

# City Council Work Session

Tuesday, May 20, 2014

6:00 p.m.

Exhibit Hall – Rouss City Hall

## AGENDA

### 1.0 Call to Order

**2.0 Public Comments:** (Each person will be allowed 3 minutes to address Council with a maximum of 10 minutes allowed for everyone)

### 3.0 Items for Discussion:

**3.1 R-2014-21:** Resolution – Adoption of the FY15 schedule of City Council Meetings – John Willingham, Interim City Manager (pages 2-5)

**3.2 R-2014-24:** Resolution – Approval to refund prorated Business License Taxes to Oasis Brands in the amount of \$135,446 and to Winchester Emergency Physicians PC in the amount of \$2,771.80 – Ann Burkholder, Commissioner of Revenue (pages 6-10)

**3.3 O-2014-21:** AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-176 OF THE WINCHESTER CITY CODE REGARDING REFUND FOR UNUSED OR DAMAGED CIGARETTE STAMPS – Ann Burkholder, Commissioner of Revenue (pages 11-13)

**3.4 R-2014-25:** Resolution – Authorizing to execute a contract for Wide Area Network Services with Conterra Fiber Solutions. – Tom Lloyd, Director of Information Technology (pages 14-106)

### 4.0 Liaison Reports

### 5.0 Adjournment

B-2014-21

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** 5/20/2014 **CUT OFF DATE:** 5/13/2014

**RESOLUTION**  **ORDINANCE**  **PUBLIC HEARING**

**ITEM TITLE:** Resolution adopting the schedule of Council meetings during fiscal year 2015.

**STAFF RECOMMENDATION:** Adopt the resolution setting the meeting schedule to provide for a high performing City organization.

**PUBLIC NOTICE AND HEARING:** N/A

**ADVISORY BOARD RECOMMENDATION:** N/A

**FUNDING DATA:** N/A

**INSURANCE:** N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>[Signature]</i>	_____	<i>5/14/2014</i>
6. City Manager	<i>[Signature]</i>	_____	<i>5-13-14</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]* *5/13/14*  
Date



**APPROVED AS TO FORM:**  
*[Signature]* *5/14/2014*  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Dale Iman, City Manager  
**Date:** May 20, 2014  
**Re:** Schedule of Council Meetings

---

**THE ISSUE:**

Is it the desire of Council to set a schedule for its regularly held meetings?

**RELATIONSHIP TO STRATEGIC PLAN:**

Develop a high performing City organization

**BACKGROUND:**

In the past, the City Council has adopted a resolution at the beginning of each fiscal year to set the meeting dates for the regular meetings according to City Code Section 2-24 and for the work sessions. This eliminates the need to advertise each meeting separately making a more efficient use of staff time.

**BUDGET IMPACT:**

None

**OPTIONS:**

1. Continue with the current practice of adopting the resolution at the beginning of each fiscal year.
2. Advertise each meeting separately as scheduled.

**RECOMMENDATIONS:**

It is recommended the Council adopt the resolution setting the schedule for regular meetings and work sessions.



# THE COMMON COUNCIL

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815  
TDD 540-722-0782  
www.winchesterva.gov

*I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 11<sup>th</sup> day of June 2014 that the following Resolution is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 10<sup>th</sup> day of June 2014.*

## RESOLUTION

**WHEREAS**, the Common Council of the City of Winchester, Virginia, finds it desirable to establish a schedule of its Regular Meetings for the period beginning July 1, 2014, and concluding June 30, 2015; and

**WHEREAS**, Section 15.2-1416 of the Code of Virginia, 1950, as amended, allows the said Council to also establish a schedule of alternate dates for each of said Regular Meetings so that in the event the Mayor (or Vice-Mayor, in the absence of the Mayor) declares that weather or other conditions are such that it is hazardous for the members to attend a scheduled Regular Meeting, then all hearings and other matters shall be conducted at the continued meeting with no further advertisement required.

**NOW THEREFORE, BE IT RESOLVED** that all meetings hereinafter described shall be conducted at Rouss City Hall, 15 North Cameron Street, Winchester, Virginia, beginning at 7:00 P.M. for the Regular Meeting and 6:00 P.M. for the Work Sessions; and

**BE IT FURTHER RESOLVED** that the following schedule of Regular Meetings is, hereby, adopted with the alternate or continued date appearing in parenthesis beside the date for each Regular Meeting:

### Schedule of Regular Meetings

July 8, 2014	(August 5, 2014)
August 12, 2014	(September 2, 2014)
September 9, 2014	(October 7, 2014)
October 14, 2014	(November 4, 2014)
November 11, 2014	(December 2, 2014)
December 9, 2014	(January 6, 2015)
January 13, 2015	(February 3, 2015)
February 10, 2015	(March 3, 2015)
March 10, 2015	(April 7, 2015)
April 14, 2015	(May 5, 2015)
May 12, 2015	(June 2, 2015)
June 9, 2015	(July 7, 2015)

## Schedule of Work Sessions

July 15, 2014	(August 5, 2014)
July 22, 2014	(August 5, 2014)
August 19, 2014	(September 2, 2014)
August 26, 2014	(September 2, 2014)
September 23, 2014	(October 7, 2014)
October 7, 2014	(October 7, 2014)
October 21, 2014	(November 4, 2014)
October 28, 2014	(November 4, 2014)
November 18, 2014	(December 2, 2014)
November 25, 2014	(December 2, 2014)
December 16, 2014	(January 6, 2015)
January 6, 2015	(January 6, 2015)
January 20, 2015	(February 3, 2015)
January 27, 2015	(February 3, 2015)
February 17, 2015	(March 3, 2015)
February 24, 2015	(March 3, 2015)
March 17, 2015	(April 7, 2015)
March 24, 2015	(April 7, 2015)
April 21, 2015	(May 5, 2015)
April 28, 2015	(May 5, 2015)
May 19, 2015	(June 2, 2015)
May 26, 2015	(June 2, 2015)
June 16, 2015	(July 7, 2015)
June 23, 2015	(July 7, 2015)

**BE IT FURTHER RESOLVED** that all advertisements for Public Hearings should reflect the alternate date.

**Resolution No. 2014-XX.**

**ADOPTED** by the Common Council of the City of Winchester on the 10<sup>th</sup> day of June 2014.

*Witness my hand and the seal of the City of Winchester, Virginia.*

*Kari J. Van Diest  
Deputy Clerk of the Common Council*

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 05/27/2014 CUT OFF DATE: \_\_\_\_\_

RESOLUTION  X  ORDINANCE      PUBLIC HEARING    

**ITEM TITLE:** Refunds to Oasis Brands for Prorated Business License Taxes and to Winchester Emergency Physicians for Overpaid Business License Taxes

**STAFF RECOMMENDATION:** Approve

**PUBLIC NOTICE AND HEARING:**

**ADVISORY BOARD RECOMMENDATION:**

**FUNDING DATA:**

**INSURANCE:**

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. <u>Finance</u>	<u>JS</u>		<u>5/12/14</u>
2. <u>Treasurer</u>	<u>Ph</u>		<u>5/12/2014</u>
3. _____			
4. _____			
5. <u>City Attorney</u>	<u>AW</u>		<u>5/14/2014</u>
6. <u>City Manager</u>	<u>BT</u>		<u>5-13-14</u>
7. <u>Clerk of Council</u>	<u>BT</u>		<u>5-15-14</u>
Initiating Department Director's Signature: <u>Alex Trull</u>			<u>05/12/14</u> Date



APPROVED AS TO FORM:

[Signature] 5/14/2014  
CITY AT

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Ann T. Burkholder, Commissioner of the Revenue  
**Date:** May 12, 2014  
**Re:** Refunds for Prorated and Overpaid Business License Taxes

**THE ISSUE:** Two taxpayers have requested refunds of business, professional and occupational (BPOL) taxes paid.

**RELATIONSHIP TO STRATEGIC PLAN:** This is a matter of fair and equitable taxation, which relates to Goal 2: Create a high-performing City organization.

**BACKGROUND:** Code of the City of Winchester §27-8, in accordance with Code of Virginia §58.1-3981 requires City Council approval of any refunds in excess of \$2,500.00. Code of the City of Winchester §28-12 provides for refunds of BPOL taxes paid under certain circumstances.

1. Oasis Brands filed and paid for a business license for 2014, then relocated its business to another locality. The taxpayer has applied for a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.
2. Winchester Emergency Physicians PC filed and paid for a 2014 business license as if the physicians were still operating under its prior organizational structure. The office of the Commissioner of the Revenue has since made adjustments to reflect the current organizational structure. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a refund for the over-reported and overpaid portion of the license tax.

**BUDGET IMPACT:** During budget planning, this office communicated to the Finance Department that a business was intending to move and that the relevant budget line item for revenue should be adjusted accordingly.

**OPTIONS:** When appropriate, the office of the Commissioner of the Revenue offers the option of either a credit on the account towards future taxes or a refund. In the case of Oasis Brands, a portion of the refund will be applied toward 2014 business tangible personal property taxes.

**RECOMMENDATION:** Pursuant to Code of the City of Winchester §27-8, the Commissioner of the Revenue respectfully requests that the City Council, with the consent of the City Attorney, authorize the Treasurer to issue these two refunds in the amounts certified by the Commissioner of the Revenue for each.

## **RESOLUTION**

**WHEREAS**, Oasis Brands has requested a prorated refund of Business License Taxes for tax year 2014; and

**WHEREAS**, Winchester Emergency Physicians PC has requested a refund of over-reported and overpaid Business License Taxes for tax year 2014; and

**WHEREAS**, the office of the Commissioner of the Revenue has certified that each of these taxpayers has properly requested and is entitled to this refund; and

**WHEREAS**, the office of the Commissioner of the Revenue wishes to maintain accurate and equitable tax records.

**NOW therefore be it RESOLVED**, that Common Council hereby approves the refund of \$135,446 to Oasis Brands for prorated Business License Taxes and the refund of \$2,771.80 to Winchester Emergency Physicians PC for overpaid Business License Taxes; and directs the City Treasurer to refund said amounts together with any penalties and interest paid thereon.



Ann T. Burkholder, Commissioner of the Revenue  
15 North Cameron Street  
Winchester, VA 22601  
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815  
FAX: (540) 667-8937  
TDD: (540) 722-0782  
Website: www.winchesterva.gov

### Certificate of the Commissioner of the Revenue

Oasis Brands filed and paid for a 2014 business license in the City, then relocated its business to another locality. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Oasis Brands is due a refund of \$135,446.00 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Ann T. Burkholder

Date:

05/12/14

Consent by City Attorney:

Anthony C. Williams

Date:

5/14/2014



Ann T. Burkholder, Commissioner of the Revenue  
15 North Cameron Street  
Winchester, VA 22601  
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815  
FAX: (540) 667-8937  
TDD: (540) 722-0782  
Website: www.winchesterva.gov

**Certificate of the Commissioner of the Revenue**

Winchester Emergency Physicians PC filed and paid for a 2014 business license as if the physicians were still operating under its prior organizational structure. The office of the Commissioner of the Revenue has since made adjustments to reflect the current organizational structure. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a refund for the over-reported and overpaid portion of the license tax.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Winchester Emergency Physicians PC is due a refund of \$2,771.80 for overpaid business license taxes.

Verified by Commissioner of the Revenue: 

Ann T. Burkholder

Date: 05/12/14

Consent by City Attorney: 

Anthony C. Williams

Date: 5/19/2014

0-2014-21

**CITY OF WINCHESTER, VIRGINIA**

**PROPOSED CITY COUNCIL AGENDA ITEM**

**CITY COUNCIL/COMMITTEE MEETING OF:** 05/27/2014 **CUT OFF DATE:** \_\_\_\_\_

**RESOLUTION** \_\_\_ **ORDINANCE** X **PUBLIC HEARING** \_\_\_

**ITEM TITLE:** Clarification in City Code Regarding Reimbursement for Unused or Damaged Cigarette Tax Stamps

**STAFF RECOMMENDATION:** Approve

**PUBLIC NOTICE AND HEARING:**

**ADVISORY BOARD RECOMMENDATION:**

**FUNDING DATA:**

**INSURANCE:**

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<i>JD</i>		5/12/14
2. Treasurer	<i>Pth</i>		5/12/2014
3. _____			
4. _____			
5. City Attorney	<i>[Signature]</i>		5/14/2014
6. City Manager	<i>[Signature]</i>		5-15-14
7. Clerk of Council	<i>[Signature]</i>		5-15-14
Initiating Department Director's Signature:	<i>[Signature]</i>		05/12/14 Date



**APPROVED AS TO FORM:**

*[Signature]* 5/14/2014  
**CITY ATTORNEY**

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council

**From:** Ann T. Burkholder, Commissioner of the Revenue

**Date:** May 12, 2014

**Re:** Clarification in City Code Regarding Reimbursement for Unused or Damaged Cigarette Tax Stamps

---

**THE ISSUE:** The wording in City Code regarding reimbursement for returned cigarette tax stamps makes it unclear as to whether the statutory requirements regarding refunds for erroneously assessed taxes are applicable.

**RELATIONSHIP TO STRATEGIC PLAN:** Resolution of this matter best relates to Goal 2: Create a high-performing City organization.

**BACKGROUND:** The City sells cigarette tax stamps to distributors in rolls of 15,000 stamps, so this is a tax collected up front from the distributor rather than a trust tax collected at point-of-sale to the end consumer. City Code §27-176 contains the provisions for refunds for unused or damaged stamps upon return of the stamps along with an affidavit to the Commissioner. Refunds are to be made within twenty (20) days of the request. Such refunds do not arise as a result of any erroneous assessment.

While it appears that the intent in adopting this code section was not to trigger the statutory requirements of City Code §27-8, regarding Council authorization for refunds exceeding \$2,500 as a result of erroneously assessed taxes, the use of the word "refund" generates ambiguity. Moreover, it is then impossible for the Commissioner to comply with both the timely requirement of §27-176 and City procedures for timely review, notification and action regarding Council agenda items.

**RECOMMENDATION:** Upon discussion of the matter with other City parties, it is the recommendation of the Commissioner of the Revenue that City Code be clarified by substituting the term "reimbursement" for the existing use of "refund" in §27-176.

**AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-176 OF THE WINCHESTER CITY CODE REGARDING REFUND FOR UNUSED OR DAMAGED CIGARETTE STAMPS**

**WHEREAS;** the Code of the City of Winchester §27-176 provides for a refund for damaged or unused cigarette tax stamps upon presenting the stamps and an affidavit to the Commissioner; and,

**WHEREAS;** the Code of the City of Winchester §27-176 further specifies that payment for such refunds shall be made within twenty (20) days; and,

**WHEREAS;** the Code of the City of Winchester §27-8, pursuant to Code of Virginia §58.1-3981, requires City Council authorization for any refunds greater than \$2,500 as a result of erroneously assessed taxes ; and,

**WHEREAS;** it does not appear that the intent in adopting §27-176 was to trigger the statutory requirements of §58.1-3981, but the use of term “refund” generates confusion; and,

**WHEREAS;** it is the desire of all City parties to maintain clarity in our City Code to ensure compliance and maintain good relationships with our taxpayers.

NOW THEREFORE BE IT RESOLVED, that Section 27-176 is hereby amended and re-adopted as follows:

**SECTION 27-176. REFUND REIMBURSEMENT FOR UNUSED OR DAMAGED STAMPS OR METER IMPRINTS.**

- (a) Should any person, after acquiring from the Treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use of the stamps, or should the stamps or meter imprints be damaged to the extent that they are unusable, such person shall be entitled to a ~~refund~~reimbursement of the denominational or face amount of any such stamps, less any discount, upon presenting the stamps to the Commissioner and furnishing the Commissioner with an affidavit showing, to his satisfaction, that the stamps were acquired by such person but not used, and the reason for requesting the ~~refund~~reimbursement.
- (b) Any and all ~~refunds~~reimbursements for unused or damaged stamps provided for under this section may be made on vouchers approved by the Commissioner. Such ~~refunds~~reimbursements shall be charged against the sums collected for the sale of said stamps and for the use of such imprints. Payment to the person requesting the ~~refund~~reimbursement shall be made within twenty (20) days of the request.

# CITY OF WINCHESTER, VIRGINIA

## PROPOSED CITY COUNCIL AGENDA ITEM

**CITY COUNCIL/COMMITTEE MEETING OF:** May 20, 2014 **CUT OFF DATE:** \_\_\_\_\_

RESOLUTION   X   ORDINANCE      PUBLIC HEARING     

**ITEM TITLE:** Resolution to Authorize the City Manager to Sign Wide Area Network Contract with Conterra Fiber Solutions

**STAFF RECOMMENDATION:** Adopt Resolution

**PUBLIC NOTICE AND HEARING:** Non required

**ADVISORY BOARD RECOMMENDATION:** N/A

**FUNDING DATA:** Included in current and proposed budgets

**INSURANCE:**

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. <u>Finance</u>	<u>B</u>		<u>5/13/14</u>
2. _____			
3. _____			
4. _____			
5. <u>City Attorney</u>	<u>[Signature]</u>		<u>5/14/2014</u>
6. <u>City Manager</u>	<u>[Signature]</u>		<u>5-15-14</u>
7. <u>Clerk of Council</u>	<u>[Signature]</u>		<u>5-15-14</u>
Initiating Department Director's Signature: <u>Thomas J. Flynn</u>			<u>5/13/14</u> Date



APPROVED AS TO FORM:

[Signature]  
CITY ATTORNEY  
5/17/2014

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Thomas Lloyd, Information Technology Director  
**Date:** May 13, 2014  
**Re:** **Wide Area Network Contract**

---

**THE ISSUE:** A new Wide Area Network contract to support Information Technology connectivity is required.

**RELATIONSHIP TO STRATEGIC PLAN:**

2014: Goal 2 Develop a High Performing Organization and support the IT Master Plan  
2015: Goal 3 Develop a High Performing Organization and upgrade, increase the use of information technology to increase productivity and to engage the customer service

**BACKGROUND:**

The current contract with COMCAST expires in November 2014. City Schools and the City issued a joint Request for Proposals (RFP) for a new contract to provide a fiber optic wide area network with 1GB service to each of the Schools and City locations. The City has seven (7) connections. Two responsive proposals were received. Conterra was the lowest responsible respondent. Schools awarded their work in March 2014.

**BUDGET IMPACT:**

The wide area network is funded in the 2014 current and 2015 proposed budgets. The COMCAST proposal cost \$14,653.21 per month. The Conterra proposal cost \$6,083.00 per month. Conterra is amortizing the cost of construction over the five (5) year life of the contract. The City currently pays COMCAST \$6,650 per month for a lower bandwidth network that is limited to 1 GB total in the core.

**OPTIONS:**

There were two options coming out of the Request for Proposals process. Continue with COMCAST at a substantial increase in cost or move to Conterra and get more capability for slightly less cost.

**RECOMMENDATIONS:**

Approve the Resolution authorizing the City Manager to sign the contract with Conterra

# COMMON COUNCIL



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815  
TDD 540-722-0782  
[www.winchesterva.gov](http://www.winchesterva.gov)

## RESOLUTION

### Wide Area Network Replacement

**WHEREAS**, The City of Winchester needs to acquire wide area network services to replace an expiring contract; and

**WHEREAS**, The Winchester Public Schools and the City issued a joint Request for Proposal for a wide area network replacement contract; and

**WHEREAS**, Conterra Fiber Solutions was the lowest responsible respondent.

**NOW, THEREFORE BE IT RESOLVED**, by the Common Council of the City of Winchester that:

The City Manager is authorized to execute a contract for wide area network services with Conterra Broadband Services, LLC.



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

CONTRACT  
#T2014-02

THIS CONTRACT WAS MADE AND ENTERED INTO THIS 13<sup>th</sup> DAY OF MAY, 2014, BY AND BETWEEN CONTERRA BROADBAND SERVICES, LLC., 2101 REXFORD ROAD, STE. 200E, CHARLOTTE, NC 28211, F.I.N. OR S.S. NUMBER 58-2615152("CONTRACTOR"), AND THE CITY OF WINCHESTER, VIRGINIA, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA ("CITY").

WHEREAS, THE CITY HAS PREVIOUSLY ISSUED REQUEST FOR PROPOSAL T2014-02 (RFP #T2014-02"), DATED FEBRUARY 11, 2014, TO PROVIDE A SECURE, DEDICATED HIGH-SPEED NETWORK COMMUNICATION SERVICE AND RELATED GOODS OR SERVICES, AS MORE FULLY DESCRIBED AND REQUESTED WITHIN THE RFP, AND IS HEREBY FULLY INCORPORATED IN ITS ENTIRETY;

WHEREAS, CONTRACTOR HAS SUBMITTED A PROPOSAL IN RESPONSE TO THE RFP DATED MARCH 12, 2014, SIGNED BY MR. VAN E. SNOWDON, EXECUTIVE VICE PRESIDENT, WHICH STATES PRICING, QUALIFICATIONS, GOODS AND SERVICES, AND ARE HEREBY FULLY INCORPORATED IN ITS ENTIRETY;

WHEREAS, IF APPLICABLE, CONTRACTOR AND CITY HAVE NEGOTIATED COMPENSATION, TERMS AND CONDITIONS IN RESPONSE TO THE RFP, AND THE NEGOTIATION SUMMARY IS HEREBY FULLY INCORPORATED IN ITS ENTIRETY;

WHEREAS, THE CITY'S PROCUREMENT AND THE CONTRACTOR'S RESPONSE SHALL FORM PART OF THE CONTRACT. IN THE CASE OF CONFLICTS, DISCREPANCIES, ERRORS OR OMISSIONS AMONG THE CITY'S PROCUREMENT, THE CONTRACTOR'S RESPONSE, AND THE MAIN BODY OF THE CONTRACT, THE DOCUMENTS AND AMENDMENTS TO THEM SHALL TAKE PRECEDENCE AND GOVERN IN THE FOLLOWING ORDER:

1. MAIN BODY OF THE CONTRACT;
2. NEGOTIATION SUMMARY;
3. CITY'S PROCUREMENT;
4. CONTRACTOR'S RESPONSE.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, THE PARTIES COVENANT AND AGREE AS FOLLOWS:

1. THE CONTRACTOR SHALL PROVIDE THE CITY THE SERVICES OUTLINED IN RFP #T2014- 02, WHICH IS INCORPORATED IN ITS ENTIRETY HEREIN BY REFERENCE. THE CITY SHALL PAY THE CONTRACTOR THE ASSIGNED PRICING. THE CONTRACTOR SHALL FORWARD AN INVOICE FOR SUCH WORK TO THE INFORMATION TECHNOLOGY DIRECTOR UPON INSPECTION AND ACCEPTANCE OF THE DELIVERED GOODS AND SERVICE DURING THE TERM OF THIS CONTRACT. THE

*"To be a financially sound City providing top quality municipal services while focusing on the customer and engaging our community."*

CITY SHALL PAY SUCH INVOICE IN ACCORDANCE WITH THE PROMPT PAYMENT ACT PROVISIONS OF THE VIRGINIA PUBLIC PROCUREMENT ACT, WHICH ARE INCORPORATED HEREIN BY REFERENCE.

2. THE TERM OF THIS CONTRACT SHALL BE SIXTY (60) MONTHS FROM DATE OF SERVICE ACCEPTANCE AND INITIATION, OR IF THE CONTRACT IS TERMINATED IN WRITING BY EITHER PARTY. THE CITY RESERVES THE RIGHT TO CANCEL AND TERMINATE THIS CONTRACT, WITHOUT PENALTY, UPON TEN (10) DAYS WRITTEN NOTICE TO CONTRACTOR. THE PARTIES UNDERSTAND AND AGREE THAT THE CITY, AT ITS SOLE OPTION, MAY RENEW THIS CONTRACT FOR TWO (2) ADDITIONAL TWELVE (12) MONTH PERIODS.
3. APPLICABLE LAW AND VENUE: THE PARTIES AGREE THAT THIS CONTRACT FOR SERVICES SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA. ANY DISPUTE ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT SHALL BE RESOLVED OR OTHERWISE LITIGATED IN THE CIRCUIT COURT FOR THE CITY OF WINCHESTER, VIRGINIA OR THE FOURTH CIRCUIT FEDERAL DISTRICT COURT IN HARRISONBURG, VIRGINIA.
4. IF ANY PROVISION OF THIS AGREEMENT IS FOUND TO BE ILLEGAL, INVALID OR UNENFORCEABLE, THAT SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER PROVISION OF THIS AGREEMENT.
5. THE CONTRACTOR HAS, AT THE TIME OF ITS EXECUTION OF THIS CONTRACT, PROVIDED THE CITY WITH A CERTIFICATE OF INSURANCE SHOWING THAT IT HAS CURRENTLY IN FORCE ALL OF THE INSURANCE REQUIRED BY RFP #T2014-02. CONTRACTOR COVENANTS THAT SUCH CERTIFICATE SHALL REMAIN IN FULL FORCE AND EFFECT THROUGHOUT THE TERM OF THIS CONTRACT, AND THAT IT WILL PROMPTLY NOTIFY THE CITY IN THE EVENT, SUCH INSURANCE IS NO LONGER IN EFFECT FOR WHATEVER REASON.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS INSTRUMENT ON THE DATE INDICATED BELOW, WITH ONE (1) FULLY SIGNED ORIGINAL DELIVERED TO CONTRACTOR AND ONE (1) FULLY SIGNED ORIGINAL DELIVERED TO THE CITY.

CONTRACTOR

CITY OF WINCHESTER

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## Negotiation Summary

This Negotiation Summary sets forth the terms and conditions under which CONTERRA will deploy and provide certain telecommunications and related services described herein (the "Services") for the CUSTOMER and CUSTOMER'S employees, agents and students. CONTERRA and CUSTOMER may be individually referred to herein as "party" or collectively as "parties."

### DEFINITIONS

"Certification" shall mean the verification by CONTERRA, as acknowledged by CUSTOMER, that the Services meet the performance requirements set forth in Attachment A.

"Deficient Minutes" shall be the total number of minutes in a calendar month that are in excess of the number of minutes of path non-availability permitted by the terms of the Services level standards that CONTERRA is required to meet under the terms of this Agreement.

"Deficiency Credit" shall mean an amount equal to the total number of Deficient Minutes in the calendar month for which such Deficiency Credit is sought multiplied by a fraction of which the numerator is the Monthly Service Fee and the denominator is the number of minutes in the relevant month.

"Infrastructure" shall mean the CONTERRA-owned service delivery infrastructure deployed and maintained by CONTERRA and used in the provision of the Services to CUSTOMER. For purposes of this Agreement Infrastructure shall also include equipment.

"Service Locations" shall mean the location(s) specified in Attachment A at which Service and Infrastructure is deployed.

"Non-Recurring Charge" shall mean that portion of the total charge for the provision of the Services under this Agreement that is designated as the non-recurring charge listed on Attachment A for the use of the Infrastructure.

"Monthly Service Fee" shall, during the Initial Term and any extension hereof contemplated by Section 9 of this Agreement, mean the monthly service charge listed on Attachment A. Following the Initial Term and the expiration of any such extensions, the "Monthly Service Fee" shall mean the then current month-to-month service rate set by CONTERRA upon thirty (30) days prior written notice to CUSTOMER.

"Outage Event" shall mean any outage or other loss of the Services, other than any outage that (i) is not reported by CUSTOMER to CONTERRA within five (5) days of occurrence, (ii) is attributable to CONTERRA's scheduled network maintenance, (iii) is attributable to failure or outage of related telephone circuits (whether ordered by CONTERRA or CUSTOMER), (iv) results from CUSTOMER's applications, equipment or facilities, (v) results from any act or omission of CUSTOMER or any user of CUSTOMER's equipment or account, or (vi) is due to or occasioned by any riots, wars, acts of enemies, national emergency, acts of vandalism, strikes, floods, fires, hurricanes, tornados, acts of God, or by any other cause not within the control of CONTERRA that by the exercise of reasonable diligence CONTERRA is unable to prevent, (vii) results from CONTERRA not having been granted site access by the CUSTOMER, or (viii) results from CUSTOMER'S unauthorized use of equipment or the Services.

"Site Access" shall mean twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year ("24x7x365") access to CUSTOMER premise(s) provided to CONTERRA for routine or emergency maintenance of the CONTERRA network.

"Service Window" shall mean twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year ("24x7x365") where the services are being provided.

## TERMS AND CONDITIONS

### 1. The Service, Deployment and Access.

- (a) The Services. Subject to and in accordance with the terms and conditions of the Agreement, CONTERRA shall provide to CUSTOMER at mutually-agreeable CUSTOMER'S designated locations the Services as defined in Attachment A hereto.
- (b) Deployment. CONTERRA, its agent(s) or contractor(s) shall schedule deployment meetings with the CUSTOMER. CONTERRA shall deploy the CONTERRA-owned service infrastructure. CUSTOMER's appointed representative must be present on a regular basis during deployment to be performed by CONTERRA. CONTERRA assumes no liability for files, data, or other information that may be lost on CUSTOMER'S computer system during the deployment process and to the extent allowable by law, After deployment and during the term of this Agreement, CUSTOMER shall provide CONTERRA with 24x7x365 access (with reasonable notice to the CUSTOMER when possible) to CUSTOMER'S premise(s) to inspect, repair and maintain CONTERRA's infrastructure. Upon termination or expiration of this Agreement, or disconnection of the Services, CUSTOMER shall be obligated to return the equipment to CONTERRA or to provide CONTERRA with access to CUSTOMER'S premise(s) to recover such equipment as CONTERRA in its sole discretion shall decide. CONTERRA shall not be held liable for, nor will CONTERRA restore or reconfigure the CUSTOMER'S new or existing network components after de-deployment. Even if the equipment (or any portion of the Infrastructure) is or becomes physically attached in any manner to real estate at the Service Location (including any building on such real estate), in no event will the Infrastructure be deemed to be affixed to or as a part of such real estate. Rather, the Infrastructure is and shall remain CONTERRA's personal property. For purposes of clarification, upon the termination or expiration of this Agreement, there shall be no equipment (except for fiber), left in Service Locations used for the provision of service for other customers. In addition, CUSTOMER grants to CONTERRA a non-exclusive right to deploy transmission cables and lines between the Infrastructure and between the Service Locations in connection with CONTERRA's use, maintenance, and operation of the Infrastructure. CONTERRA may use the Infrastructure and real property for any activity compatible with the conduct of CONTERRA's business for the CUSTOMER. CONTERRA may make any substitutions to or modifications of the Infrastructure as it determines may be necessary or compatible with the conduct of CONTERRA's business for the CUSTOMER. In addition, CONTERRA may lease space on its fiber to a third party. For purposes of clarity CONTERRA shall not use any equipment located within a Service Location for the provision of service to a third party without the express permission of the CUSTOMER.
- (c) Governmental Approval. CONTERRA shall use commercially reasonable efforts to procure, process, or to receive any governmental licenses, permits, consents or approvals necessary for the deployment of the Infrastructure ("Authorizations"). CUSTOMER shall cooperate fully with CONTERRA in order to secure any such Authorizations. In the event that CONTERRA is unable to secure any such Authorizations within a reasonable time and at a reasonable cost (as determined by CONTERRA in its reasonable judgment), CONTERRA may terminate this Agreement by notifying CUSTOMER. All work hereunder which is required by the law of the state within which CUSTOMER is located to be performed by a licensed contractor shall be performed by an appropriately licensed contractor.
- (d) Changes in Deployment. Attachment A includes network design that CONTERRA has determined is necessary to provide the Services to CUSTOMER as required by this Agreement. In the event that CUSTOMER requests that CONTERRA modify that design then CUSTOMER shall be responsible for all costs and related charges associated with any such request. CONTERRA shall only change the design referenced in Attachment A in response to a properly authorized written directive from CUSTOMER.

- (e) Change Order. Any changes requested or required by the CUSTOMER that differ from the network design specified in Attachment A must be properly authorized in a written directive from CUSTOMER. CUSTOMER shall pay, as a relocation or reconfiguration fee, CONTERRA's actual out-of-pocket cost and the cost of all labor and services of any such relocation or reconfiguration ("Costs") plus an additional twenty percent (20%) of the Costs.
- (f) Scalable Broadband Services. CONTERRA's network may be expanded to include additional locations and capacity increased at any time during the term of this Agreement to meet CUSTOMER's requirements. CUSTOMER shall request specific service upgrades based on pricing quoted at time of request. CUSTOMER may add sites (subject to changes in pricing and/or fees) at any time during the term of this Agreement.

**2. CONTERRA Service Levels, Support, Maintenance and Indemnification.**

- (a) Availability Commitment. CONTERRA custom engineers each network solution up to 99.99% availability. CONTERRA shall use commercially reasonable efforts to maintain Services availability for the CUSTOMER 100% of the time, except during Outage Events. At CUSTOMER's request, CONTERRA shall calculate the Deficiency Credit for any calendar month. CONTERRA shall credit to CUSTOMER's account as a refund the Deficiency Credit upon written request by CUSTOMER.
- (b) Latency Commitment. CONTERRA's goal is for round-trip transmissions between designated end-points to average eight (8) milliseconds or less except during Outage Events ("Latency Commitment"). The foregoing Latency Commitment is measured by averaging sample measurements taken during the Service Window between hub routers. Upon written request of CUSTOMER, for each minute in the Service Window during a calendar month for which CONTERRA fails to satisfy its Latency Commitment, CONTERRA shall credit to CUSTOMER's account as a refund the total number of latency minutes divided by the total number of minutes during the Service Window in that month.
- (c) Packet Loss Commitment. CONTERRA's network packet loss between designated end-points shall be limited to 0.1% or less each day except during Outage Events ("Packet Loss Commitment"). Packet loss is measured by standard, industry-accepted methods and measured during the Service Window between designated end-points. Upon written request of CUSTOMER, for each minute in the Service Window for which CONTERRA fails to satisfy its Packet Loss Commitment during a calendar month, CONTERRA shall refund the total number of minutes where there was a packet loss of more than 0.1% divided by the total number of minutes during the Service Window in that month.
- (d) CUSTOMER Reporting Commitment. CONTERRA shall provide CUSTOMER at least forty-eight (48) hours advance notice of scheduled outages for network maintenance. The standard weekly maintenance window is Monday through Sunday from 1:00 a.m. to 6:00 a.m. local time. Notice of other scheduled maintenance outages will be provided to CUSTOMER's designated point of contact by telephone, e-mail, fax, or pager as elected by CONTERRA.
- (e) Credit Limit. In no event shall CUSTOMER's total credits for any calendar month exceed the Monthly Service Fee.
- (f) CONTERRA Support. CONTERRA shall repair or replace any Infrastructure not functioning in accordance with CONTERRA'S published specifications for the Services. CONTERRA shall not provide technical support, maintenance, repair or deployment service for CUSTOMER's software, hardware or equipment unless CONTERRA, in its sole discretion, agrees to do so in a separate written contract. CUSTOMER support will be available on a commercially reasonable basis via telephone, via electronic mail or through CONTERRA's Internet site ([www.conterra.com](http://www.conterra.com)) ("Internet Site"). Telephone numbers for such CUSTOMER support are posted on the CONTERRA Internet Site and are included in Section 7 of this Agreement. If CUSTOMER'S use of their software, hardware or equipment requires that CONTERRA visit CUSTOMER'S premises for assistance, repair, deployment or connection, CONTERRA shall be entitled to charge CUSTOMER CONTERRA's then prevailing labor rates and related costs for each such visit, and CUSTOMER agrees to pay CONTERRA such charges. CONTERRA does not undertake to correct or repair, and shall have no responsibility for the correction or repair of, software, hardware or equipment that CONTERRA does not supply. CONTERRA

- will undertake commercially reasonable network management, traffic analysis, operational procedures and user policies to support the service level standards provided in this Section 2.
- (g) CONTERRA Response Times. CONTERRA shall provide a CUSTOMER support service contact point. CONTERRA shall respond within an average of four (4) hours to any CUSTOMER notification, made to this contact point, of any failure of any Infrastructure to meet CONTERRA'S published specifications for the Services.
  - (h) Indemnification. CONTERRA agrees to indemnify and hold harmless CUSTOMER, and its board members, employees, agents and representatives (collectively, "CUSTOMER Indemnities") against any and all costs, claims, liabilities or expenses that any of the CUSTOMER Indemnities may incur as a result of, or arising out of, or related to CONTERRA'S willful, negligent, tortious or criminal acts or omissions. In the event of any claim, which, if true, would be subject to indemnification hereunder, CUSTOMER or the affected CUSTOMER Indemnities shall notify CONTERRA and CONTERRA shall cooperate in their defense at CONTERRA's cost and expense.

### **3. CUSTOMER'S Obligations.**

#### **(a) Payment.**

- i. *Monthly Service Fee*. CONTERRA shall invoice CUSTOMER each month in advance for a Monthly Service Fee as shown in Attachment A of this Service Agreement. CUSTOMER shall pay the Monthly Service Fee within thirty (30) days of the invoice. If applicable, CONTERRA will invoice CUSTOMER on a per site basis until all sites are operational.
  - ii. *CUSTOMER Ultimately Responsible*. NOTWITHSTANDING ANYTHING TO THE CONTRARY, CUSTOMER IS RESPONSIBLE FOR PAYMENT OF ALL FEES.
  - iii. *Failure To Pay*. If CUSTOMER fails to pay the Monthly Service Fee within thirty (30) calendar days of the due date, CONTERRA may impose a late fee or disconnect the Services, or both, in its sole discretion. CUSTOMER shall pay CONTERRA such late fees. CONTERRA's late payment fee shall be five (5%) of the Monthly Service Fee.
  - iv. *Re-connect*. If CUSTOMER disconnects the Services or if CUSTOMER'S Services are disconnected due to nonpayment or other breach of this Agreement, and if CONTERRA subsequently agrees to reconnect the Services, CUSTOMER may be charged a fee for reconnecting and redeploying the Services. Such fee shall be equal to one hundred percent (100%) of the then applicable Monthly Service Fee.
  - v. *Charges for other services or goods*. From time to time CUSTOMER may decide to select additional services or purchase additional goods offered by CONTERRA or by third parties. The Monthly Service Fee does not cover any such services and goods, and the CUSTOMER shall be charged separately for them. CUSTOMER agrees to pay for such other services and goods that it selects or purchases.
  - vi. *Taxes*. CUSTOMER shall pay all federal, state and local taxes, fees, charges, surcharges or similar exactions imposed on the Services and/or products that are subject of this Agreement including but not limited to state and local sales, use and gross receipts taxes (collectively, "Taxes").
- (b) Current address and information. CUSTOMER is required, and agrees, to keep CONTERRA notified in a timely manner of any changes in the information CUSTOMER provides to CONTERRA, including information provided when CUSTOMER initiates use of the Services.
- (c) Assignment or Sharing of Service. CUSTOMER may not resell, share, sublicense or otherwise distribute the Services, or any portion thereof, to any third party without the prior written consent of CONTERRA.
- School/Facility Closure. CUSTOMER shall immediately notify CONTERRA if CUSTOMER becomes aware that the school or
- (d) facility governed by the Agreement will be closed prior to the term of the Agreement or any extension. CUSTOMER has the duty to notify CONTERRA as soon as CUSTOMER receives such information. CUSTOMER shall be responsible for all costs and fees associated with the school or facility through the end of Agreement or any extension thereof.

### **4. CUSTOMER'S Warranties, Representations and Indemnification.**

- (a) **Warranties and Representations.** CUSTOMER warrants and represents that CUSTOMER shall use the Services only for the originally intended purpose(s), in accordance with this Agreement, all FCC rules and regulations, and all applicable laws, and CUSTOMER shall make all payments required herein plus any and all applicable Taxes. CUSTOMER warrants that all funds due from CUSTOMER hereunder have been allocated for the uses contemplated in this Agreement or if they have not been allocated, CUSTOMER believes that such funds will be allocated, that there is no current basis to believe that such funds will not be allocated and that CUSTOMER has taken every necessary step to assure the availability of CUSTOMER funds hereunder.
- (b) **CUSTOMER Indemnification.** To the fullest extent allowed by law, CUSTOMER agrees to indemnify and hold harmless CONTERRA, its subsidiaries and affiliates, assigns and the members, officers, directors, employees, contractors, agents and representatives of CONTERRA and its subsidiaries and affiliates (together "CONTERRA Indemnities") against any and all costs, claims, liabilities or expenses any of the CONTERRA Indemnities may incur as a result of, or arising out of, or related to: (i) CUSTOMER'S breach of this Agreement or of CUSTOMER'S warranties and representations made herein; (ii) CUSTOMER'S willful, negligent, tortious or criminal acts or omissions; (iii) any improper use of CUSTOMER'S password, name or user name; or (iv) CUSTOMER'S violation of any third party's rights. In the event of any claim, which, if true, would be subject to indemnification hereunder, CONTERRA or the affected CONTERRA Indemnities shall notify CUSTOMER and CUSTOMER shall cooperate in their defense at CUSTOMER'S sole cost and expense. As part of CUSTOMER'S indemnification obligations, CUSTOMER shall reimburse CONTERRA for any costs that CONTERRA incurs, including complaint fees charged by jurisdictional authorities, network or service providers, and investigation expenses, due to complaints filed regarding CUSTOMER'S activity (or activity for which CUSTOMER is responsible) in using the Services.

**5. CONTERRA's Ownership of Service Infrastructure, Hardware and Appurtenances.**

The Infrastructure, hardware and appurtenances (to include, but not limited to, fiber optic cabling and apertures) to be located on CUSTOMER premises by CONTERRA to provide the Services under this Agreement are, and shall remain, the property of CONTERRA. Additionally, such of these items as CONTERRA may request shall be returned to CONTERRA in good and working condition upon the termination or expiration of this Agreement, or the disconnection of CUSTOMER'S Services. CUSTOMER shall use reasonable care to avoid damaging any and all Infrastructure and hardware components of the CONTERRA deployment, and shall not alter, modify, sell, license, lease, assign, encumber, relocate, move or tamper with any of the same. Additionally, CUSTOMER shall be responsible for all costs of repair or replacement of items returned damaged or in poor working condition due to CUSTOMER's negligence or failure to properly care for said Infrastructure, hardware or appurtenances.

**6. Contact Us.**

- (a) **Notices.** All notices, invoices and other communications required or permitted under the Agreement shall be in writing and shall be deemed to have been given only if and when: (i) personally delivered (including by means of a messenger service), or (ii) by United States first class mail postage prepaid (preferably registered, certified or return receipt requested), or (iii) when delivered (and receipted for) by an overnight delivery service, in each case addressed to the address set forth in the first paragraph of the Agreement.
- (b) **Billing Information, Questions or Concerns.** If CUSTOMER has questions or concerns or simply would like more information about the costs CUSTOMER might incur in using the Services or with CUSTOMER'S particular account, CUSTOMER may contact CONTERRA at 1.877.365.6701.
- (c) **General Information.** For general information about CONTERRA and CONTERRA's services, CUSTOMER may visit the CONTERRA Internet Site or contact CONTERRA at 1.877.365.6701.

- (d) **CUSTOMER Support and Service.** For CUSTOMER service and support, CUSTOMER may contact CONTERRA via telephone, via electronic mail or via the CONTERRA Internet Site. CUSTOMER shall visit the CONTERRA Internet Site for up-to-date contact information.

**7. Disclaimers and Limitation of CONTERRA's Liability.**

- (a) CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) THE SERVICES, SOFTWARE, DATA AND ANY OTHER SERVICES, SOFTWARE OR INFRASTRUCTURE PROVIDED BY CONTERRA UNDER THE AGREEMENT ARE NOT GUARANTEED TO BE ERROR FREE, UNINTERRUPTED, SECURE OR ALWAYS AVAILABLE OR AVAILABLE WITH SUFFICIENT CAPACITY EXCEPT AS DEFINED ELSEWHERE IN THE AGREEMENT; (ii) THE USE OF THE SERVICES, THE INTERNET, AND ANY SOFTWARE OR INFRASTRUCTURE PROVIDED BY CONTERRA IS AT CUSTOMER'S SOLE RISK; AND (iii) ANY AND ALL CONTERRA SERVICES AND PRODUCTS ARE PROVIDED "AS IS AND AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN WARRANTIES WHICH CANNOT LEGALLY BE EXCLUDED. CONTERRA MAKES NO WARRANTY THAT THE SERVICE WILL WORK ON CUSTOMER'S PARTICULAR COMPUTER, NETWORK OR COMPUTER SYSTEM EXCEPT AS DEFINED BY THE IEEE STANDARD 802.3 DEFINING THE PHYSICAL LAYER AND TRANSPORT LAYER OF ETHERNET. CUSTOMER FURTHER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) CONTERRA SHALL HAVE NO RESPONSIBILITY FOR DAMAGE OR DESTRUCTION TO CUSTOMER'S COMPUTER OR NETWORK SYSTEM, DATA, INFORMATION OR INFRASTRUCTURE UNLESS THROUGH NEGLIGENCE ON BEHALF OF CONTERRA; (ii) CONTERRA HAS NO RESPONSIBILITY WHATSOEVER FOR ANY THIRD PARTY CONTENT, DATA, INFORMATION, PROGRAMS OR OTHER MATERIAL THAT CUSTOMER MAY USE WITH OR ACCESS USING THE SERVICES; (iii) IT IS SOLELY THE CUSTOMER'S RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS AND USEFULNESS OF ALL OPINIONS, ADVICE, SERVICES, MERCHANDISE AND OTHER INFORMATION PROVIDED THROUGH THE SERVICE OR ON THE INTERNET GENERALLY; AND (iv) EXCEPT FOR ISSUES ARISING OUT OF CONTERRA'S MATERIAL DEFAULT OF THE AGREEMENT, IN NO EVENT SHALL CONTERRA BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, ACTUAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS OF ANY KIND WHATSOEVER) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE DEPLOYMENT, USE, MAINTENANCE, FAILURE, REMOVAL OR OPERATION OF THE SERVICES, SOFTWARE OR INFRASTRUCTURE PROVIDED BY CONTERRA, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF CONTERRA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES AND OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER AND IN SUCH STATES OR OTHER JURISDICTIONS CONTERRA'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.
- (b) SUBJECT TO THE FOREGOING, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT (i) CONTERRA'S MAXIMUM LIABILITY TO CUSTOMER UNDER THE AGREEMENT OR ARISING OUT OF OR RELATED TO THE SERVICES WILL BE THE AGGREGATE AMOUNT CUSTOMER HAS ACTUALLY PAID TO CONTERRA FOR THE SERVICE; (ii) CONTERRA HAS ESTABLISHED ITS PRICING FOR THE SERVICES AND ENTERED INTO THE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES; AND (iii) THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THIS TELECOMMUNICATIONS SERVICE AGREEMENT SHALL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED THEIR

ESSENTIAL PURPOSE. THE FOREGOING IS SUBJECT ONLY TO THE SPECIFIC SERVICE LEVEL STANDARDS AND REMEDIES SET FORTH IN SECTION 2 ABOVE.

**8. Term and Termination.**

- (a) Extension of Term of Agreement. The initial term or any subsequent term, may be extended by exercising any of the following options:
- (i) CUSTOMER has the option to extend for one (1) period of up to five (5) years ("Extension Term"), through the provision of written notice to CONTERRA not less than ninety (90) days before the Expiration Date or the end of the Extension Term. The Monthly Service Fee shall be adjusted as of the first day of any Extension Term (the "Adjustment Date") so that the Monthly Service Fee shall be increased, but not decreased, by the percentage increase of the Consumer Price Index ("CPI") as measured from the CPI published for January in the calendar year of the commencement of the Service Term to the CPI published for January in the calendar year of the Adjustment Date. The new Monthly Service Fee shall be in effect for the entire Extension term.
  - (ii) During an extension term CUSTOMER may terminate such term upon ninety (90) days written notice to CONTERRA.
- (b) Termination by CUSTOMER for convenience. The parties acknowledge and agree that if the CUSTOMER terminates this Agreement or an underlying service in whole or in part, CUSTOMER shall pay the 100% of all remaining monthly costs and fees of the original 60 month Agreement term. In such event this Agreement will terminate on the last day of the fiscal period for which commitments were received.
- (c) Termination by CUSTOMER for cause. If CONTERRA repeatedly and persistently fails to substantially provide the Services as required by the terms of this Agreement, CUSTOMER may terminate this Agreement by written notice to CONTERRA. CUSTOMER shall give CONTERRA thirty (30) days written notice of such intention to terminate and an opportunity to cure any such default. In the event that CONTERRA cures during that thirty (30) day period, then CUSTOMER may not terminate this Agreement. Further, in the event CONTERRA fails to cure, the Customer shall pay 100% of remaining monthly costs through the thirty (30) day cure period.
- (d) Termination by CONTERRA. If CUSTOMER breaches this Agreement, and following a minimum ninety (90) day written notice to CUSTOMER, CONTERRA reserves the right in its discretion to suspend or terminate this Agreement and to disconnect the Services, in whole or in part, with just cause as provided for by this Agreement, and providing the cause has been fully declared to the CUSTOMER, allowing the CUSTOMER the ninety (90) days to cure said cause. CUSTOMER shall pay the 100% of all remaining monthly costs and fees.
- (e) Termination by CONTERRA. If CONTERRA is unable to secure, lease, or provision required permitting and/or easements under reasonable terms and conditions as determined in the sole discretion of CONTERRA, and this site is essential to providing the Services, CONTERRA may terminate this Agreement.

**9. Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of laws principles.

**10. Mediation.** To the extent allowed under Virginia law, in the event of an alleged breach of the Agreement by CONTERRA or CUSTOMER or in the event of any other dispute arising out of the Agreement and involving CONTERRA and CUSTOMER such breach or dispute initially shall be submitted to nonbinding mediation prior to the institution of any litigation. The parties agree to utilize the services of a retired judge, or other qualified mediator mutually acceptable to both parties.

**11. Miscellaneous.**

- (a) Entire Telecommunications Service Agreement. Contract T2014-02 constitutes the entire agreement between the parties on the subject matter hereof and may be amended or modified solely by written agreement signed by each of the parties hereto.
- (b) No Third Party Beneficiaries. Contract T2014-02 is not intended to confer and does not confer any rights or remedies upon any person or entity other than the parties to the Agreement and the CONTERRA Indemnified Parties.
- (c) Severability. If any part of Contract T2014-02 is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties and the remaining portions shall remain in full force and effect.
- (d) No Assignment. CUSTOMER or CONTERRA may not assign Contract T2014-02 and may not be assigned in whole or in part without CUSTOMER and CONTERRA's prior written consent.
- (e) CUSTOMER Contact. CUSTOMER shall designate a Representative who shall have the authority to represent and bind the CUSTOMER in all of its dealings with CONTERRA, and shall serve as a contact person in the event that CONTERRA needs to contact the CUSTOMER for any reason. Representative's contact information is as follows:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

- (f) Replacement of CUSTOMER Representative. In the event that CUSTOMER replaces Representative, it shall appoint a new Representative and provide CONTERRA written notice of such change and the new Representative's contact information within five (5) days.
- (g) Site Specific Services. The Services are provided to the sites initially selected by CUSTOMER and reflected on Attachment A. CUSTOMER may not transfer the Services to another location without CONTERRA's prior written consent (even if CUSTOMER moves to a new place of business).
- (h) Information Availability. CONTERRA shall have no obligation to make any specific information, data, service, programs, newsgroups or other material available through the Services and may block any such material in its sole discretion.
- (i) Policies. CONTERRA's Conflict of Interest Policy in Attachment D are incorporated herein and are an integral part of this Service Agreement.
- (j) Remedies Non-Exclusive. Wherever a remedy is expressly provided to CONTERRA hereunder, such remedy is intended to add rather than to restrict all of CONTERRA's remedies in law and equity.
- (k) No Waiver. If CONTERRA fails, at any time, to enforce any right or remedy available to it under Contract T2014-02, that failure will not be construed to be a waiver of the right or remedy with respect to that or any other breach or failure by CUSTOMER. Any waiver must be in writing and signed by CONTERRA.

## ATTACHMENT A

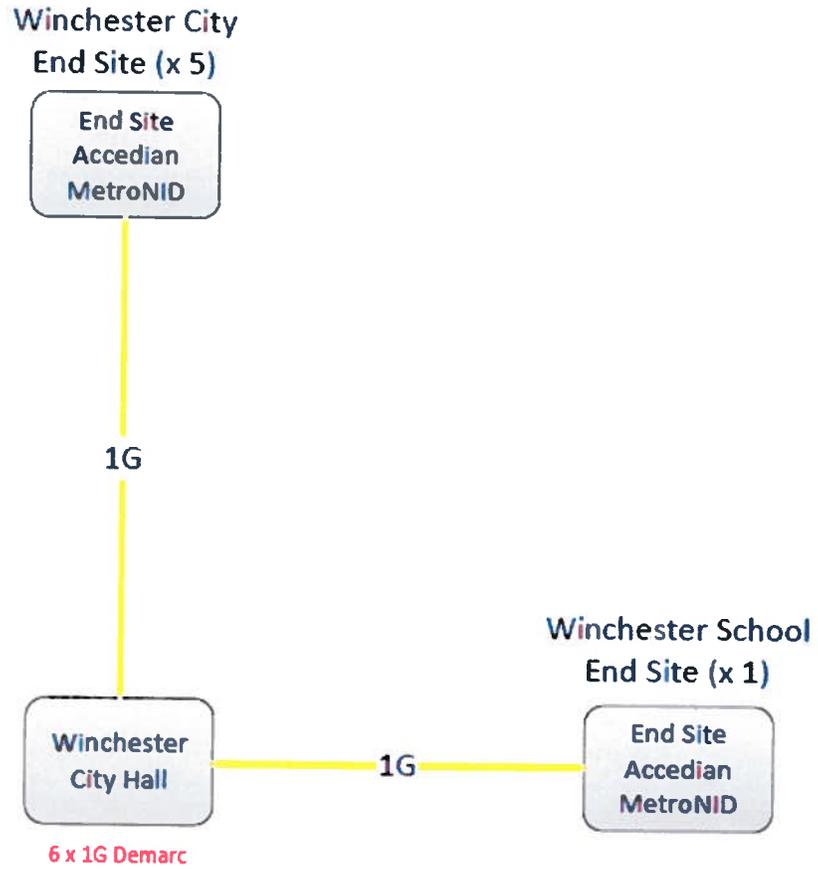
### City of Winchester

<b>Narrative Description:</b> Wide Area Network (WAN) Service including 1Gbps Connections for 7 sites. This service complies with the Schools and Libraries Division's Wide Area Network (WAN) Fact Sheet.				
Quantity	Product or Service Description	Unit Cost (per location)	Extended Cost	
			Monthly Recurring	Non-Recurring
7	1 Gbps Wide Area Network Services (per month)	\$869.00	\$6,083.00	\$0.00

Service Locations				
Name of Site	Address	City	State	Zip
Rouss City Hall	15 N Cameron St.	Winchester	VA	22601
Timbrook Public Safety Center	231 E Piccadilly St.	Winchester	VA	22601
War Memorial	1001 E Cork St.	Winchester	VA	22601
City Yards	301 E Cork St.	Winchester	VA	22601
Joint Judicial Center	5 N Kent St.	Winchester	VA	22601
Social Services	24 Baker St.	Winchester	VA	22601
Winchester Public Schools	12 N Washington St.	Winchester	VA	22601

**ATTACHMENT B**  
**NETWORK DESIGN**

*Network Design subject to change upon final engineering.*



## ATTACHMENT C

The prices in this contract are based on the following assumptions:

- IT Director and/or Superintendent have authority to approve work plans and infrastructure locations.
- CUSTOMER provides assistance and support for zoning and building permits as required by the local municipalities.
- CUSTOMER provides site access as required by CONTERRA personnel and contractors and provides contact names, phone numbers, fax numbers and e-mail addresses.
- CUSTOMER provides AC plug on their existing UPS at each service location, or a single outlet 15 amp receptacle is required.
- CUSTOMER provides connectivity between CONTERRA and CUSTOMER's equipment with a standard Layer 2 interface in the form of an electrical Ethernet RJ45. This point of demarcation (demarc) is to be located at CONTERRA's direction within eight (8) feet of Conterra infrastructure.
- CUSTOMER provides a free and clear path from the exterior of the building to interior infrastructure location(s) for all coaxial cable and other necessary cable/wire runs including, but not limited to, building penetrations, inside conduit and proper authorizations from the building owner.
- CUSTOMER provides unobstructed access to the grounds and cabling runways for infrastructure location and construction regardless of building ownership. Infrastructure may include, but not be limited to fiber mounting structures, cabinets and wall racks.
- Interior environmental conditions conducive to the proper operations of electronics infrastructure.
- CUSTOMER's existing back-up power supply, where available, accepts Conterra's infrastructure.
- All Change Orders will be billed at cost plus 20% and are borne by the CUSTOMER.

## ATTACHMENT D



### Conflict of Interest Policy

#### POLICY STATEMENT:

Conterra Ultra Broadband, LLC, a South Carolina limited liability company (the "Company") has confidence in the loyalty, dedication, and integrity of all its employees. It is important to recognize, however, that even the appearance of a conflict of interest may be just as damaging to the Company's reputation as a real conflict. This policy (the "Policy") addresses actual and perceived conflicts of interest which might arise in the course of an employee's duties and activities. Employees who engage in business or professional activities outside the Company should ensure that these activities do not interfere with their obligations to the Company. Employees should not personally gain any advantage at the expense of the Company or its reputation.

#### GUIDELINES:

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee, a relative, a close personal relationship, or a related organization as a result of Company business dealings. Examples of personal gain include, but are not limited to, the following:

- Accepting money or gifts for service performance as part of one's job is strictly forbidden.
- Participating in the selection, award, or administration of a contract, purchase or lease where an actual or perceived conflict of interest exists.
- Participating in any Company deliberation or decision that may result in a direct benefit to the employee or to anyone with whom the employee has a close personal relationship or to any organization of which the employee is an officer, director or trustee.
- Receiving any fee, honorarium or other payment for activities related to the scope of an employee's work at the Company (other than Company compensation or reimbursement of out-of-pocket expenses). These payments should be paid to the Company, and if received directly by an employee should be turned over to the senior financial officer of the Company.
- Purchasing or selling of Company property or other goods or services which the employee could use or might appear to have the opportunity to use, for personal gain,
- Using confidential information or proprietary knowledge gained as a result of his/her relationship with the Company for personal gain.

To avoid conflicts of interest and any conduct which may suggest the appearance of any impropriety, and comply with Company policy and any applicable state and federal laws governing conflict of interests, all employees must decline receiving or offering gifts of any type from its E-Rate (or related government program) customers. Company does recognize, however, that situations may arise when it would be appropriate to accept a gift, gratuity (from a vendor) or an award. Employees must receive approval from their manager prior to engaging or agreeing to any such activity. Such non E-rate related situations include:

- Reasonable business expenses at lunch, dinner, or business meetings with present or prospective customers and suppliers when the return of the expenditure on a comparable basis is likely to occur and would be properly chargeable as a business expense.
- Awards given by charitable, educational, civil, or religious organizations for meritorious contributions or service.

**Winchester Public Schools  
City of Winchester**

**Request for Proposal**

**Network Communications Services**

**WPS RFP T2014-02**

**Due by 2:00 PM March 12, 2014**

**February 11, 2014**

## TABLE OF CONTENTS

	<b><u>Section</u></b>
Introduction and Purpose	A
Scope of Services	B
Selection Procedures	C
Submittal Requirements	D
Evaluation Criteria and Selection Process	E
Questions	F
Special Terms and Conditions	G
General Terms and Conditions	H
Contract	I
Appendices	
A	Site Locations
B	Service Options
C	Pricing

## **A. INTRODUCTION AND PURPOSE**

### **INTRODUCTION:**

The City of Winchester (City), founded in 1744, is the oldest Virginia City west of the Blue Ridge Mountains. Located at the northern entrance to the Shenandoah Valley, the City is the medical, commercial governmental and financial center for the surrounding area.

The City encompasses 9.3 square miles and is located at the crossroads of U.S. Highways 11, 17, 50, 522, Interstate 81 and State Route 7. Interstate 66, terminating 11 miles south of the City at Interstate 81, provides a third transportation artery to Washington, D.C., 72 miles to the southeast. The City's 2007 population was estimated at 26,000 with 7,650 single family attached and detached homes and over 4,000 multi-family dwelling units.

### **PURPOSE:**

Winchester Public Schools (Schools) and the City of Winchester (City) seek one (1) qualified contractor to provide secure, dedicated high-speed network communication service between their various sites. The intent is to provide communication services that will enhance educational and administrative activities throughout the city. This wide area network (WAN) service should be capable of accommodating present needs and be adaptable to meeting future needs of the City and Schools.

The City and Schools are separate entities cooperating on this RFP to provide such services using a consistent and uniform infrastructure throughout the city. All costs and fees associated with city links and the link joining the Schools and city segments will be billed to the City. All costs and fees associated with the Schools links will be billed to the Schools. Separate agreement documents showing the service sites and associated fees will be issued to the Schools and to the City. The service provider must be properly registered for participation in the Schools and Libraries Program of the Universal Service Fund (E-Rate), and the Schools segment design and implementation must qualify under current federal Universal Service program requirements. Appendix A lists the City and Schools sites to be included in the service.

The current contract expires in November of 2014 and the communication services received under this request for proposals will be fully tested and operational no later than October 1, 2014.

This Request for Proposal (RFP), plus the resulting agreement, shall be consistent with, and governed by the Act, the Virginia Public Procurement Act (VPPA).

### **TECHNOLOGY ENVIRONMENT:**

City and Schools sites are currently linked via a physical star topology fiber network owned by the current vendor. The star emanates from the Network Operations Center (NOC) at the School Board's Central Administration Offices at 12 N. Washington St., Winchester, Virginia. The current vendor furnishes communication services by providing and managing vendor owned network devices with options for fiber or twisted-pair connections to City or Schools owned Cisco layer 2 switches. The current logical network design allows for the City and Schools to share resources while maintaining separate edge firewalls. This logical design is facilitated by the current physical infrastructure which provides a point to point connection from 12 N. Washington St. to 1001 East Cork Street.

### **PRE-PROPOSAL CONFERENCE:**

None scheduled.

**SCHEDULE OF EVENTS:**

The following summarizes the Schools' and City's desired timeline of events for this project:

- |    |                                   |  |
|----|-----------------------------------|--|
| 1. | RFP Distribution                  | February 11, 2014                      |
| 2. | Proposal Submissions Due (Part I) | March 12, 2014 at 2:00P.M.(local time) |
| 3. | Interviews (Optional)             | March 2014                             |
| 4. | Award of Contract                 | March 2014                             |
| 5. | Begin Project Implementation      | TBD                                    |
| 6. | New System Fully Operational      | October 1, 2014 (no later than)        |

**CONTRACT TERM**

The contract term shall be for a period of sixty (60) months from date of service acceptance and initiation or if the Contract is terminated in writing by either party. The Schools and City reserve the right to cancel and terminate this Contract, without penalty, upon ten (10) days written notice to contractor. The parties understand and agree that the Schools and City, at its sole option, may renew this Contract for two (2) additional twelve (12) month periods.

**B. SCOPE OF SERVICES**

- GENERAL OVERVIEW:** The City and Schools are seeking communications services that provide high speed connectivity between their various sites. The City and Schools are separate entities cooperating on this joint RFP to provide such services using a consistent and uniform infrastructure throughout the city. The project includes the system design/engineering, and any construction that may be necessary to establish and maintain the service. The proposal provided to the Schools and City must include all labor, materials, equipment and accessories required to furnish, configure, install, and integrate a complete wide area network connection. The minimum required throughput is 1,000 Mbps. The Schools office is currently the primary hub for termination of all physical connections
- CONTRACTOR AND EMPLOYEE QUALIFICATIONS:** Contractor shall be an established network provider within the industry for at least five (5) years and provide the personnel, experience, and technical knowledge in providing a quality, high speed network communication service for governmental entities, consultation services, technical support, credible maintenance and warranty services. The assigned Project Manager shall be capable of performing and supervising all services for the Schools and City with at least ten (10) years of experience within the industry.
- QUALITY OF WORKMANSHIP:** All work shall be of the highest quality and performed according to the standards of the industry and to the satisfaction of the Schools and City. Contractor shall guarantee all work and implement safeguards to avoid dishonest assessments, unacceptable performance, irregular service and erroneous data. The contractor shall provide all personnel with a complete set of specifications and schedules to ensure all required services are complete. All labor, tools, equipment, and supplies shall be provided by the contractor and shall meet all applicable local, state and federal standards.
- DESIGN AND PERFORMANCE OF THE CONTRACTOR'S WAN SOLUTION:** Minimum requirements include the following:
  - The proposal provided to the Schools/City under this section must include all labor, materials, equipment and accessories required to furnish, configure, install, and

integrate a complete wide area network connection. The Schools and City require the contractor to provide and install an integrated, robust, wide area network connection with the following minimum specifications:

- i. A fiber based 1 gigabit (1000Mbps full duplex) fiber optic (Ethernet capable) connectivity (minimum) for each Schools and City site. See Appendix A for site locations.
  - ii. All sites shall terminate with a minimum fiber gigabit Ethernet handoff at each location. The site demarc shall be determined by Schools' and City technical staff. All site connections currently terminate at the Schools' NOC at 12 N Washington St.
  - iii. Schools shall continue maintaining central administrative control of Schools' networks through the current internal firewall ASA 5585-X, 6509 core switch, and ASA 5520 external firewall cluster.
  - iv. City shall maintain central administrative control at City Hall, 15 North Cameron Street, Winchester, VA 22601.
  - v. The circuits shall be capable of carrying multiple data services such as various computer applications, digital video and Voice over IP, etc. Proposals should address quality of service or other factors deemed important to support multiple data communication services.
  - vi. An uptime guarantee of 99.95% or better shall be provided. The plan for reporting outages and a minimum response time after an outage is reported should be addressed in the proposal. Network outage resolution should be coordinated with the Schools and City technical staff.
  - vii. All vendor equipment installed shall be under repair maintenance at no cost to the Schools and City for the life of the contract agreement. Any special environmental specifications for any equipment to be delivered under the resulting contract shall be furnished in the proposal, should any such requirements be applicable.
  - viii. As required, any associated equipment racks, digital equipment, power conditioning, data cabling, and termination equipment shall be provided by the service provider. The awarded service provider shall own and maintain any and all equipment required up to point of handoff at the existing demarc locations.
  - ix. A detailed "as-built" network diagram will be provided to Schools and City prior to the operational date of October 1, 2014. The diagram and any supporting documentation shall show physical network connections down to the jack, patch panel, and switch port level as it relates specifically to the Schools/City locations. This documentation shall also show the technology used for network traffic transport, technology used to secure network traffic in transit, and any redundant paths to the Internet.
- b. The City requests an optional proposal, including costs, to terminate all City remote connections at 15 N. Cameron St, either physically or logically. See Option A in Appendix B
  - c. The City requests an optional proposal, including costs to add four additional sites. See Option B in Appendix B.

5. **SERVICE EXPECTATIONS, DELIVERABLES AND ACCEPTANCE:** The Schools and City and the successful contractor shall each assign a single point of contact in order to improve the quality and communication of the required services and deliverables. The successful

contractor shall have sufficient technical knowledge, resources, and staff to respond and perform the following:

- a. Implementation and Installation Services:
  - i. All labor, supervision, quality control, equipment, transportation, and materials shall be included in the implementation of the network
  - ii. System installation for both software and hardware shall be completed by October 1, 2014, including test period. At the Schools' or City's sole option and in writing, the Information Technology Director or designee may extend this date.
  - iii. On-site "Go Live" support will be required. **It is imperative that all business functions carry on as normal when we go live.**
  - iv. Upon installation, the Contractor shall certify the network communication network is fully operational. A test of the new system shall be conducted with representatives from Schools and/or City Technology staff and upon successful completion, acceptance of the system may be signed. If acceptance cannot be made, the Schools or City will continue to retain 5% of the total project cost until completion of the system can be verified and tested. See Contract Administration section for acceptance time lines.
  - v. The vendor is responsible to obtain all necessary right of ways and permits for this project. During the term of this contract, any changes in the routing of the fiber cable due to city or county infrastructure changes and/or requirements will be the responsibility of the vendor at no expense to the Schools or City.
  - vi. Any and all site inspections and/or site or service work shall be coordinated with Schools and/or City Technology staff.
- b. Technical Support:
  - i. The Schools and City shall require access to technical support services twenty-four (24) hours a day, seven (7) days a week. Technical support shall be made available by a toll-free phone number. If the Schools or City notifies the successful firm that a work stoppage has occurred and becomes critical that services are restored, the Schools and City shall require a response time of two (2) hours.
- c. Warranty and Guarantee:
  - i. Minimum requirements shall be governed by the Code of Virginia, Section 8.2 including:
    1. Goods or services furnished as a result of this bid shall be covered by the most favorable commercial warranties, expressed or implied, that offeror and/or the manufacturer give to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the Schools or City by any other clause of this bid. The Schools and City reserve the right to request from bidders a separate manufacturer certification of all statements made in the bid proposal or supplemental information.
    2. Guarantee: Coordination and administration of ALL warranty work for the network shall be the responsibility of the Contractor. All warranty registrations and serial number information shall be filled out by the Contractor and mailed to all manufacturers of components that comprise the requested bid, with copies being provided upon delivery to the Information Technology Directors or designee.

6. **CONTRACT ADMINISTRATION:**
- a. The Schools and City each will assign an Owner's Representative to be the Contract Administrator for their respective contracts and they may authorize a designee delegated to perform these duties as outlined: ordering, monitoring of progress, review and acceptance, quality assurance, invoice payment and scheduling of services.
  - b. Acceptance:
    - i. The Schools and City have ten (10) business days from time of completion to accept the project work and ensure compliance to all City specifications, and state and federal laws.
    - ii. If work is rejected in whole or in part due to poor quality or workmanship then Schools or City shall outline in writing the problem and notify the Contractor.
    - iii. Time requirement:
      - 1. When the Contractor is notified in writing by the Schools or City of non-acceptance, the Contractor shall have five (5) business days to correct the problem. The Owner Representatives or designee may extend this period if agreed upon in writing by both parties.
  - c. Contract Officer:
    - i. For Schools shall be: Steven R. Muller, Director of Technology, 12 N. Washington Street, Winchester, VA 22601. Phone 540-667-4253. Duties include: making decisions for dispute resolution, administering change orders and amendments, executing supplemental agreements, and authorizing contract renewal.
    - ii. For City shall be: Steven Corbit, Purchasing Agent, Finance Department, 15 N. Cameron Street, Winchester VA 22601. Phone 540-667-2378. Duties include: making decisions for dispute resolution, administering change orders and amendments, executing supplemental agreements, and authorizing contract renewal.
7. **ADDITIONAL SERVICES (TASK ORDERS):** Additional task order assignments beyond the initial project work may be required as the Schools or City believe it to be in their best interests and the functionality network.

## C. **SELECTION PROCEDURE**

This Request for Proposals is divided into two parts:

- Part I - Written Submission of Proposed WAN solution; and
- Part II - Interviews and Presentations from Part I short-listed firms, only.

In general, the selection of a firm will be conducted by the following process:

### **PART I**

1. Proposed WAN solution will be submitted in the form defined under Submittal Requirements (Section D).
2. An Evaluation Committee, composed of Schools and City Staff, will evaluate and rank all firms.
3. Firms will be evaluated and ranked in accordance with the Part I – Evaluation Criteria (Section E).

## **PART II**

1. Based on the results of the process to this point, the highest ranked firms will be invited to make a presentation to the Evaluation Committee.
2. The Evaluation Committee will complete the final evaluation and rank the firms as set forth in Evaluation Criteria (Section E), in order to select one (1) firm whose proposed system and services are deemed most meritorious per Virginia Code §2.2-4301.

## **D. SUBMITTAL REQUIREMENTS**

### **1. GENERAL INSTRUCTIONS:**

- a. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original hardcopy, one (1) original electronic copy in .pdf format and two (2) copies of the original hardcopy are to be submitted in a sealed envelope bearing the company name, mailing address, the RFP name, the RFP number, the date and the time due mailed or delivered to: Winchester Public Schools Attn: Steve Muller, Technology Department, 12 N Washington St. Winchester VA 22601.
- b. **Proposals must be received NO LATER THAN March 12, 2014 at 2:00 PM LOCAL TIME.**
- c. Late Proposals: It is the responsibility of the firm to insure the Schools' Director of Technology receives the submittal by the proposal due date and time. Late Proposals will be returned to offeror unopened, if the container is properly identified with the firm's return address.
- d. No other distribution of the proposal shall be made by the offeror. Offerors must clearly label the original with the word "ORIGINAL" on the cover and must clearly label all copies with the word "COPY" on the cover.

### **2. PROPOSAL PREPARATION:**

- e. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all information requested may result in the Schools' Director of Technology requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- f. Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Avoid excessive content and unrelated work samples.
- g. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material.

Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- h. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
- i. Limit your Proposal to a maximum of **thirty (30) total pages**, to include **ALL** exhibits, resumes, letters, attachments, and enclosures. Dividers are allowed and will not count towards your 30 pages.
- j. Ownership of all data, materials and documentation originated and prepared for the Schools and City pursuant to the RFP shall belong exclusively to the Schools and City and be subjected to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an offeror shall not be subject to the public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of §2.24342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.

2. **PART I - SUBMITTAL CONTENT:** Written proposals shall contain the following information presented in the following order:

- a. List the three (3) most relevant projects completed or contracted by the firm within the last five years that demonstrates similar services outlined within the Scope of Work. Include short descriptions, dates, Service Provider Identification Number (SPIN) and FCC Registration Number (FRN) and client references (include client contact person, address and phone number) of these representative projects. The Schools and City prefer to see local government projects and comparable projects in the K-12 customer market that will outline the complexity of similar work.
- b. Summary qualification of the organization. At a minimum, provide the following information (if proposal includes a solution from more than one vendor, supply this information for all vendors): Number of employees, Number of active installations of the proposed software/system, Number of new customers acquired over the past twenty-four (24) months, Number of customers lost over the past twenty-four (24) months, Annual research and development budget, and five (5) year Technology Roadmap for your company.
- c. Summary qualifications of key individuals (and office location for each) to be assigned to the work. A Principal In-Charge or Project Manager must be assigned. Full resumes may be attached as an appendix. Resumes must exhibit qualifications and experience of the individual in the type of work to be conducted with emphasis on similar projects.
- d. List the outside services to be used. Describe the anticipated scope of work by sub-consultants and how they will be coordinated. Specific names of sub-consultants are

not required, but preferred at this time. The intent of this section is to ascertain what outside services the firm will require.

- e. Firm shall confirm in writing that they are not currently on any debarment or suspension list of any local, state or federal government. Any firm found to be listed shall be rejected as non-responsive to this RFP.
- f. Furnish a detailed background of your company's knowledge and experience in the installation of a network communication system, in particular a local government wide area network.
- g. Provide a detailed description of the methodology and understanding of the project applications, equipment, software, hardware and systems being offered or required for the complete, turn-key solution.
- h. Acknowledgment that a detailed "as-built" network diagram will be provided to Schools and City. The diagram and any supporting documentation shall show physical network connections down to the jack, patch panel, and switch port level as it relates specifically to the Schools/City locations. This documentation shall also show the technology used for network traffic transport, technology used to secure network traffic in transit, and any redundant paths to the Internet.
- i. The proposal should include a description of how the vendor will monitor service and performance and make associated reports of usage available to the Schools and City.
- j. Complete and return Appendix C: Pricing. **Appendix C will be the sole vehicle for determination of price.** In addition, provide itemized pricing for Schools and City by site as part of proposal document. Separate pricing and agreement documents shall be provided for the Schools and the City. Provide an itemized listing of all unit cost prices for your proposed system, including but not limited to: software, hardware, licenses, installation, implementation, conversion, peripherals, and training required to implement your solution. Ensure any additional unit costs for goods or services are incorporated within your pricing proposal. Outline all recurring fees, fixed rates, processing fees and hourly rates to be used to complete the Scope of Services. Extra charges and fees will not be looked at favorably so ensure accurate rates. Monthly Service Price: Provide your firm's monthly service rate and any monthly recurring rates that will apply. No extra charges will be allowed.
- k. The proposal should include a listing of equipment to be provided and a discussion of network architecture including diagrams. Cisco is the standard internetworking equipment currently in use.
- l. Enclose a detailed, comprehensive project time line, including but not limited to: design/start-up phase, implementation phase, milestones, and all other time related task(s). Assume the project kick-off would begin March 2014 and develop the timeline from there. On-site "Go Live" support will be required. In your proposal, please address specifically how you will support Schools and City staff as we go live with the new system. Also indicate what support is available to Schools and City staff the first month after we go live. **It is imperative that all business functions carry on as normal when we go live.**

- m. Define your firm’s ability to provide account management, network maintenance and technical support. Please advise the following, but answers do not need to be limited to: service plans, your technician credentials, support hours, best method of contact, quality assurance, call and response tracking, frequency and scheduling of software updates, resource library and training materials, and training classes for software updates or new employees. Please include a copy of the vendor’s applicable service level agreement (SLA) with respect to both account management and network maintenance and technical support.
- n. Contract documents should be submitted for review with the bid. Separate contract documents should be submitted for Schools and City. The Schools are under time constraints related to qualifying for Universal Service funds and, upon approval of the school board, desires to move quickly to secure services.
- o. Provide your most favorable warranty and guarantee documentation.
- p. Verify that required insurance coverage is available (*insurance certificates need not be submitted until the award stage*).

**3. PART II – SUBMITTAL CONTENT** (Optional Presentation and Interview of only the short-listed firm(s) selected by the Evaluation Committee)

- a. Each short-listed firm shall summarize the capabilities and performance of the firm and the proposed methodology and system to meet the needs of the Schools and City. The presentation shall introduce the assigned staff to the account, depict how staff will be organized to accomplish the work, outline quality assurance and showcase technical knowledge. The Schools and City will further assess the firm’s availability of resources, industry knowledge, ability to meet timelines, system compatibility and quality control procedures. Question and answer period will follow.

**E. EVALUATION CRITERIA**

Each member of the Evaluation Committee will individually evaluate each firm on the basis of the following criteria. Upon the Evaluation Committee’s group meeting, the Evaluation Committee members may individually rescore the firms and the Purchasing Agent will then develop a composite ranking of each firm and rank the firms from first to last.

**PART I - Evaluation Criteria**

**Score (Pts):**

▪ System installation price and monthly rate	30
▪ Understanding and capability to meet needs	15
▪ Prior experience providing solutions of similar scale	15
▪ Prior experience with educational and governmental agencies	10
▪ Time to implement	15
▪ System Design and Performance	15

**PART II - Evaluation Criteria**

- Final adjustments to Part I criteria scores may be made by the Evaluation Committee upon conclusion of the presentations, onsite demonstrations, interviews and any additional information and sources.
- Three (3) references may be interviewed before the Evaluation Committee selects the top firm to begin negotiations.

- Compensation:** Offeror will not be compensated for the cost of proposal preparation whether or not an award is consummated.
- Investigations:** The Evaluation Committee may make such reasonable investigations, as it deems proper and necessary to determine the ability of the firm to perform the work. The Evaluation Committee and/or its representative(s) reserves the right to inspect the firm's physical premises prior to award to satisfy questions regarding the firm's capabilities.

## F. QUESTIONS

Questions regarding this solicitation must be submitted in writing at least five (5) days prior to the proposal due date. The Schools will issue a written addendum to any inquiries that alter the scope of the proposal. Questions and responses will be posted in the vendor section of the Schools' website at <http://www.wps.k12.va.us/vendors/index.cfm>. All other contacts with Schools or City personnel concerning this solicitation are discouraged. Submit inquiries via e-mail to [mullers@wps.k12.va.us](mailto:mullers@wps.k12.va.us).

## G. SPECIAL TERMS AND CONDITIONS:

**For purposes of this RFP, "City" or "City of Winchester" in the Special Terms and Conditions section means Winchester Public Schools and the City of Winchester**

1. **AWARD:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The City of Winchester may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (Code of Virginia, § 2.2-4359D). Should the City of Winchester determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.
2. **NEGOTIATION WITH THE LOWEST BIDDER:** Unless all bids are cancelled or rejected, the City of Winchester reserves the right granted by § 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available to the agency whenever such low bid exceeds the agency's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the agency for this contract prior to the issuance of the written Invitation for Bids. Negotiations with the low bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed. The agency shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that the agency wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by the agency and the lowest responsive, responsible bidder.
3. **AUDIT:** The contractor shall retain all books, records, and other documents relative to this contract for three (3) years after final payment, or until audited by the City of Winchester, whichever is sooner. The City, its authorized agents, and/or City auditors shall have full access to and the right to examine any of said materials during said period.

4. **COOPERATIVE PROCUREMENT:** Any successful Bidder/Offeror, may at its sole discretion, allow any public body, locality, authority, agency, and school board of the Commonwealth to participate in the Bid/Proposal for the purpose of combining requirements to increase efficiency or reduce administrative expenses.
5. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this bid/proposal, no indication of such sales or services to the City of Winchester will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the City of Winchester or any agency or institution of the Commonwealth has purchased or uses its products or services.
6. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
7. **LIQUIDATED DAMAGES, GOODS AND NONPROFESSIONAL SERVICES:** Delivery is required not later than October 1, 2014. It is understood and agreed by the bidder/offeror that time is of the essence in the delivery of supplies, services, materials, or equipment of the character and quality specified in the bid/proposal document. In the event these specified supplies, services, materials, or equipment are not delivered by the date specified there will be deducted, not as a penalty but as liquidated damages, the sum of \$1,000.00 per day for each and every calendar day of delay beyond the time specified; except that if the delivery be delayed by any act, negligence, or default on the part of the City of Winchester, public enemy, war, embargo, fire, or explosion not caused by the negligence or intentional act of the contractor or his supplier(s), or by riot, sabotage, or labor trouble that results from a cause or causes entirely beyond the control or fault of the contractor or his supplier(s), a reasonable extension of time as the procuring public body deems appropriate may be granted. Upon receipt of a written request and justification for any extension from the contractor, the purchasing office may extend the time for performance of the contract or delivery of goods herein specified, at the purchasing office's sole discretion, for good cause shown.
8. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the City of Winchester's satisfaction at the contractor's expense.
9. **INSPECTION OF JOB SITE:** My signature on this solicitation constitutes certification that I have inspected the job site and am aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, will not be considered by the City of Winchester. Request a scheduled meeting to inspect each site.
10. **PRIME CONTRACTOR RESPONSIBILITIES:** The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
11. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing Agent or designee. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the Purchasing Agent or designee the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
12. **FINAL INSPECTION:** At the conclusion of the work, the contractor shall demonstrate to the authorized owner's representative that the work is fully operational and in compliance with contract

specifications and codes. Any deficiencies shall be promptly and permanently corrected by the contractor at the contractor's sole expense prior to final acceptance of the work.

13. **PRODUCT INFORMATION:** The bidder/offeror shall clearly and specifically identify the product being offered and enclose complete and detailed descriptive literature, catalog cuts and specifications with the bid/proposal to enable the City of Winchester to determine if the product and service offered meets the requirements of the solicitation. Failure to do so may cause the bid/proposal to be considered nonresponsive.
14. **CONFIDENTIALITY (City):** The City agrees that neither it nor its employees, representatives, or agents shall knowingly divulge any proprietary information with respect to the operation of the software, the technology embodied therein, or any other trade secret or proprietary information related thereto, except as specifically authorized by the contractor in writing or as required by the Freedom of Information Act or similar law. It shall be the contractor's responsibility to fully comply with § 2.2-4342F of the *Code of Virginia*. All trade secrets or proprietary information must be identified in writing or other tangible form and conspicuously labeled as "proprietary" either prior to or at the time of submission to the City.
15. **CONFIDENTIALITY (Contractor):** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent. Any information to be disclosed, except to the agency, must be in summary, statistical, or other form which does not identify particular individuals. Contractors and their employees working on this project will be required to sign the Confidentiality statement in this solicitation.
16. **EQUIPMENT ENVIRONMENT:** Environmental specifications for any equipment to be delivered under the resulting contract shall be furnished in writing along with the vendor's bid or proposal, should any such requirements be applicable. These specifications must be in sufficient detail to permit all installed equipment to function efficiently from an environmental perspective. Unless otherwise stated in the solicitation, it will be the procuring agency's responsibility to prepare the site at its own expense to meet the environmental specifications provided.
17. **NEW EQUIPMENT:** Unless otherwise expressly stated in this solicitation, any equipment furnished under the contract shall be new, unused equipment.
18. **LATEST SOFTWARE VERSION:** Any software product(s) provided under the contract shall be the latest version available to the general public as of the due date of this solicitation.
19. **SOFTWARE UPGRADES:** The City shall be entitled to any and all upgraded versions of the software covered in the contract that becomes available from the contractor. The maximum charge for upgrade shall not exceed the total difference between the cost of the City's current version and the price the contractor sells or licenses the upgraded software under similar circumstances.
20. **EXCESSIVE DOWNTIME:** Should the Network availability not meet the 99.95 % uptime guarantee on a weekly basis, the contractor agrees to pro-rate the weekly services charges. availability requirement
21. **OPERATIONAL COMPONENTS:** Unless otherwise requested in the solicitation, stated equipment prices shall include all cables, connectors, interfaces, documentation for all components, and any other items necessary for full systems operation at the user site. This does not include consumable supplies such as paper, tapes, disks, etc., unless such supplies are expressly identified in the pricing schedule.
22. **RENEWAL OF CONTRACT:** This contract may be renewed by the City of Winchester for two (2) one-year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the City of

Winchester's intention to renew shall be given approximately ninety (90) days prior to the expiration date of each contract period.

- a. If the City of Winchester elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the Service category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
  - b. If during any subsequent renewal periods, the City of Winchester elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the Service category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
23. **WARRANTY (COMMERCIAL):** The contractor agrees that the goods or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the contractor gives any customer for such goods or services and that the rights and remedies provided therein are in addition to and do not limit those available to the City of Winchester by any other clause of this solicitation. A copy of this warranty should be furnished with the bid/proposal.
24. **QUALIFIED REPAIR PERSONNEL:** All warranty or maintenance services to be performed on the items specified in this solicitation as well as any associated hardware or software shall be performed by qualified technicians properly authorized by the manufacturer to perform such services. The City reserves the right to require proof of certification prior to award and at any time during the term of the contract.
25. **RELOCATION OF EQUIPMENT:** Should it become necessary to move equipment covered by the contract to another location, the City reserves the right to do so at its own expense. If contractor supervision is required, the City will provide prior written notice of the move at least thirty (30) days in advance, in which case the contractor shall provide the required services and be reasonably compensated by the City. Both the compensation to be paid and any adjustment to the maintenance terms resulting from the move shall be as mutually agreed between the parties. Regular maintenance charges shall be suspended on the day the equipment is dismantled and resume once the equipment is again certified ready for operational use.
26. **WORK ESTIMATES (TIME AND MATERIAL CONTRACTS):** Under this time and material contract, the contractor shall furnish the agency with a non-binding written estimate of the total costs to complete the work required. The estimate must include the labor category(ies), the contractor's hourly rates specified in the contract, and the total material cost. Material costs shall be billed at contractor's actual invoice costs (contractor shall furnish copies of all invoices for materials) or discount off the list price, whichever is specified in the contract. If the agency determines that the estimated price is not fair and reasonable, the agency has the right to ask the contractor to reevaluate the estimate. If the revised estimate is determined to be not fair and reasonable, the agency reserves the right to obtain additional quotes from other vendors. A work order will be issued to the contractor, as the authority to proceed with the work, which will incorporate the contractor's estimate and the terms and conditions of the contract. The contractor and his/her personnel shall log in with the designated contract administrator each day before and after work to confirm labor hours.

## H. CITY OF WINCHESTER REQUIRED GENERAL TERMS AND CONDITIONS:

**For purposes of this RFP, “City” and “City of Winchester” in the General Terms and conditions section means Winchester Public Schools and the City of Winchester**

- A. APPLICABLE LAWS AND COURTS
- B. ANTI-DISCRIMINATION
- C. ETHICS IN PUBLIC CONTRACTING
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986
- F. DEBARMENT STATUS
- G. ANTITRUST
- H. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS
- I. CLARIFICATION OF TERMS
- J. PAYMENT
- K. PRECEDENCE OF TERMS
- L. QUALIFICATIONS OF BIDDERS/OFFERORS
- M. TESTING AND INSPECTION
- N. ASSIGNMENT OF CONTRACT
- O. SEVERABILITY OF CONTRACT
- P. CHANGES TO THE CONTRACT
- Q. DEFAULT
- R. TAXES
- S. USE OF BRAND NAMES
- T. TRANSPORTATION AND PACKAGING
- U. INSURANCE
- V. ANNOUNCEMENT OF AWARD
- W. DRUG-FREE WORKPLACE
- X. NONDISCRIMINATION OF CONTRACTORS
- Y. AVAILABILITY OF FUNDS
- Z. LICENSES AND PERMITS
- AZ. TERMINATION
- BZ. HOLD HARMLESS INDEMNIFICATION
- CZ. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION
- DZ. BID PRICE CURRENCY

These General Terms and Conditions are required for all sealed and unsealed written or verbal solicitations issued by the City of Winchester for procurements that are subject to the Winchester City Code unless changed, deleted or revised by the City Attorney.

- A. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed by the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of this Agreement shall be resolved or otherwise litigated in the Circuit Court for the City of Winchester, Virginia or the Fourth Circuit Federal District Court in Harrisonburg, Virginia. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute following the Winchester City Code, Chapter 21-61. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- B. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to the City of Winchester 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)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract

on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. 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 any 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 these requirements.
  2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- C. **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.
- E. **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.
- F. **DEBARMENT STATUS:** By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Federal Government, Commonwealth of Virginia, or by any City, Town or County 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.
- G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Winchester all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Winchester under said contract.
- H. **MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS:** Failure to submit a bid/proposal on the official City form provided for that purpose may be a cause for rejection of the bid/proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/proposal; however, the City of Winchester reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid/proposal.
- I. **CLARIFICATION OF TERMS:** If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer

whose name appears on the face of the solicitation no later than five (5) working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent or designee.

J. **PAYMENT:**

1. **To Prime Contractor:**

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than thirty (30) days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than (30) days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which department is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City of Winchester shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. **To Subcontractors:**

- a. A contractor awarded a contract under this solicitation is hereby obligated:
  - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City of Winchester for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent (1%) per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City of Winchester, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City of Winchester.

K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION

REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. 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 and take precedence.

The City's procurement, Contractor's response and written negotiation summary shall form part of the Contract. In the case of conflicts, discrepancies, errors or omissions among the City's procurement, the Contractor's response, written negotiation summary and the main body of the Contract, the documents and amendments to them shall take precedence and govern in the following order:

1. Contract
2. Negotiation Summary
3. City's Procurement Document(s)
4. Contractor's Response
5. Other Documents

- L. **QUALIFICATIONS OF (BIDDERS/OFFERORS)**: The City of Winchester 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 City of Winchester all such information and data for this purpose as may be requested. The City of Winchester 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 City of Winchester further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City of Winchester 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.
- M. **TESTING AND INSPECTION**: The City of Winchester reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT**: A contract shall not be assignable by the contractor in whole or in part without the written consent of the City of Winchester.
- O. **SEVERABILITY OF CONTRACT**: In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.
- P. **CHANGES TO THE CONTRACT**:
1. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater, without the advance written approval of the City Council and School Board. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of a bidder/offeror from the consequences of an error in its bid or offer (Winchester City Code 21-44).
  2. Changes can be made to the contract in any of the following ways:
    - a. 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.
    - b. The City of Winchester 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 City of Winchester 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 City of Winchester'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 City of Winchester with all vouchers and records of expenses incurred and savings realized. The City of Winchester 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 City of Winchester within thirty (30) days from the date of receipt of the written order from the City of Winchester. 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 or, if there is none, in accordance with the disputes provisions of the City of Winchester Code. 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 City of Winchester or with the performance of the contract generally.

- Q. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City of Winchester, 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 City of Winchester may have.
- R. **TAXES:** Sales to the City of Winchester are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request.
- S. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offers) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, 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 accepted. The (bidder/offers) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City of Winchester to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offers) clearly indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.
- T. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offers) 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. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- U. **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. 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 this 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 City of Winchester 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. The insurer must have an A.M. Best rating of A- or better.
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 City of Winchester must be named as an additional insured and so endorsed on the policy by the insurer. A notation on the certificate of insurance is not sufficient.
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 or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	\$1,925,000 per occurrence, \$3,000,000 aggregate
	(Limits increase each July 1 through fiscal year 2008, as follows: July 1, 2008 - \$2,000,000. This complies with §8.01-581.15 of the <i>Code of Virginia</i> .)
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

- V. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Schools and City will publicly post such notice on their respective websites for a minimum of ten (10) days.
- W. **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.

- X. **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 the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- Y. **AVAILABILITY OF FUNDS:** In the event that funds are not appropriated for this Contract for any City fiscal year, following the City's current year, the Contract shall terminate automatically as of the last day for which funds were appropriated without the City providing written notice to the Contractor prior to the date of termination. The City shall not consider termination of the Contract pursuant to this section default. Upon such termination, the City shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.
- Z. **LICENSES AND PERMITS:** Contractors will be responsible for all licenses and permits, if required. Any person, firm, or corporation responding to the City's procurement which is required to have a current and valid City of Winchester business license and, in fact, does not, will not be considered a "responsive bidder" as such term is defined by the Code of Virginia §2.2-4301, as amended. Any bid received from such an entity may be rejected, at the City's sole option, for that reason alone. In addition, the successful bidder or offeror will be required to produce affirmative evidence, satisfactory to the Purchasing Agent, or designee that it has such a license, or is not required to have such a license, prior to approval and execution of any contract to perform the work herein described.
- AZ. **TERMINATION:**
- a. Termination for Convenience: The City of Winchester may terminate a contract, in whole or in part, whenever the City of Winchester determines that such termination is in the best interest of the City of Winchester, without showing cause, upon giving ten (10) days written notice to the vendor.
  - b. Termination for Default: When the vendor has not performed or has unsatisfactorily performed the contract, the City of Winchester may terminate the contract for default. Upon termination for default, payment may be withheld at the discretion of the City of Winchester. The Vendor will be paid for work satisfactorily performed prior to termination.
- BZ. **HOLD HARMLESS:** Bids/Proposal shall provide that during the term of the contract, including warranty period, for the successful bidder/offeror indemnifying, defending, and holding harmless the City, its officers, employees, agent and representatives thereof from all suits, actions, claims of any kind (including claims for attorney's fees) brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyrights.

- CZ. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the City to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.
- DZ. **BID PRICE CURRENCY:** Prices are to be stated in US dollars unless otherwise specified in the solicitation.

## Appendix A: Site Locations

### City of Winchester Locations

Existing Connections		Notes
Rouss City Hall	15 North Cameron Street	1
Timbrook Public Safety Center	231 East Piccadilly Street	
War Memorial	1001 East Cork Street	
City Yards	301 East Cork Street	
Joint Judicial Center	5 North Kent Street	
Social Services	24 Baker Street	
Winchester Public Schools	12 North Washington Street	2
<b>Prospective Connections (Option B)</b>		
South End Fire Station # 5	17 West Monmouth Street	
Friendship Fire Station # 1	627 North Pleasant Valley Road	
Shawnee Fire Station # 4	2210 Valor Drive	
Rouss Fire Station # 2	3 South Braddock Street	
<b>Notes:</b>		
1. Provide an option to terminate all City connections at Rouss City Hall <b>(Option A)</b>		
2. Links Schools and City's Networks		

### Winchester Public Schools Locations

Central Administrative Offices	12 North Washington Street	Notes
John Handley High School	425 Handley Boulevard	
Daniel Morgan Middle School	48 South Purcell Avenue	
Virginia Ave. Charlotte DeHart Elementary School	550 Virginia Avenue	
John Kerr Elementary School	536 Jefferson Street	
Garland Quarles Elementary School	1310 South Loudoun Street	
Frederick Douglass Elementary School	100 Cedarmeade Avenue	
Douglas Community Learning Center	598 North Kent Street	

## **Appendix B: Service Options**

### **Option A: Termination of All City Links to Rouss City Hall**

Current service terminates all links to the School's NOC at 12 N. Braddock Street. With this option, School sites will still terminate here. Costs for the City should be adjusted to provide for the City's links to terminate in the IT department NOC at Rouss City Hall, 15 N. Cameron St.

### **Option B: Additional City Sites**

This option should provide the City with the costs of adding and operating links to the following additional site. Please quote 1Gb as well as alternate bandwidth options. Traffic to these sites will be minimal:

#### **Prospective Connections (Option B)**

South End Fire Station # 5	17 West Monmouth Street
Friendship Fire Station # 1	627 North Pleasant Valley Road
Shawnee Fire Station # 4	2210 Valor Drive
Rouss Fire Station # 2	3 South Braddock Street

**Appendix C: Pricing**

**WINCHESTER PUBLIC SCHOOLS  
REQUEST FOR PROPOSAL  
NO. T2014-02  
Due By 2:00 PM March 12, 2014**

**Network Communications Services**

**FOR PROVIDING ALL NECESSARY LABOR, EQUIPMENT AND MATERIALS TO DO THE WORK AS SET FORTH IN THE PROPOSAL AND SPECIFICATIONS AND AT THE FOLLOWING PRICE:**

**Provider's complete pricing as described herein:**

Schools' Total Installation	
School's Monthly Fee for All Sites	
City's Total Installation	
City's Monthly Fee for All Sites	
Total Cost Adjustment to City: Option A	
Total Cost for City: Option B	

**(Provide itemized pricing for Schools and City by site as part of proposal document. Separate pricing and agreement documents shall be provided for the Schools and the City.)**

**INDICATE THE NAME AND TELEPHONE NUMBER OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID.**

**PROVIDER NAME:** \_\_\_\_\_

**TAX I.D. NO. (EIN, SSN):** \_\_\_\_\_

**FRN #:** \_\_\_\_\_ **SPIN#:** \_\_\_\_\_

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

**CITY/STATE/ZIP:** \_\_\_\_\_

**SIGNED BY:** \_\_\_\_\_

*Company Principal/Authorized Signature*

**PRINT NAME & TITLE:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

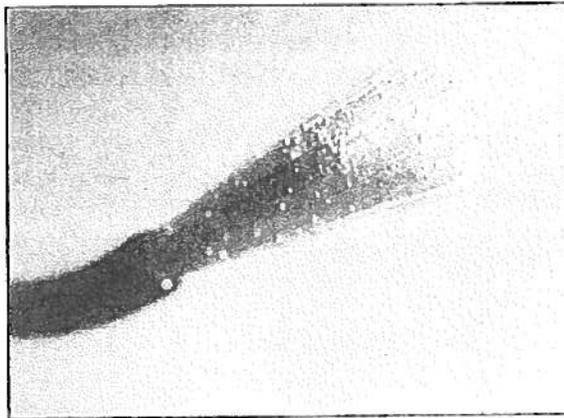


**Winchester Public Schools  
City of Winchester, VA**

**March 12, 2014**

*Original*  
**Proposal Response**

**WPS RFP T2014-02  
Network Communications Services**



## HELPING AMERICA GET UP TO SPEED<sup>SM</sup>



**Proposal Validity Period-** The information and pricing contained in this proposal is valid for a period of 180 days from the date on the proposal cover page unless extended in writing by Conterra Broadband Services, LLC.

**Terms and Conditions-** Unless otherwise stated herein, this proposal is conditioned upon negotiation of mutually acceptable terms and conditions.

**Copyright Notice and Statement of Confidentiality-** *Conterra Broadband Services*, *Conterra Fiber Solutions* and *Helping America Get Up to Speed* and all other Conterra marks contained herein are trademarks of Conterra and or affiliated companies. The contents of this document are unpublished, proprietary, and confidential and may not be copied, disclosed, or used, in whole or part, without the express written permission of Conterra Broadband Services, LLC or affiliated companies, except to the extent required by law and insofar as is reasonably necessary in order to review and evaluate the information contained herein.



## Contacts and Corporate Information

[REDACTED]  
Executive Vice President

704-936-[REDACTED]

[REDACTED]@conterra.com

[REDACTED]  
Senior Account Executive

[REDACTED]@conterra.com

### Corporate Offices

2101 Rexford Rd Suite 200E  
Charlotte, North Carolina 28211

704.936-1800

877.365.6701 toll-free

704.936-1801 fax

[www.conterra.com](http://www.conterra.com)

Conterra Broadband Services, LLC

Incorporated 1996

South Carolina LLC

Federal ID # 582615152

SPIN # 143025700

FCC RN # 009750324

Form 499: Filer ID# 823694

## **TABLE OF CONTENTS**

---

**Letter of Transmittal**

**Section 1: Executive Summary**

**Section 2: Bid Forms**

**Section 3: Part I- Submittal Content**

**Section 4: Pricing Proposals**

**Section 5: Appendices**

- A. Service Contract Agreement**
- B. Conterra RFP Exceptions**
- C. Conterra Construction Overview**
- D. Web Monitoring Application**
- E. Customer Training and Orientation**
- F. Company Safety Overview**
- G. Accedian Network Interface Overview**
- H. Insurance Certification**
- I. Audited Financials**



2301 Rexford Road  
Suite 200 East  
Charlotte, NC 28211

March 12, 2014

Winchester Public Schools  
Attn: Steve Muller  
Technology Department  
12 N Washington Street  
Winchester, VA 22601

**RE: WPS RFP T2014-02**

Thank you for the opportunity to respond to your Request for Proposal for Network Communications Services. Conterra Broadband Services proposes to replace your current oversubscribed low bandwidth network with a [REDACTED] wire speed to all locations. The proposed network is scalable upon demand [REDACTED] at any location without further supplemental construction. We have future proofed your network costs today.

**Note: The service will be delivered over [REDACTED] will be utilized.**  
[REDACTED]  
**ensure all entities receive [REDACTED] service.**

We have designed the network [REDACTED] district. Conterra will provide a [REDACTED]

**The Company**

Conterra Broadband Services, LLC ("Conterra"), d.b.a. **Conterra Fiber Solutions**, is a national provider of facilities-based broadband services for K-12, government and healthcare entities, telecom carriers, and select enterprises. Conterra and its subsidiaries currently provide high-speed Ethernet services to over [REDACTED] high-speed broadband service [REDACTED] and broadband "backhaul" service for [REDACTED]

Conterra has provided high-speed wide area network service to these school districts in Virginia: [REDACTED], utilizing the Federal E-Rate program.

In addition, Conterra provides both network communications services for the [REDACTED] and for their various government agencies. We have recently completed a [REDACTED] network for the [REDACTED] the contract to provide like services to the [REDACTED]



We specialize in providing dedicated managed optical fiber solutions for multi-site wide area networks that include the system design, engineering, deployment, service, maintenance and on-going monitoring of the network.

#### The Winchester Public Schools and City Offerings

Conterra will provide a state-of-the-art private, [REDACTED] Layer 2 Ethernet network connecting all locations [REDACTED]. Highlights of the offering are:

- No [REDACTED]
- 100% E-Rate eligible service
- Dedicated [REDACTED] connecting all locations
- [REDACTED] directly into each entity's equipment room (demarc)
- Bandwidth wire line speed of [REDACTED] all locations. No oversubscription of bandwidth
- The Ethernet service is scalable [REDACTED] at any location with no additional construction, making this WAN scalable with the district's requirements

#### Turn-Key Network:

- Professional Design, Network Engineering, Deployment, Systems Integration and Project Management
- Turn-up, Testing and Training
- Includes all equipment racks, digital equipment, data cabling, and associated termination equipment as required
- Network Operations and Command and Control Monitoring
- On-site Maintenance for the Term of the Contract

#### Conterra Customer Support

- Network Operations Center (NOC) located in Charlotte, NC with backup in Lancaster, PA
- 24 hours a day, 7 days a week, 365 days a year customer support
- Local Conterra field technicians and engineering support
- 4 hour guaranteed on-site repair
- 99.99% network end-to-end service level availability
- Web based portal allows district personnel to monitor key network metrics such as bandwidth, latency, and jitter measurements

#### Highly Experienced Management Team

Conterra brings together a team of industry veterans focused on delivering top-quality services to our customers. Conterra's management team is comprised of seasoned optical fiber and data networking executives with world class qualifications to engineer, design, deploy and operate carrier grade Ethernet networks.

#### Financial Stability

Conterra's owners include: The Goldman Sachs Group, Inc. ("**Goldman Sachs**"), GE Capital Equity Investments, ("**GE Capital**"), and Duke Energy Corporation ("**Duke**"), America's largest utility company.

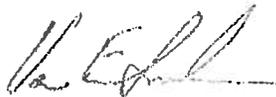
Pricing Options:

1. **Option A: City and/or School Networks**
  - o [REDACTED] speed to all sites.
  - o [REDACTED] speed to all sites.
2. **Option B: City + Firehouses**
  - o [REDACTED] to all sites.
  - o [REDACTED] speed to all site
3. **Option C: City + Schools**
  - o [REDACTED] speed to all sites.
  - o [REDACTED] speed to all site
4. **Option D: City + Schools + Firehouses**
  - o [REDACTED] speed to all sites.
  - o [REDACTED] speed to all site

Prices quoted are based upon the procurement of all locations and will remain in effect for a period of 180 business days after the scheduled bid opening. The district may extend the terms of the contract as mutually agreed upon. We acknowledge receipt of all posted amendments to this solicitation.

Conterra represents and warrants that it has met the requirements of this Request for Service in all matters affecting performance of the services and that the proposal. Conterra agrees to comply with the Fair Labor Standard Act, Equal Opportunity Employment Act, and all other applicable Federal, State and Local laws, regulations and executive orders to the extent that the same may be applicable. Conterra looks forward to the opportunity for further discussions with district personnel.

Offered by,



Van E. Snowdon  
Executive Vice President  
[vsnowdon@conterra.com](mailto:vsnowdon@conterra.com)  
704.936.1803 office  
704.516.5988 mobile  
704.936.1801 fax

## Appendix A: Site Locations

### City of Winchester Locations

Existing Connections		Notes
Rouss City Hall	15 North Cameron Street	1
Timbrook Public Safety Center	231 East Piccadilly Street	
War Memorial	1001 East Cork Street	
City Yards	301 East Cork Street	
Joint Judicial Center	5 North Kent Street	
Social Services	24 Baker Street	
Winchester Public Schools	12 North Washington Street	2
<b>Prospective Connections (Option B)</b>		
South End Fire Station # 5	17 West Monmouth Street	
Friendship Fire Station # 1	627 North Pleasant Valley Road	
Shawnee Fire Station # 4	2210 Valor Drive	
Rouss Fire Station # 2	3 South Braddock Street	
Notes:		
1. Provide an option to terminate all City connections at Rouss City Hall (Option A)		
2. Links Schools and City's Networks		

### Winchester Public Schools Locations

Central Administrative Offices	12 North Washington Street	Notes
John Handley High School	425 Handley Boulevard	
Daniel Morgan Middle School	48 South Purcell Avenue	
Virginia Ave. Charlotte DeHart Elementary School	550 Virginia Avenue	
John Kerr Elementary School	536 Jefferson Street	
Garland Quarles Elementary School	1310 South Loudoun Street	
Frederick Douglass Elementary School	100 Cedarmeade Avenue	
Douglas Community Learning Center	598 North Kent Street	

## **Appendix B: Service Options**

### **Option A: Termination of All City Links to Rouss City Hall**

Current service terminates all links to the School's NOC at 12 N. Braddock Street. With this option, School sites will still terminate here. Costs for the City should be adjusted to provide for the City's links to terminate in the IT department NOC at Rouss City Hall, 15 N. Cameron St.

### **Option B: Additional City Sites**

This option should provide the City with the costs of adding and operating links to the following additional site. Please quote 1Gb as well as alternate bandwidth options. Traffic to these sites will be minimal:

#### **Prospective Connections (Option B)**

South End Fire Station # 5	17 West Monmouth Street
Friendship Fire Station # 1	627 North Pleasant Valley Road
Shawnee Fire Station # 4	2210 Valor Drive
Rouss Fire Station # 2	3 South Braddock Street

Appendix C: Pricing

WINCHESTER PUBLIC SCHOOLS  
 REQUEST FOR PROPOSAL  
 NO. T2014-02  
 Due By 2:00 PM March 12, 2014

Network Communications Services

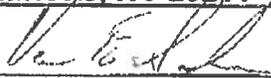
FOR PROVIDING ALL NECESSARY LABOR, EQUIPMENT AND MATERIALS TO DO THE WORK AS SET FORTH IN THE PROPOSAL AND SPECIFICATIONS AND AT THE FOLLOWING PRICE:

Provider's complete pricing as described herein: (See attached Pricing Sheets for Bandwidth Options)

Schools' Total Installation	[REDACTED]
School's Monthly Fee for All Sites	[REDACTED]
City's Total Installation	[REDACTED]
City's Monthly Fee for All Sites	[REDACTED]
Total Cost Adjustment to City: Option A	[REDACTED]
Total Cost for City: Option B	[REDACTED]

(Provide itemized pricing for Schools and City by site as part of proposal document. Separate pricing and agreement documents shall be provided for the Schools and City.)

INDICATE THE NAME AND TELEPHONE NUMBER OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID.

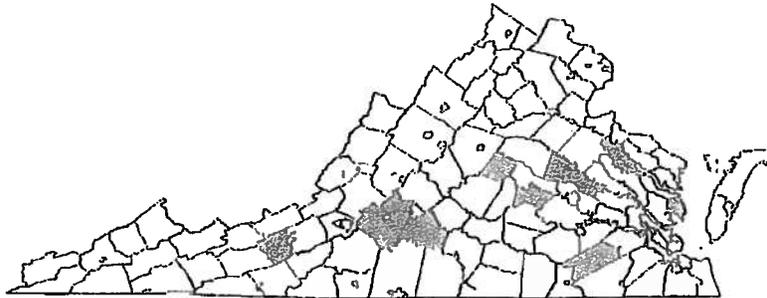
PROVIDER NAME: CONTERRA BROADBAND SERVICES  
 TAX I.D. NO. (EIN, SSN): 58-2615152  
 FRN #: 0009750324 SPIN#: 143025700  
 ADDRESS: 2101 Rexford Road, Suite 200E  
 CITY/STATE/ZIP: Charlotte, NC 28211  
 SIGNED BY:   
Company Principal/Authorized Signature  
 PRINT NAME & TITLE: Van E. Snowdon / Executive Vice President  
 TELEPHONE NUMBER: 704-936-1803  
 EMAIL: vsnowdon@conterra.com

# EXECUTIVE SUMMARY

## The Company

Conterra Broadband Services, LLC ("Conterra"), d.b.a. **Conterra Fiber Solutions**, is a national provider of facilities-based broadband services for K-12, healthcare and government entities, telecommunications carriers, and select enterprises that require bandwidth intensive, carrier-grade data, video and voice transport services. Conterra and its subsidiaries currently operate in [REDACTED] and provide wide area networking services to over [REDACTED]. We have built and own [REDACTED] transport in support of our broadband services.

We specialize in providing managed optical solutions for multi-site school district wide area networks that include the system design, engineering, deployment, service, maintenance and on-going monitoring of the network.



Our Virginia K-12 E-Rate WANs have included: Bedford, Powhatan, Sussex, Fluvanna, Pulaski, Manover, Essex and Mathews.

## The Offering

Leased managed layer 2 Ethernet services: Conterra has proposed to build a private high-speed fiber optical Ethernet network. Highlights of the offering are:

- o E-Rate eligible Priority 1 Layer 2 managed Ethernet services.
- o Fiber built all the way into each location equipment room.
- o The hand-off [REDACTED]
- o Bandwidth wire-speed [REDACTED] to each location.
- o The Ethernet service can be easily upgraded to [REDACTED] making this WAN scalable with the District's future requirements.
- o The Service Level Availability on the network is a [REDACTED]

In preparation for our bid submission and award of contract, Conterra has conducted a thorough **on-site** route engineering and construction survey for this project that includes but not limited to labor, equipment and material required, city, local and state permits, installation of conduit, aerial strand and fiber optical cable, building entries, fiber slicing and complete network testing. In addition, we have made inclusions in the project for all state and local inspections, erosion control and electrical work. Our

extensive pre-proposal design and engineering preparation allows Conterra to hit the ground running after contract award.

### Turn-Key Network

Conterra is offering a complete turnkey managed Ethernet service. This includes; network design, permitting/licensing services, and complete deployment of all infrastructure and digital equipment, on-going operation, and support of the network for the term of the contract.

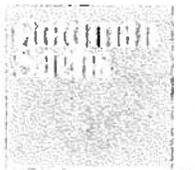
### Customer Support

Conterra supports its customers with a state-of-the-art Network Operations Center (NOC) located in the Conterra Corporate Offices in Charlotte, NC with backup in Lancaster, PA that proactively monitors all networks 24 hours a day, 7 days a week, 365 days a year, to ensure carrier-grade performance.

Conterra utilizes its own trained field technicians to support its service. Conterra will monitor the equipment used to provide the service and repair or replace hardware with a two hour MTTR. Conterra optical networks are backed by flexible Service Level Agreements (SLA) with 99.99% reliability.

### Financial Stability

**Conterra's owners include:** The Goldman Sachs Group, Inc., GE Capital Equity Investments, and Duke Energy Corporation. Audited Financial Results have been included.



Bank of America



COBANK  
The Financial Group

Duke Energy

**I. PART I - SUBMITTAL CONTENT:** Written proposals shall contain the following information presented in the following order:

- a. List the three (3) most relevant projects completed or contracted by the firm within the last five years that demonstrates similar services outlined within the Scope of Work. Include short descriptions, dates, Service Provider Identification Number (SPIN) and FCC Registration Number (FRN) and client references (include client contact person, address and phone number) of these representative projects. The Schools and City prefer to see local government projects and comparable projects in the K-12 customer market that will outline the complexity of similar work.

**Powhatan County Public Schools, VA**

**WAN Transport- Direct Optical Fiber Point-to-Point Connections**  
**Bandwidth Speed [REDACTED]**  
**Locations- 9 Schools**  
**SLA- [REDACTED] End-to-End**  
**Operational: September, 2013**  
**SPIN 143025700**  
**FRN 2443166, 2443131, 2443133**

**Contact:**

[REDACTED]  
Director of Administrative Technology  
2320 Skaggs Road  
Powhatan, VA 23139

[REDACTED]@powhatan.k12.va.us

Conterra has just completed a [REDACTED] to support its 21<sup>st</sup> century requirements of data, video and voice requirements of the Powhatan County Public Schools, Virginia. Consisting of nine total educational and administrative facilities, this school district covers an area of 262 square miles and serves approximately 4,483 students. It has been instrumental in the district's goal of "The Pathway to Success" which is implementing one-to-one student/teacher technologies.

The optical fiber network provides [REDACTED] to each location and is scalable to [REDACTED] location with no supplementary construction. Additionally, Conterra [REDACTED] Internet Access to the school district.

Conterra's [REDACTED] will be used to support Powhatan's Internet Access, on-line testing and videoconferencing network which provide student credit courses, virtual field trips, graduate degrees and certifications for district staff members along with professional development support.

[REDACTED]

## Gadsden Independent School District, NM

**WAN Transport- Direct Point-to-Point Optical Fiber Ethernet**  
**Bandwidth Speed-** [REDACTED]  
**Locations- 23**  
**SLA-** [REDACTED] % End-to-End  
**Operational: January 9, 2014**  
**SPIN 143025700**  
**FRN 2412751**

**Contact:**

[REDACTED]  
Director of Technology  
P.O. Drawer 70  
Anthony, NM 88021

[REDACTED]@gisd.k12.nm.us

Conterra has just completed an all fiber optical network to support the data, video and voice requirements of the Gadsden Independent School District (GISD) located in Sunland Park, New Mexico. Consisting of twenty-three educational facilities and two administrative facilities, Gadsden Independent School District covers an area of 1,400 square miles and serves approximately 14,200 students.

The optical fiber network [REDACTED] to each GISD location and is scalable to [REDACTED] with no supplementary construction.

Conterra's gigabit network will be used to support Gadsden Independent School District's Internet Access and videoconferencing network which provides student credit courses, virtual field trips, graduate degrees and certifications for district staff members along with professional development support. GISD will utilize this dedicated network to implement "Bring Your Own Devices".

## Red Lion School District, PA

**WAN Transport - Fiber Optical and FCC Licensed Microwave Ethernet**  
**Bandwidth Speed -** [REDACTED]  
**Locations- 9 Schools**  
**SLA-** [REDACTED] % End-to-End  
**Operational- Fall 2012**  
**SPIN 143025700**  
**FRN 2407323**

**Contact:**

[REDACTED]  
Network Manager  
225 East Broadway  
Red Lion, PA 17356  
[REDACTED] ext. 102  
[REDACTED]@rlasd.net

Located in Southern York County Pennsylvania, the Red Lion Area School District is comprised of 7 elementary schools, a junior high and a comprehensive high school. Leveraging the power of educational technology, Red Lion has implemented a "Bring Your Own Technology" policy, which enables students to bring their personal computing and communications devices to school. This initiative created extraordinary peak-hour demand for bandwidth and Internet access during the school day.

When the resulting need for a comprehensive, cost effective network solution was identified, the Red Lion Area School District conducted an RFP process and selected Conterra to provide its wide area network services. Conterra already provided microwave links to a few of the schools, so the school district was confident that Conterra could deliver the reliable, scalable connectivity it required.

The Red Lion Area School District is already seeing benefits from this hybrid network, which incorporates the best attributes of microwave and fiber technology. The network has dramatically increased the amount of bandwidth available to support applications such as distance learning, social media, web 2.0 and cloud-based solutions and is a platform that can support current and future security needs as well. According to Jared Mader, Director of Technology Services for the Red Lion Area School District, "with Conterra's network, the bandwidth on the WAN will no longer be the limiting factor for performance."

b. **Summary qualification of the organization.** At a minimum, provide the following: Number of employees, Number of active installations of the proposed software/system, Number of new customers acquired over the past twenty-four (24) months, Number of customers lost over the past twenty-four (24) months, Annual research and development budget, and five (5) year Technology Roadmap for your company.

Conterra Broadband Services

Since 2003, Conterra Broadband Services, LLC ("Conterra"), d.b.a. Conterra Fiber Solutions, has been a national provider broadband service for K-12, government and healthcare entities, telecom carriers, and select enterprises. Conterra and its subsidiaries currently provide high-speed Ethernet services to over [REDACTED]-rate eligible wide area network service to approximately [REDACTED]

Our wireless carrier backhaul circuits [REDACTED] for the major cellular carriers such as [REDACTED].

Conterra has provided high-speed wide area network to these school districts in Virginia: Bedford, Powhatan, Sussex, Fluvanna, Hanover, Pulaski, Essex and Mathews, utilizing the Federal E-Rate program.

In addition, Conterra provides both network communications services for the [REDACTED] and for their various government agencies. We have recently completed a [REDACTED] network for the [REDACTED] and have verbally been awarded the contract to provide like services to the [REDACTED]

Conterra currently has [REDACTED] and sub-contracts certain job responsibilities to several hundred other contract employees.

Notable customers acquired over the last 24 months include:

[REDACTED]

- c. **Summary qualifications of key individuals (and office location for each) to be assigned to the work. A Principal In-Charge or Project Manager must be assigned. Full resumes may be attached as an appendix. Resumes must exhibit qualifications and experience of the individual in the type of work to be conducted with emphasis on similar projects.**

## *Deployment Program Management Team for Winchester*

### **Senior Project Manager**

██████████ will function as the Senior Project Manager for this project. He has over 20 years experience in telecommunication project management, including fiber and wireless projects, contract estimating, contract supervision, project reporting, and documentation. ██████████ is proficient in cost estimating, fiber optic routing, subcontractor management, and project management. He has a strong working relationship with all local municipalities and understands all requirements set forth by the local jurisdiction.

██████████ specializes in deployments of large scale Ethernet networks. He has overseen the deployment of over 200 K-12 wide area networks for Conterra. He has just completed the deployment of our wide area network in ██████████

██████████ holds a Masters in Project Management from George Washington University School of Business and BS in Electrical Engineering from Penn State University.

### **Sr. VP Network Deployment**

██████████ is responsible for the nationwide deployment of Conterra networks. His career has included 12 years as a project deployment leader for major carriers such as Vanguard Cellular Systems, AT&T and Cingular. While at AT&T, ██████████ was responsible for an annual capital budget in excess of \$250 million and a staff of over 40 direct and indirect personnel.

██████████ has overseen the construction of over 4,000 Ethernet sites including over 270 K-12 school district WANs. During his career in telecommunications, ██████████ has been responsible for all aspects of access network development including: Design Engineering, Site Acquisition, Municipal Approvals, Construction, Integration, Commissioning and Network Acceptance. ██████████ is a graduate of Penn State University.

### **Telecom Experience: 20+ Years**

### **Senior VP, Engineering**

██████████ has 30 years of engineering major telecommunications networks including managed private fiber optical network design. He is responsible for the final design and engineering of your project.

██████████ has operated in the telecommunications industry in 31 states with 16 different telecom carriers and infrastructure providers. In 2000, he managed the acquisition, design and build-out of 15 data centers for an internet service provider in the Northeastern United States

**Telecom Experience: 30+ Year**



[REDACTED]  
**Government Accounts Specialist**

[REDACTED] has over 30 years experience with high technology and communications companies specializing in management of complex business relationships, project management, regulatory issues, joint venture formation, competitive analysis and business development.

**Telecom Experience: 30+ Years**

[REDACTED]  
**Eastern Engineering Specialist**

[REDACTED] has 27 years experience in the design, engineering and construction of complex fiber networks. He is a specialist in process management, contracting services, proven leadership in project management and change management.

**Telecom Experience: 25+ Year**

[REDACTED]  
**Data Network Manager**

[REDACTED] has 20 years of experience in data networking, and IP based networks. Prior to joining Conterra, [REDACTED] was Director of Data Systems Engineering at US LEC, a regional CLEC and ISP, and was responsible for the implementation of IP systems and the building and management of numerous Internet services such as Email, Usenet News, DNS, and Web Hosting.

**Telecom Experience: 20+ Years**

[REDACTED]  
**Government Accounts Specialist**

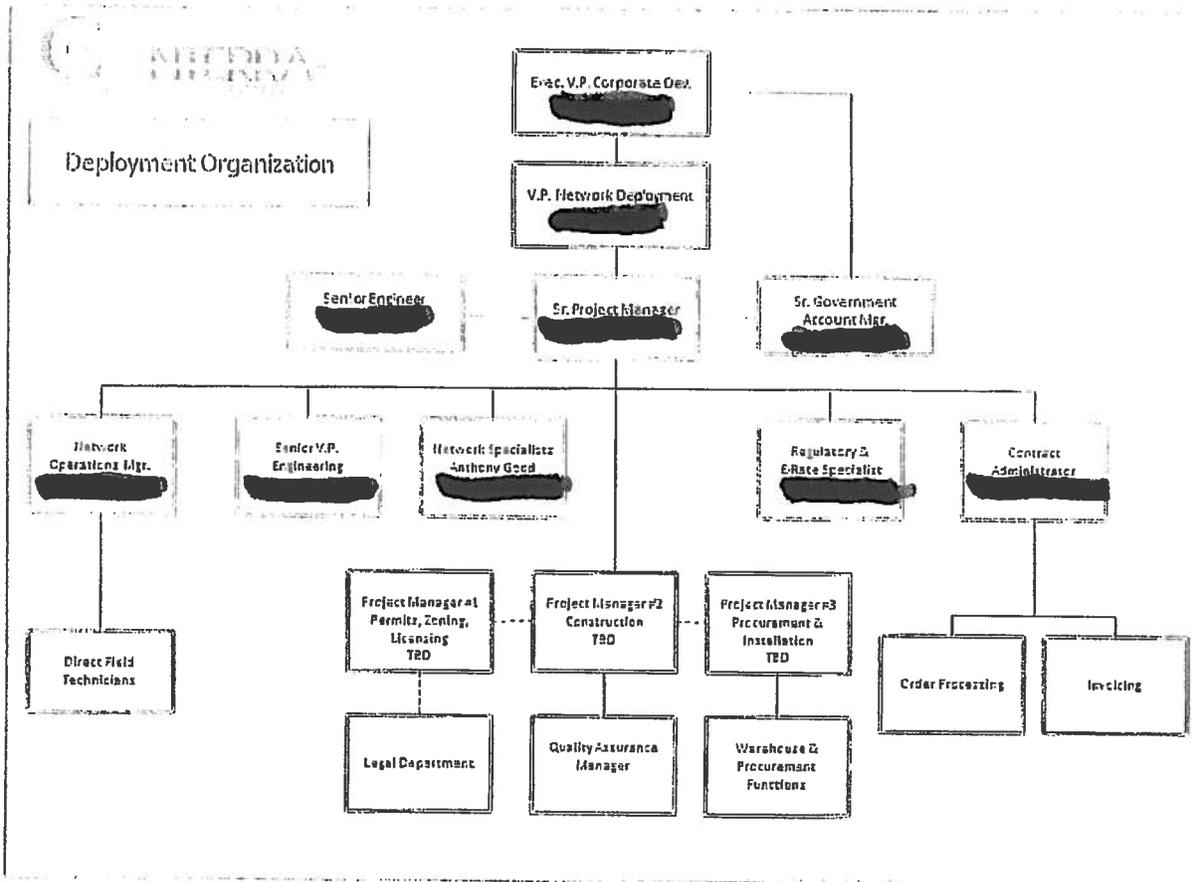
[REDACTED] has over 25 years experience with high technology and communications companies specializing in management of complex business relationships, project management, regulatory issues, joint venture formation, competitive analysis and business development.

**Telecom Experience: 25+ Years**

[REDACTED]  
**Customer Service Manager**

[REDACTED] the responsible for the operations and maintenance of Conterra's nationwide broadband and backhaul networks. His career has included 20 years of operational experience for major carriers and competitive local exchange carriers (CLEC) such as MCI, KMC, Telcove and Level 3. While at KMC and Telcove, [REDACTED] was responsible for the operation of 18 markets and 35 direct personnel. [REDACTED] has been responsible for all aspects of Conterra's telecommunications operations including, Inside and Outside Fiber engineering and installation, Municipal Approvals, Central Office Installation and Maintenance as well as all Field Service activities.

**Telecom Experience: 20+ Years**



*Winchelsea Schools and City  
Deployment/ Program Management  
Organization Chart*

- d. List the outside services to be used. Describe the anticipated scope of work by sub-consultants and how they will be coordinated. Specific names of sub-consultants are not required, but preferred at this time. The intent of this section is to ascertain what outside services the firm will require.

### *Conterra Construction Partners*

Conterra utilizes an extensive pre-qualification process for all contractors involved in our projects. Qualifications including, but not limited to, knowledge of the specific task(s) to be supported, past work history, current activity, references, financial stability and customer satisfaction are among the many items reviewed and evaluated. All sub-contractors are appropriately licensed, insured and bonded.

Conterra has [REDACTED] a wholly owned subsidiary of [REDACTED] Inc. to provide fiber construction services of this type for Conterra. [REDACTED] construction has tremendous experience deploying fiber optical networks for government entities, including major K-12 networks.

[REDACTED] has been a strong and viable company since its inception [REDACTED] It is a publicly traded company with annual revenues exceeding \$2.6 billion. [REDACTED] They are a publicly traded company with the NASDAQ Symbol [REDACTED]

In preparation for an on-time delivery of network service, Conterra Broadband [REDACTED] have completed a design/engineering study of the proposed Wide Area Network that includes but not limited to the following:

1. Labor, materials and equipment
2. All federal, state and local zoning and permitting requirements and associated costs
3. All inspection fees, material testing and surveying
4. Installation of infrastructure of conduit, aerial strand fiber cabling, OSP route engineering
5. Building entries, fiber splicing and testing
6. Erosion control, SWMP and roadway sweeping
7. Electronics, electrical work, patch panel

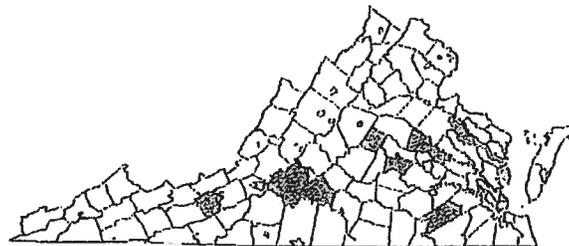
- e. Firm shall confirm in writing that they are not currently on any debarment or suspension list of any local, state or federal government. Any firm found to be listed shall be rejected as non-responsive to this RFP.

Conterra Broadband Services, LLC certifies that it is not disbarred or suspended from any local, state or federal government.

- f. Furnish a detailed background of your company's knowledge and experience in the installation of a network communication system, in particular a local government wide area network.

Conterra Broadband Services, LLC ("Conterra"), d.b.a. **Conterra Fiber Solutions**, is a national provider of facilities-based broadband services for K-12, healthcare and government entities, telecommunications carriers, and select enterprises that require bandwidth intensive, carrier-grade data, video and voice transport services. Conterra and its subsidiaries currently operate in [REDACTED] and provide wide area networking services to [REDACTED]. We have built and own more [REDACTED] transport in support of our broadband services.

We specialize in providing managed optical solutions for multi-site K-12 and government wide area networks that include the system design, engineering, deployment, service, maintenance and on-going monitoring of the network.



Our Virginia K-12 E-Rate WANs have included: Bedford, Powhatan, Sussex, Fluvanna, Pulaski, Hanover, Essex and Mathews. Conterra also provides broadband service to several Fluvanna County government entities.

[REDACTED]

- g. Provide a detailed description of the methodology and understanding of the project applications, equipment, software, hardware and systems being offered or required for the complete, turn-key solution.

The Offering for Winchester Public Schools and Winchester City

Leased managed [REDACTED] Conterra has proposed to build a [REDACTED] [REDACTED] Highlights of the offering are:

- o E-Rate eligible Priority 1 Layer 2 managed Ethernet services.
- o [REDACTED]
- o The hand-off will be a [REDACTED] connection.
- o Bandwidth wire-speed of [REDACTED] to each location.
- o The Ethernet service can be easily upgraded to [REDACTED] with the District's future requirements.
- o The Service Level Availability on the network is a minimum [REDACTED]

**Note: The service will be delivered over [REDACTED]**  
**[REDACTED] All circuits will terminate at [REDACTED]. This will**  
**ensure all entities receive the [REDACTED]**

We have designed the network with two separate aggregation points; one each for the city and school district. [REDACTED] at each school or city location.

The offering is a [REDACTED] [REDACTED] Network complexity is significantly reduced with a Conterra fiber network. There are no [REDACTED] and there are fewer devices to manage and less of a chance that something will fail or have a security breach. Repair and maintenance is included with every contract. Moves, additions and changes are deployed quickly and economically on the private network. Conterra engineers its network availability to be a minimum of [REDACTED]

Turn-Key Network:

- o Professional Design, Network Engineering, Deployment, Systems Integration and Project Management
- o Turn-up, Testing and Training
- o Includes all equipment racks, digital equipment, data cabling, and associated termination equipment as required
- o Network Operations and Command and Control Monitoring
- o On-site Maintenance for the Term of the Contract

In preparation for our bid submission and award of contract, Conterra has conducted a thorough on-site route engineering and construction survey for this project that includes but not limited to labor, equipment and material required, city, local and state permits, installation of conduit, aerial strand and fiber optical cable, building entries, fiber slicing and complete network testing. In addition, we have made inclusions in the project for all state and local inspections, erosion control and electrical work. Our extensive pre-proposal design and engineering preparation allows Conterra to hit the ground running after contract award

### Conterra Customer Support

- Network Operations Center (NOC) located in Charlotte, NC with backup in Lancaster, PA
- 24 hours a day, 7 days a week, 365 days a year customer support
- Local Conterra field technicians and engineering support
- 4 hour guaranteed on-site repair
- 99.99% network end-to-end service level availability
- Web based portal allows district personnel to monitor key network metrics such as bandwidth, latency, and jitter measurements

- h. Acknowledgment that a detailed "as-built" network diagram will be provided to Schools and City. The diagram and any supporting documentation shall show physical network connections down to the jack, patch panel, and switch port level as it relates specifically to the Schools/City locations. This documentation shall also show the technology used for network traffic transport, technology used to secure network traffic in transit, and any redundant paths to the Internet.**

Conterra has provided both physical and logical diagrams of the preliminary network designs. Final "as built" drawings will be provided to the Schools and City. Please see Appendices for Examples of Construction Drawings.

## *Winchester Public Schools City of Winchester Network Designs*

### **1. Option A: City and/or School Networks**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all sites.

### **2. Option B: City + Firehouses**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all site

### **3. Option C: City + Schools**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all site

### **4. Option D: City + Schools + Firehouses**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all site

*Conterra WAN to Customer LAN Physical*

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]



Conferro WAN to Customer LAN Physical

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Conterra WAN to C. Jomer LAN Physical

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conterra WAN to Customer LAN Physical

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

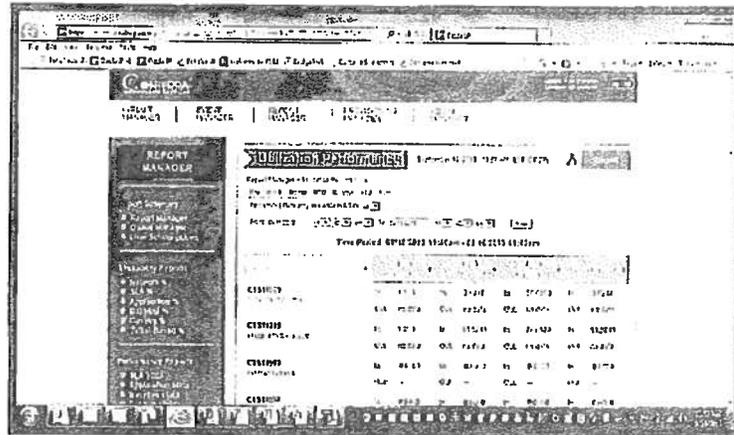
- i. The proposal should include a description of how the vendor will monitor service and performance and make associated reports of usage available to the Schools and City.

### *Customer Web Monitoring Application*

Conterra provides strategically [REDACTED] We will supply [REDACTED] which periodically collects [REDACTED] P is an easy-to-use intuitive reporting interface which provides data for any time period in both graphical and tabular data formats. The application enables users the ability to select, analyze and view data, as you like. Based upon custom profiles and reporting, you can easily define screens and develop graphic analysis.

Performance information is presented in a customizable web portal which provides easy-to-read visualization of circuits, performance graphs, traffic analysis and tabular data suitable for download and analysis in programs such as Excel. Conterra can provide the requested reports on a monthly basis.

*See Appendices for more Actual Report Examples.*



*Example: Bandwidth Utilization Reports*

- j. Complete and return Appendix C: Pricing. Appendix C will be the sole vehicle for determination of price. In addition, provide itemized pricing for Schools and City by site as part of proposal document. Separate pricing and agreement documents shall be provided for the Schools and the City. Provide an itemized listing of all unit cost prices for your proposed system, including but not limited to: software, hardware, licenses, installation, implementation, conversion, peripherals, and training required to implement your solution. Ensure any additional unit costs for goods or services are incorporated within your pricing proposal. Outline all recurring fees, fixed rates, processing fees and hourly rates to be used to complete the Scope of Services. Extra charges and fees will not be looked at favorably so ensure accurate rates. Monthly Service Price: Provide your firm's monthly service rate and any monthly recurring rates that will apply. No extra charges will be allowed.

Conterra has proposed an all inclusive leased "managed" service. All proposed services are 100% E-Rate eligible as Priority 1 services. [REDACTED] We only charge a Monthly Recurring Charge for our services. Our cost proposals are based on [REDACTED]

All of the quoted unit cost prices for your proposed system, include but are not limited to: software, hardware, licenses, installation, implementation, conversion, peripherals, and training required to implement your solution

Pricing Options

**Option A: City and/or School Networks**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all sites.

**Option B: City + Firehouses**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all sites

**Option C: City + Schools**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all sites

**Option D: City + Schools + Firehouses**

- o [REDACTED] wireline speed to all sites.
- o [REDACTED] wireline speed to all sites.



This Conterra architecture is compatible with all network security devices and firewalls and will allow utilization of your existing base firewall technology, intrusion detection or other ancillary network security.

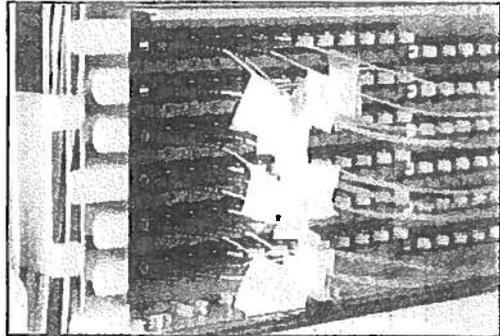
All fiber installation will be installed and tested in accordance with industry-standard practices, including but not limited to the standards promulgated in the National Electrical Safety Code, IEEE C-2, NFPA 70, TIA-758-A, all as amended. Installation will meet all local building and electrical codes.

Documentation, including final site survey, engineering drawings, fiber installation specifications and "as built" drawings, will be provided in a timely fashion upon the acceptance of the final design and contract execution.

### *Systems Interfaces*

Conterra provided hardware will interface with customer's existing equipment.

Conterra will typically access a customer's demarcation point in their building either by pulling the delivered type of fiber through either a below grade or above ceiling level penetration. This penetration is properly weatherized and built to the applicable building codes for the structure.



The multi-mode fiber is installed from the building penetration point to the Demark through existing wire chases or existing/new conduits. The location and methods are first reviewed and approved by the applicable building code reviewing agencies and the customer. The coaxial cable is then terminated at the Demark equipment rack, properly grounded to meet all codes and tested for proper installation and performance.

All equipment including but not limited to our layer two switches, cabling, connectors, etc. necessary to provide WAN to LAN connectivity is provided by Conterra in the provisioning of its service. All installed equipment operates with the electrical capacity provided by a 20 ampere service per equipment rack.

### *Easy Moves, Additions and Changes*

Network complexity is significantly reduced with a dedicated private fiber network. There are no active devices in the path and therefore no public switches (compared with a traditional carrier network) and there are fewer devices to manage and less of a chance that something will fail or have a security breach. Repair and maintenance is included with every contract. Moves, additions and changes are deployed quickly and economically on the private network.



## Customer Premise Requirements

### Conduit Path for the Conterra Fiber:

If there is not existing conduit available, then the customer is to [REDACTED]

### Equipment Room:

Following are the different elements required in the equipment room:

- o Demarcation will be determined by Conterra and the customer at site survey.
- o If the fiber and/or equipment will be wall mounted, [REDACTED] The specific size will be determined after the site visit.
- o If fiber and/or equipment will be interior floor mounted rack the customer will provide adequate floor space. The relay rack should be placed in a location that would allow access on both sides for maintenance. The product solution and site survey will determine [REDACTED]
- o Specific power requirements are dependent on the product solution. Generally the [REDACTED] The specific requirement will be determined after the site visit.
- o The customer [REDACTED] The nominal temperature range is generally 55 to 85 degrees Fahrenheit. Humidity is also to be controlled. [REDACTED] meet National Electric Code requirements for plenum space.
- o [REDACTED]

4. Enclose a detailed, comprehensive project time line, including but not limited to: design/start-up phase, implementation phase, milestones, and all other time related task(s). Assume the project kick-off would begin March 2014 and develop the timeline from there. On-site "Go Live" support will be required. In your proposal, please address specifically how you will support Schools and City staff as we go live with the new system. Also indicate what support is available to Schools and City staff the first month after we go live. It is imperative that all business functions carry on as normal when we go live.

### *Operational Transition/Implementation Plan*

[REDACTED]

During maintenance windows [REDACTED] customer employees, vendors, and carriers participate in order to have clear and consistent communications and insure cutover plans are executed correctly.

During the operational cutover period, [REDACTED]

### *Project Management Methodology*

Conterra provides comprehensive project management capabilities that combine a powerful, proven methodology, aligned with "industry best practices" and delivered by professional Project Managers. Conterra knows project management is critical to the success of the project. Conterra's mission to deliver solutions that improve the total customer experience fosters the successful management of projects that:

4. ◊ Deliver the required functionality

- .1. • Meet the quality specifications
- .2. • Deliver on schedule

**Immediately upon execution of a contract with Conterra the following project tasks will be accomplished:**

**1. Assignment of Project/Account Management Team:** Throughout the project, the designated Conterra Project Manager will provide oversight to all project activities. He or she will work together with your representative in the coordination of the project schedule and resources. The Conterra Project Manager will also provide regular status updates to your personnel on all project activities.

**2. Project Initiation:** Upon execution of a Service Agreement, an initial kick-off meeting will be conducted with your Board. The project team and infrastructure will be determined, and roles and responsibilities will be identified. A baseline project plan will be developed, and processes for status reporting, issue escalation, etc., will be defined. The project plan will be a working document and will be updated regularly during the project.

Winchester Public Schools

ID	Task Name	Duration	Start	Finish
1	Mobilization/Kick Off Meeting			
2	Engineering			
3	Engineering Revisions			
4	Pole Applications (Includes MR)			
5	UG/ROW Permits			
6	Aerial Construction			
7	Underground Construction			
8	Building Site Construction			
9	Splicing and Testing			
10	Electronics and turn-up			

<input type="checkbox"/> External Tasks <input type="checkbox"/> External Milestone <input type="checkbox"/> Deadline	<input type="checkbox"/> Milestone <input type="checkbox"/> Summary <input type="checkbox"/> Project Summary	<input type="checkbox"/> Task Split <input type="checkbox"/> Progress
---	--	--

Project: Ocean View Implementation  
Date: Wed 3/5/14



# Winchester Public Schools WAN Proposed Schedule and Implementation Plan

## 1. [REDACTED]

- Contact City, County, and State ROW owners
- Contact Federal ROW owners
- Contact Railroad and other Private ROW owners
- Prepare, for Project Administration:
- Security Project Management Team
- Prepare Vendor and potentially other long lead materials
- Recommend delivery
- Select outside vendors, O&E's, contractors and subcontractors
- Review and prepare project architecture for formal Engineering Plan.

## 2. Engineering

Contractors will prepare a final set of construction plans for the project. These plans will be prepared by a professional telecommunications engineering firm familiar with local standards and practices. These drawings will identify routing of the WAN in public and private Right of Ways. The plans will also have each school facility inside routing and construction requirements. The details will be instrumented in the development and approval of the site drawings. Drawings will be submitted for approval in sections so that other elements of the project can be developed.

## 3. Engineering Revisions

When any engineer project, the final plan does not always become the final plan. We have added this task into our schedule to inform our clients that change management is important and expected. Route changes, specification changes, delays and reconfigurations often arise in these types of projects. We anticipate modifying and amending our plans throughout the project to insure that the most critical and up to date plans are available.

## 4. Pole Applications (Includes MR)

Contractors will attempt to evaluate the majority of the WAN on existing poles that are in the project footprint. This process requires every pole to be considered for new attachments and National Electric Safety Code compliance. This process can require a great deal of planning and third party involvement. While this process may require a lot of time and delay, it is typically faster and less expensive to route the network on poles than excavating in an urban environment. Our competitive pricing reflects our commitment to an early deployment.

## 5. URGENT Permits

Contractors will be required to obtain permits for the WAN underground through various Right of Ways. This process will require a great deal of site specific permits to meet the Local/State/Federal and private requirements. We have a dedicated staff that will submit the proper documentation to the respective authority to obtain the various permits. Some permits, especially railroad crossings, water crossings and driveway crossings can be difficult to obtain. We have a great deal of experience obtaining the proper permits. The correct paperwork, permissions and follow up are critical.

## 6. Aerial Construction

Contractors will deploy Aerial Construction crews on permits, because available. Contractors will employ as many local resources as possible. Utilizing these local contract and subcontracted resources typically advances the project schedule.

## 7. Underground Construction

Contractors will deploy Underground Construction crews as permits become available. Contractors will employ as many local resources as possible. Utilizing these local contract and subcontracted resources typically advances the project schedule.

## 8. Building Site Construction

Contractors will conduct the construction of school properties. We anticipate multiple site visits and coordination with facilities managers to determine the best inspection method to deliver the fiber to the drop. We will construct our pathways to meet local fire code and National Electric Safety Code. All contractors will conduct themselves in a professional and efficient manner.

## 9. Splicing and Testing

Contractors will splice and test network as it becomes available, or in the order the client requires. We will have all network fibers OTDR tested and accepted by the customer prior to deploying any electronics.

- Add splicing will be by the Asian method. Each splice of each fiber shall be individually accepted for splice loss not to exceed .05 dB using a properly calibrated profile alignment laser/splicing machine. OTDR (Optical Time Domain Reflectometer) readings prior to and after splicing in operation must be made at both 1310 nm and 1550 nm in both directions, to ensure the possibility of connector residing due to back scattering.
- The splices will be made with approximately 100 feet of stock cable on each side of the case for future maintenance and to facilitate splicing in a protected environment. Splice shall be stored so that the minimum-bending radius of 13 times the cable diameter is not violated.
- Contractor shall not permit a cable bending radii at the splice location less than the radii recommended by the cable manufacturer in order to prevent attenuation at 1200 and 1550 nm wavelengths. Notwithstanding the above, cable bends shall not be less than 15 times the outside diameter of the cable.

## 10. Electronics and turn-up

- Confirm with customer the design requirements for the network. The design is used to create an order list of select cables that will be used on the project.
- Order electronics if not already in inventory.
- Gather current configuration of customer network. Work with customer to finalize the configuration that will work for the new circuit.
- Configure Customer switches as much as possible prior to shipment.
- Ship electronics to customer.
- Install electronics in the order that meets the customer needs and time flows.
- Test and turn over circuit.

- m. Define your firm's ability to provide account management, network maintenance and technical support. Please advise the following, but answers do not need to be limited to: service plans, your technician credentials, support hours, best method of contact, quality assurance, call and response tracking, frequency and scheduling of software updates, resource library and training materials, and training classes for software updates or new employees. Please include a copy of the vendor's applicable service level agreement (SLA) with respect to both account management and network maintenance and technical support.

### *Customer Service*

Conterra provides proactive preventive maintenance and on-site troubleshooting and service restoration with its team of company field service engineers strategically located to provide maintenance and support of our networks. We use company trained and certified employees to maintain and repair our wide area networks. They insure that our Service Level Agreements are always met and surpassed.

### *Network Performance Benchmarks*

- " Availability Commitment – Conterra guarantees to maintain service availability for the customer at a minimum of [REDACTED]
- " Latency Commitment – Each link is engineered to have less [REDACTED] latency.
- " Jitter Commitment: [REDACTED]
- " Bit-Error Rate Commitment – Conterra's bit-error rate, between designated end-points, results in an industry standard acceptance of [REDACTED]

### *Network Operations Center*

Conterra supports its customers with a state-of-the-art Network Operations Center (NOC) located in the Conterra Broadband Services Corporate Offices in Charlotte, NC and Lancaster, PA that proactively monitors all networks **24 hours a day, 7 days a week and 365 days a year**, to ensure carrier-grade performance.

Through the NOC, Conterra analysts monitor and interface directly with all switch sites and any individual alarms generated from an individual site. The NOC also has a direct access terminal into each of the networks through which technicians can monitor activities, change translations, run diagnostic tests, remove and restore hardware, etc.

The NOC maintains a staff of engineers and technicians that are trained in an array of networks, elements, and technologies in the Conterra network (Ethernet, Sonet, TDM, Internet Access, VoIP, Firewalls, etc.). Conterra engineers have earned many industry certifications, including: CCIE (Cisco Certified Internetwork Expert), Cisco Certified Network Associate (CCNA), Cisco Certified Network Professional (CCNP), Microsoft Certified Systems Engineer (MCSE), A+, Network+, and other certifications in specific vendor equipment.

**The Conterra NOC provides the following management functions:**

- *Continuous Network Monitoring 24 X 7 X 365* of all critical components delivering proactive monitoring, notification, web-based reporting and automated service restoration of the network.
- *Configuration Management* provides remote automatic configuration of networks and manages any changes or upgrades to the network.
- *Fault Management* contains functions for acquisition, presentation, and storage of alarms and events from the network.
- *Security Management* handles security within the NOC accessing control over the network elements.
- *Performance Monitoring* of all network metrics.

## ***Conterra Customer Call Handling***

**The Conterra Network Operations Center ("NOC") provides proactive support for all customers through a professionally staffed help desk; 24 X 7 X 365.**

We can be reached two ways:

- The toll-free Conterra NOC number is 800-634-1374.
- Through our web portal at [WWW.CONTERRA.COM](http://WWW.CONTERRA.COM).

Conterra's systems and personnel are positioned to deliver a **rapid response** to any service affecting situation by virtue of the following means.

### **I) Performance Monitoring**

- a. Network elements and network segments are monitored continuously and logged on a 15 minute interval
- b. Network performance is tracked to detect performance deterioration
- c. Performance metrics are continuously monitored and exceeded thresholds are logged and escalated
- d. SLA criteria are reviewed to assure performance

### **II) Fault Detection**

- a. All system faults are logged in a reporting system and analyzed for systemic issues
- b. All detected faults generate review flags for NOC members and field personnel. These flags are categorized and prioritized as "Critical", "Major", and "Minor"
- c. If the issue is "Critical" or "Major", a Conterra trouble ticket is opened. "Minor" issues are reviewed by management to determine the need for a trouble ticket

### **III) Fault Isolation**

- a. The Network Management System and NOC personnel analyze all customer affecting faults within seconds of alarms to isolate the location of the fault (e.g. which network segment has an issue)
- b. NOC personnel perform first level diagnostics on the network segments and elements to further isolate the issues to a component level when possible.

- c. When first level diagnostics are not conclusive, the NOC manager dispatches field personnel for further fault isolation and coordinates additional diagnostics with our customers.
- d. When diagnostics in the field are inconclusive, the fault is escalated to a 7x24x365 vendor hot line

#### **IV) Fault Remediation**

- a. After the fault is isolated, the NOC technician coordinates with field personnel and the customer to remediate issues including network element reboots and replacements
- b. All replaced equipment is tested by Conterra and our vendors for root cause analysis
- c. If the issue is related to a vendor's hardware or software, a trouble ticket is opened with the vendor
- d. After root cause is determined the Conterra trouble ticket is closed and all related vendor trouble tickets are close

### ***Service Notification and Escalation Procedures***

Conterra is committed to providing superlative customer support. Our policy for network trouble calls ensures that problems are solved within short time frames so our customers enjoy full services at all times. However, in the day-to-day management of running an extensive network temporary loss of service occasionally occurs. With Conterra Escalation Policy, problems are resolved as quickly as possible.

#### **1. Initial Call Received from Customer**

When a customer contacts the Network Operations Center (NOC) a NOC specialist gathers the details of the problem or request and opens a trouble ticket. Many problems are resolved at this stage, while the customer is still on the phone. If the problem is complex or involves a carrier outage, the customer is given a trouble ticket reference number and an explanation of what action is being taken.

#### **2. Automatic Notification**

When a problem is automatically detected by our systems, a NOC specialist gathers the details of the problem and if required, opens a trouble ticket. If the problem is complex or involves a carrier outage, the customer is notified within 10 minutes by e-mail and/or pager and given a trouble ticket reference number and an explanation of what action is being taken.

- o **First Level Escalation**  
If the problem has not been resolved to the customer's satisfaction after one hour, a NOC team leader becomes involved. The NOC team leader evaluates and revises the planned approach in collaboration with the NOC specialists. If required, the NOC team leader also involves and escalates problems to the appropriate level with our field operations, engineering and our suppliers. The NOC specialist contacts the customer with a status every two hours.
- o **Second Level Escalation**  
Once a trouble ticket has been open for two (2) hours, the NOC team leader escalates the situation to the Operations Manager to ensure management awareness of any serious or ongoing problems.

• **Third Level Escalation**

If a problem remains unresolved to the customer's satisfaction after three (3) hours, the details of the problem are escalated to the National Director of Operations.

• **Fourth Level Escalation**

If the problem remains unresolved to the customer's satisfaction after (4) hours, the details of the problem are escalated to the Company's President and COO.

Conterra Service Escalation Response Chart		
Response Levels	Response Entity	Contact Information
1st level	Conterra Network Operations Center	[Redacted]@conterra.com
2nd Level	[Redacted]	[Redacted]@conterra.com
3rd Level	V.P Operations	[Redacted]@conterra.com
4th Level	President and C.O.O.	[Redacted]@conterra.com

**On-Going Support  
Account Management Team**

Conterra will provide a dedicated Account Management Team that will build and maintain the customer relationship and will provide answers to any customer concerns from the execution of the contract through the deployment of the network and all on-going issues. They provide strong relations and communications skills, applying technical knowledge and policies in direct support of your County.

**Our Account Management Team will meet with district personnel on a quarterly basis to review the network Service Level Availability and all other strategic metrics. They will keep you abreast of industry changes and events and make recommendations on network additions, changes and upgrades. Our goal is for you to have the most cost efficient network available.**

### *Government Accounts Specialist*

[REDACTED]

[REDACTED] has over 30 years experience with high technology and communications companies specializing in management of complex business relationships, project management, regulatory issues, joint venture formation, competitive analysis and business development.

### *E-Rate Contracts Administrator*

[REDACTED]

[REDACTED] has nine years experience with Conterra as their Contracts Administrator. She is responsible for all E-Rate contracts to include; USAC administration, filings assistance, PIA review assistance.

### *Project Manager*

[REDACTED]

[REDACTED] has over 20 years experience in telecommunication project management, including major fiber projects, contract estimating, contract supervision, project reporting, and documentation. Mr. [REDACTED] is proficient in cost estimating, fiber optic routing, subcontractor management, and project management. He has a strong working relationship with all local municipalities and understands all requirements set forth by the local jurisdiction.

### *Senior Technical Manager*

[REDACTED]

[REDACTED] has 30 years of telecommunications experience including fiber optical network design and engineering, experience in fiber optic routing, outside plant and building entries, construction techniques, project tracking and verification, subcontract management, cost analysis, cost estimating and project management.

### **USAC/E-RATE Assistance**

Conterra provides a professionally trained staff to assist applicants in all facets of the E-Rate cycle including an E-Rate and Regulatory Manager to stay abreast of rules issued by USAC, the Schools and Libraries Division, the Federal Communications Commission, Federal Courts and Congress. Conterra's experience with this program and Federal and state regulation allows Conterra to move as smoothly as possible through the funding and deployment process insuring the timely and accurate filing of crucial forms.



## *Conterra Service Level Agreement*

This document outlines the Service Level Agreement ("SLA") for Conterra Broadband Ethernet fiber-based services ("Service").

### **I. SLA Guarantee**

<i>Service</i>	<i>Availability</i>	<i>Mean Time to Repair</i>	<i>Latency</i>	<i>Packet Loss</i>
Dedicated Ethernet Service	End-to-End 99.99%	Priority 1 Outages within 4 Hours	30ms (roundtrip)	<0.1%

### **II. Customer Care Center**

**Conterra Broadband Service's Customer Care Center may be reached two ways:**

- The toll-free Conterra NOC number is 800-634-1374.
- Through our web portal at [WWW.CONTERRA.COM](http://WWW.CONTERRA.COM).

### **III. Priority Classification**

A "Service Disruption" is defined as a disruption or degradation that interferes with the ability of a Conterra network to transmit and receive traffic on Customer's dedicated circuits within the Conterra supplied Wide Area Network. The Service Disruption period begins when Customer reports a Service Disruption using Conterra's trouble ticket system by contacting Customer care, Conterra acknowledges receipt of the trouble ticket, and Conterra validates that the service is affected, The Service Disruption ends when the affected Service has been restored.

**Conterra will classify Service Disruptions as follows:**

<i>Priority</i>	<i>Criteria</i>
<b>Priority 1.</b>	<ul style="list-style-type: none"> <li>a. Total Loss of Service other than Excluded Disruptions</li> <li>b. Service degradation to the point of where the Customer is unable to use the Service</li> </ul>
<b>Priority 2.</b>	Depreciated Service where the Customer is

	unable to use the Service but is not prepared to release it for immediate testing
Priority 3	<ul style="list-style-type: none"> <li>a. A service problem that does not impact Service</li> <li>b. A single non-circuit specific quality of Service inquiry</li> </ul>

#### IV. Network Availability

"Network Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the circuit is unavailable due to a Priority 1 Outage ("Downtime"), divide by the total number of minutes in the calendar month. Downtime excludes (i) planned outages, (ii) routine maintenance, (iii) time when Conterra is unable to gain access to Customer's premise to troubleshoot, repair or replace equipment or the circuit, (iv) service problems resulting from acts or omissions of Customer, (v) Customer equipment failures, and (vi) Force Majeure Events (collectively "Excluded Disruptions").

#### Commitment:

**Conterra's monthly Network Availability Guarantee is 99.99%.**

The following table contains examples of the percentage of Network Availability translated into minutes of Downtime for the 99.99% Network Availability Guarantee:

<i>Percentage by Days per Month</i>	<i>Total Minutes/Month</i>	<i>Downtime Minutes</i>
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

#### V. Mean Time to Repair ("MTTR")

The MTTR measurement for a Priority 1 Outage is the cumulative length of time it takes Conterra to restore Service for a circuit in a calendar month divide by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for that circuit.

**MTTR per calendar month is calculated as follows:**

$\frac{\text{Cumulative length of time to restore Priority 1 Outage(s)}}{\text{Total number of Priority 1 Outage trouble tickets per circuit}}$
---

## VI. Latency (On-Net)

Latency is the average roundtrip network delay, measured every 5 minutes during a calendar month, to adequately determine consistent average monthly performance level for latency for each circuit. The roundtrip delay is expressed in milliseconds (ms). For Ethernet, Conterra measures latency using a standard 64 byte ping from the District Hub site and each district location on the wide area network in roundtrip fashion.

*Latency is calculated as follows:*

$$\text{Latency} = \frac{\text{Sum of the roundtrip delay measurements for a circuit}}{\text{Total \# of measurements for a circuit}}$$

## VII. Packet Loss (On-Net)

Packet Loss is defined as the percentage of packets that are not successfully received compared to the total packets that are sent in a calendar month. The percentage calculation is based on the packets that are transmitted from a network origination point and received at the network destination point (District Hub to Campus entities).

**Packet Loss is calculated as follows:**

$$\text{Packet Loss (\%)} = 100 (\%) - \text{Packets Received (\%)}$$

## VIII. Network Maintenance

### **Maintenance Notice:**

Customer understands that from time to time, Conterra will perform routine network maintenance for network improvements and preventative maintenance, which will usually be conducted within routine maintenance windows. Conterra will use reasonable efforts to provide at least 48 hours notice of such maintenance.

## IX. Service Credits

Any SLA credits will be calculated based on a percentage of the Service Charges for the Service that was affected by the Service Disruption. All credits must be (a) requested by the Customer within 30 days of a Service Disruption by calling the Customer Care Center and opening a trouble ticket and (b) confirmed by Conterra engineering support teams as associated with the trouble ticket and as failing to meet the Network Availability and/or MTTR targets. The credits described in this SLA will constitute Customer's sole and exclusive remedies, and Conterra's sole and exclusive liabilities, with respect to Contreras failure to meet any service level commitments outlined herein.

### Network Viability Credits

In the event that Network Availability is less than 99.99% in any calendar month, then upon Customer's compliance with this SLA, Customer will receive a credit equal to the percentage of the applicable monthly service charges set forth in the table below, to be applied against any amounts otherwise due Customer to Conterra.

Network Availability	Monthly Credit (% of Service Charges)
<99.99%	30%

### Meantime to Restore Credits

In the event that MTTR for Priority 1 Outage averages greater than 03:59:59 hours, then upon Customer's compliance with this SLA, Customer will receive a credit as set forth below; to be applied as a credit or set-off against any amounts otherwise due by Customer to Conterra.

MTTR	Monthly Credit (% of Service Charges)
>4 hours<7.59.59 hours	4%
>8 hours	10%

- n. Contract documents should be submitted for review with the bid. Separate contract documents should be submitted for Schools and City. The Schools are under time constraints related to qualifying for Universal Service funds and, upon approval of the school board, desires to move quickly to secure services.**

Our executed Service Level Agreements for the schools and the city are found in the Appendices Section. Please execute and return.

- o. Provide your most favorable warranty and guarantee documentation.**

Conterra provides a turn-key service that contains all warranties of its service and infrastructure during the term of the contract.

- p. Verify that required insurance coverage is available (*insurance certificates need not be submitted until the award stage*).**

Our up to date Insurance Certificates can be found in the Appendices Section.

# APPENDICES

---

- A. Service Contract Agreement
- B. Conterra RFP Exceptions
- C. Conterra Construction Overview
- D. Web Monitoring Application
- E. Customer Training and Orientation
- F. Company Safety Overview
- G. Accedian Network Interface Overview
- H. Insurance Certification
- I. Audited Financials