, with any such changes occurring only through the execution of a written addendum to this Agreement executed by the Contractor and the Town (a "Change Order"). In the event of a Change Order, the Contract Price and the Contract Time may be adjusted as agreed by the Town and Contractor, which agreed upon change to the Contract Price and Contract Time shall be included in the Change Order at the time of execution. Any such Change Order shall be controlled by the terms and provisions of this Agreement.

7. Documents. All documents prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

8. Progress Schedule. Contractor shall, within five (5) days of a request by the Town, provide the Town with any requested scheduling information and a proposed progress schedule for performance of the Work in a form acceptable to the Town providing for commencement and completion of the Work within the Contract Time. Contractor shall prosecute the Work in a prompt and diligent manner and without hindering or delaying the Work of other contractors or subcontractors on the Project, if any. The progress schedule shall be supplemented thereafter upon request. Work shall not commence upon this Project until a written Notice to Proceed, substantially in the form of "Exhibit C" attached hereto and incorporated herein by reference, has been issued to the Contractor by the Town. The Notice to Proceed will be considered issued on the date it is sent to the Contractor by certified mail, electronic facsimile or delivered to the Contractor in person.

9. Drawings and Samples. Contractor shall furnish, within three working days following request therefore by the Town, detailed drawings of the Work and samples of materials required for the performance or coordination of the Work. Drawings and samples shall comply with the Scope or shall be rejected.

10. Errors in the Scope and/or Specifications. The Scope and Specifications are presumed to be correct, but Contractor shall be required to check carefully all dimensions and verify all vertical and horizontal controls before beginning the Work. If any errors or omissions are discovered, the Town's Authorized Representative shall be so notified in writing. The Town's Authorized Representative shall immediately make such corrections, and interpretations as may be deemed necessary for fulfilling the intent of the Scope and Specifications and shall issue appropriate corrections. Any adjustments made by Contractor without prior review and acceptance shall be at its own risk. The settlement of any complication or disputed expenses arising from an adjustment made by Contractor shall be paid by Contractor at its own expense.

11. Inspection; Acceptance. All Work shall be subject to inspection and acceptance by the Town at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the Town.

12. Licenses, Permits; Fees. Contractor shall secure and pay for all permits, governmental fees, licenses and inspections necessary and legally required for the proper



execution and completion of Work after execution of the Agreement but prior to commencing any Work. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor and performance of the Work. The Town has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement.

13. Labor; Materials. The Town has no obligation to provide tools, equipment or material to Contractor. Contractor shall provide and pay, and shall insure under the requisite laws and regulations, all labor, materials, equipment, tools, construction equipment, machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether incorporated, or to be incorporated, in the Work.

14. Warranty. Contractor warrants to the Town that all materials and equipment furnished under this Contract will be new, and that all Work will be of good quality, free from faults and defects, and in conformance with the Specifications and the International Property Maintenance Code. Contractor further guarantees all Work and materials for a period of one (1) year from the date of acceptance of the Project. Should any portion of the Work need replacement or repair within one (1) year from the date of completion due to construction methods or material failure, the Contractor shall replace such Work at no cost to the Town. If Contractor fails within reasonable time to replace or repair any portion of the Work deemed to be needed, the Town may cause such Work to be performed and Contractor agrees to pay all costs incurred in connection therewith. All Work not conforming to the Scope or Standards, including substitutions not properly approved and authorized, may be considered defective. If required by the Town, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

15. Performance Warranty. Contractor warrants that the services rendered in performance of the Work will conform to the requirements of this Agreement, the Standards defined herein and the highest professional standards in the field.

16. Taxes. Contractor shall pay all licenses, sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time on the Effective Date of this Agreement, whether effective or subsequently applicable due to acts of jurisdictions or bodies other than the Town.

17. Indemnification. The Contractor shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (specifically including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

18. Insurance.

18.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of West Virginia with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance in this Agreement, the Town does not represent that the coverage and limits required herein will be adequate to protect Contractor. The Town reserves the right to review any and all of the insurance policies and/or endorsements required by this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

G. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

H. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

I. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor will provide the Town with suitable evidence of the insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Contractor's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Contractor's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded.

## 18.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$1,000,000 Products and Completed Operations Annual Aggregate and a \$1,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. The Town, its agents, representatives, officers, officials and employees shall be covered thereunder as Additional Insureds.

If any excess insurance is utilized to fulfill the requirements of this subsection, such excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

B. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work adjunct or residual to performing the Work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Work performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claim and \$1,000,000 annual aggregate. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Work, and the Contractor shall be required to submit certificates of insurance and a copy of the declaration page(s) of the insurance policies evidencing proper coverage is in effect as required above.

C. Workers’ Compensation Insurance. Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor’s employees engaged in the performance of the Work or services under this Agreement.

18.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or materially change without thirty (30) days’ prior written notice to the Town.

19. Applicable Law; Venue. In the performance of this Agreement, Contractor shall abide by and conform to any and all applicable laws, regulations, and/or ordinances of the United States, the State of West Virginia and the Town of Romney, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of West Virginia and any suit pertaining to this Agreement may be brought only in courts in Hampshire County, West Virginia.

20. Termination; Cancellation.

20.1 Termination by the Town for Cause.

A. Default; Cure. If the Contractor refuses or fails to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations, or orders of any public authority jurisdiction, or otherwise substantially violates or materially breaches any term or provision of this Agreement, and such nonperformance or violation continues without cure for fifteen (15) days after the Contractor receives written notice of such nonperformance or violation from the Town, then the Town may, without prejudice to any right or remedy otherwise available to the Town, terminate this Agreement.

B. Substitute Performance. Upon termination of this Agreement by the Town, the Town shall be entitled to furnish or have furnished the Work to be performed hereunder by the Contractor by whatever method the Town may deem expedient. Such substitute performance shall not constitute or be construed as a waiver by the Town of any action, claim or demand the Town may have against Contractor by reason of injury or damage resulting to the Town because of Contractor's failure of performance hereunder. Contractor shall pay to the Town a sum equal to the Town's total cost of completing such Work, and a sum for reasonable attorneys' fees and litigation expenses for procuring substitute performance for the Work. In no event shall any delay in performance hereunder by Contractor be excused unless, and then to the extent only, such delay is excused by the Town in writing.

C. Contractor Insolvency. Upon the appointment of a receiver for the Contractor, or if the Contractor makes a general assignment for the benefit of creditors, the Town may terminate this Contract, without prejudice to any right or remedy otherwise available to the Town, upon giving three (3) working days' written notice to the Contractor. If an order for relief is entered under the Bankruptcy Code with respect to the Contractor, the Town may terminate this Agreement by giving three (3) working days' written notice to the Contractor unless the Contractor or the trustee completes all of the following:

- (1) Promptly cures all breaches within such three-day period;
- (2) Provides adequate assurances of future performance;
- (3) Compensates the Town for actual pecuniary loss resulting from such breaches; and
- (4) Assumes the obligations of the Contractor within the established time limits.

20.2 Termination by the Town for Convenience. The Town may, upon 30 days' written notice to the Contractor, terminate this Contract, in whole or in part, for the convenience of the Town without prejudice to any right or remedy otherwise available to the Town. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the Town, the Contractor's sole and exclusive right and remedy shall be payment for all work performed through the date of termination. The Contractor shall not be entitled to be paid any amount as profit for unperformed services or consideration for the termination of convenience by the Town, and the Contractor expressly waives any such claim.

21. Agreement Subject to Appropriation. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Contractor fully informed as to the availability of funds for the Agreement.

The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Contractor shall be relieved of any subsequent obligation under this Agreement. The Contractor shall not be entitled to be paid any amount as profit for unperformed services or consideration for the termination of convenience by the Town, and the Contractor expressly waives any such claim.

22. Miscellaneous.

22.1 Independent Contractor. The Contractor acknowledges and agrees that the Work provided under this Agreement is being provided as an independent contractor, not as an employee, partner, or agent of the Town. Contractor, its employees and subcontractors, are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the Town, shall determine the time of its performance of the Work provided under this Agreement so long as Contractor meets the requirements of its agreed Scope as set forth in Section 1 above. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Contractor do not intend to, nor will they, combine business operations under this Agreement.

22.2 Laws and Regulations. The Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Work, including the following: (A) existing and future Town ordinances and regulations, (B) existing and future state and federal laws and (C) existing and future Occupational Safety and Health Administration ("OSHA") standards.

22.3 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Contractor.

22.4 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the request of either party, the Agreement will promptly be physically amended to make such insertion or correction.

22.5 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

22.6 Entire Agreement; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement.

22.7 Interpretation; Legal Representation. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

22.8 Assignment. No right or interest in this Agreement shall be assigned by Contractor without prior, written permission of the Town signed by an authority/representative of the Town and no delegation of any duty of Contractor shall be made without prior, written permission of the Town signed by an authority/representative of the Town. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor. The Town may, at its convenience and under its sole discretion, assign and delegate its rights and/or obligations under this Agreement to a Romney Municipal Development Authority, Hampshire County Development Authority, or any governmental subdivision of the Town or Romney or Hampshire County.

22.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. The names of subcontractors submitted at the time of the submission of this Agreement to the Town, if any, shall be assumed to be the subcontractors which the Contractor shall use for Work required to be done under this Agreement. The Contractor shall make no substitution for any subcontractor, person, or entity previously selected if the Town makes a reasonable objection to such substitution. Contractor shall not contract with any subcontractor to whom the Town has made a reasonable objection. Contractor shall not be required to contract with anyone to whom it has made a reasonable objection.

22.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

22.11 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Contractor any amounts Contractor owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Contractor any amounts Contractor owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

22.12 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (C) given to a recognized and reputable overnight delivery service, to the address set forth below or (D) delivered by facsimile transmission to the number set forth below:

If to the Town:

If to Contractor:

Town of Romney  
340 E Main St,  
Romney, WV 26757  
Attn: Mayor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (D) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

Confidentiality of Records. The Contractor shall establish and maintain procedures that are acceptable to the Town to ensure that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information described in this subsection should be referred to the Town. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.



22.13 Records and Audit Rights. Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement to ensure that the Contractor and its subcontractors are complying with the warranty under subsection 24.16 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with applicable laws. To the extent necessary for the Town to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

24.18 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the Agreement, the Scope of Work, the Fee Proposal, the Quotation Request and the Contractor's response to the Quotation Request, the documents shall govern in the order listed herein.

24.19 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

24.20 Funding Notice. This project is funded in part by the Preservation Alliance of West Virginia's Saving Historic Places Grant in partnership with the Paul Bruhn Rural Revitalization Grant provided through the National Park Service, Department of the Interior. As such, the Secretary of the Interior's Standards for the Treatment of Historic Properties must be followed.

24.21 NHPA Requirements. Pursuant to Section 106 of the National Historic Preservation Act (54 USC 306108), all projects must complete the consultation process stipulated in the regulations issued by the Advisory Council on Historic Preservation (ACHP) in 36 CFR 800 prior to the commencement of this project and any related ground disturbance on the property.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

"Town"

"Contractor "

TOWN OF ROMNEY (West Virginia)

\_\_\_\_\_ (Company Name)

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

**EXHIBIT A.**

**Bid Response Form**

JOB TITLE: Romney Barn Phase 1 Stabilization Project

WORK DESCRIPTION: Emergency Stabilization and Roof System Repair

CONTRACT TITLE: CONSTRUCTION SERVICES AGREEMENT

BIDDER'S NAME: \_\_\_\_\_

BIDDER'S REPRESENTATIVE: \_\_\_\_\_

LEGAL ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

DELIVERY ADDRESS (IF DIFFERENT FROM ABOVE): \_\_\_\_\_

\_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

The undersigned proposer submits this proposal in response to the Town of Romney Request for Bids dated November 25, 2022, for the contract named above. The proposer warrants that proposer has carefully reviewed the contract, scope of work, and all other documents provided in the Bidding Documents. The proposer further warrants that this proposal represents proposer's full response to the requirements described in the Bidding Documents. The proposer further warrants that if this proposal is accepted, the proposer will contract with the Town of Romney, agrees to all terms and conditions found in the attached contract, and will provide all necessary labor, materials, equipment, and other means required to complete the work in accordance with the requirements of the Bidding Documents and contract documents for the bid sum of:

Total Bid Amount:

(Written) \_\_\_\_\_ DOLLARS

(Numerals) \$ \_\_\_\_\_

In the event there is a discrepancy between the written and numerical Bid Amount, the written amount controls.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
By (printed name)

**EXHIBIT B**

**2022 Romney Barn Phase 1 Stabilization Project - Scope of Work**

- Please provide an estimated cost breakdown of each line item listed below.

Item #	Qty.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
Northwest Corner East Wing – Repair Roof	Approx. 150	Sq. Ft	Period accurate repair of roofing substructure. This section of the scope involves only repair to the roof system. Structural framing to be rough cut to dimensions of existing structure as close as possible. Building to be repaired back to original design as close as possible. Section repair will see: <ul style="list-style-type: none"><li>• removal of surrounding roof material and damaged roof structure;</li><li>• replacement of underlying roof structure framing components;</li><li>• sheeting of roof with sheeting material,</li><li>• installation of weatherproof roof system patch (asphalt shingle or other material agreed to prior to contract).</li></ul>		
Northwest Corner East Wing – Materials	N/a	Na	Materials include all necessary dimensional framing lumber, (primarily 2” * 8” dimensional yellow pine) sheet goods, required hardware, roofing material.		
Southwest Corner East Wing and Northeast Corner of Center Wing Valley and Roof Repair	Approx. 550	Sq. Ft.	Period accurate repair of roofing substructure. This section of the scope involves repair of the connecting walls, roof valley, roof system, and some joining second-story floor joists. Exterior and interior roof framing to be rough cut to dimensions of existing structure as close as possible. Building to be repaired back to original design as close as possible. Section repair will see: <ul style="list-style-type: none"><li>• internal and external bracing necessary to maintain wall integrity during repairs;</li><li>• removal of surrounding roof, wall, and floor material and damaged roof</li></ul>		

			<p>structure;</p> <ul style="list-style-type: none"> <li>• structural wall and roof structural segments will be replaced as necessary, ensuring at a minimum that second story floor joists are replaced where destroyed and tied back into repaired wall segments;</li> <li>• second story flooring need not be replaced except where necessary to maintain structural integrity;</li> <li>• roof and exterior wall will be sheeted with solid sheeting material;</li> <li>• installation of weatherproof roof system patch (asphalt shingle or other material agreed to prior to contract).</li> </ul>		
Southwest Corner East Wing and Northeast Corner of Center Wing Valley and Roof Materials	N/a	Na	Materials include all necessary dimensional framing lumber (2" * 8" dimensional yellow pine, 2" * 10" commercially available floor joists), sheet goods, required hardware, roofing material.		
West Wing Bracing, Sheeting, and cover	Approx 2000	Sq. Ft	<p>Preliminary bracing and covering of West Wing of Barn. This section of the scope involves internal and external bracing necessary to allow for temporary coverage of the roof and for future repairs to this portion of the Barn. Framing and bracing material used in this portion is not required to be original dimension, with the small exception of those portions of the repair which will remain as permanent structural replacements. Section repair will see:</p> <ul style="list-style-type: none"> <li>• external, ground-anchored bracing necessary to maintain wall integrity on southern/middle section of western wall of west wing;</li> <li>• external, ground-anchored bracing necessary to maintain wall integrity on northern/middle section of eastern wall of west wing;</li> <li>• internal bracing from ground level to secure integrity of second story floor in west wing, specifically in southwest, middle, and north east sections of west wing.</li> <li>• internal bracing from ground level and integrated second story bracing to failing roof sections, specifically in</li> </ul>		

			southwest, middle, and northeast sections of west wing. <ul style="list-style-type: none"> <li>• removal of surrounding roof material and damaged roof structure;</li> <li>• roof sections will be braced and framed sufficiently to support temporary roof covering,</li> <li>• high durability temporary roofing membrane will be installed over entirety of West Wing.</li> </ul>		
West Wing Materials	N/a	N/a	Materials include all necessary bracing material (almost no original dimension material is required for this section), concrete anchors for exterior wall bracing, sheet goods, required hardware, roofing membrane.		
Equipment Rental	Approx. 2	Mo.	One Material Handling Lift, Man Lift		
Demolition	Approx 100	Ton	Dump Fees		

**Alternatives:** Please provide an elaboration of all proposed alternative SOW components below. Please elaborate on all proposed modifications to the SOW as elaborated above. Proposed alternatives will be incorporated into the contract if bid is selected. If required, please provide additional info sheet or documentation inserted after this page.

---



---



---



---



---



---



---



---



---



---

**EXHIBIT C NOTICE TO PROCEED**

Dated \_\_\_\_\_, 2022

TO: \_\_\_\_\_  
(Contractor)

ADDRESS: \_\_\_\_\_

**PROJECT: 2022 Romney Barn Phase 1 Stabilization Project**

OWNER'S CONTRACT NO. \_\_\_\_\_

CONTRACT TITLE: CONSTRUCTION SERVICES AGREEMENT

You are notified that the Contract Times under the above contract will commence to run on \_\_\_\_\_. By that date, you are to start performing your obligations under the Contract Documents.

Before you may start any Work on the site, you must provide to the Town of Romney proof of all insurance required to be purchased and maintained in accordance with the Contract Documents.

Also before you may start any Work at the site, you must

(add other requirements)

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)