



August 14, 2020

**NOTICE TO PUBLIC
RFP #202011**

**REQUEST FOR PROPOSALS FOR ON-CALL SCADA, PLC, ELECTRICAL MAINTENANCE AND
REPAIR SERVICES ANNUAL CONTRACT**

The City of Winchester will accept submissions to this Request for Proposals (RFP) until 2:00 p.m. local time on **September 22, 2020**, in the office of the Finance Department - Purchasing Division, 15 North Cameron Street, 4th Floor - Rouss City Hall, Winchester, VA 22601. This RFP is for services related to providing, SCADA, PLC, electrical maintenance, repair, installation, and 24/7 emergency on-call services. The work will consist of both emergency (after hours) work and work that is scheduled in advance. The Contract will be administered by the Department of Public Services.

Copies of this Request for Proposal may be obtained upon request from the Office of the Finance Department-Purchasing Agent, telephone (540) 667-1815 ext. 1477, or they may be picked up at the above location. Bids/Proposals may be viewed on the City's web page: <http://www.winchesterva.gov/>

Offerors should carefully examine the specifications and fully inform themselves as to all conditions and matters, which would in any way affect the equipment/materials/service of cost thereof. Should an offeror find discrepancies in or omissions from the specification or request for proposal, he/she should notify the Purchasing Agent and obtain clarification prior to submitting the proposal. Only questions answered by formal Addenda will be binding; oral and other interpretations or classifications will be without legal effect.

The right is reserved, as the interest of the City may require, to revise or amend the specifications prior to the date set for opening proposal; the opening date may be postponed if deemed necessary by the City's Purchasing Agent. Such revisions and amendments, if any, will be announced by written Addenda to the specifications. ***In addition, the City reserves the right to accept or reject any proposals, in whole or in part, and to waive any informality.***

One (1) original hardcopy, one (1) original electronic copy in .pdf format and three (3) copies of original hardcopy are to be submitted in a sealed envelope bearing the Offerors company name, mailing address, the RFP name, the RFP number, the date and the time due mailed or delivered to:

City of Winchester
Finance Department - Purchasing Division
15 North Cameron Street, 1st Floor - Rouss City Hall
Winchester, Virginia 22601

BY: Michael Marzullo
Purchasing Agent

**CITY OF WINCHESTER
DEPARTMENT OF FINANCE
15 N. Cameron Street
Winchester, VA 22601**

**REQUEST FOR PROPOSALS FOR ELECTRICAL MAINTENANCE AND REPAIR SERVICES
ANNUAL CONTRACT**

RFP #202011

August 3, 2020

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A. INTRODUCTION AND PURPOSE

INTRODUCTION:

The 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, and is the county seat of Frederick County.

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 population is currently estimated at slightly over 26,000.

PURPOSE:

The purpose of this RFP is to solicit proposals from qualified contractors for an on-call contract(s) to provide miscellaneous professional electrical services, SCADA, and/or electronic/communication service contracting on fixed rates based upon hours of service and materials, in accordance with the National Electric Code (NEC), and all other applicable codes, for the City of Winchester. The work will consist of both emergency (after hours) work and work that is scheduled in advance. The City intends to make awards to multiple contractors as a result of this procurement.

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

PRE-PROPOSAL CONFERENCE:

A pre-proposal conference will not be held.

SCHEDULE OF EVENTS:

- | | |
|-----------------------------|---|
| 1. RFP Distribution | August 25,2020 |
| 2. Proposal Submissions Due | September 22, 2020 , at 2:00 P.M. local time |
| 3. Award of Contract | October 2020 |

CONTRACT TERM

The contract term shall be a period of twelve (12) months from the date of award. 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 four (4) additional twelve (12) month periods.

B. SCOPE OF SERVICES

There will be numerous potential services provided to the City under this contract related to performing electrical services in a timely and quality conscious manner. The work may be unscheduled during an emergency type situation requiring a maximum response time of four (4) hours or work scheduled in advance. Examples of work that may be performed under this contract include, but are not limited to:

1. Planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment
2. Wiring, including, but not limited to, complex high standard and low voltage electrical equipment (CCTV, networks, telephones)
3. Cabling
4. Installing receptacles
5. Lighting upgrades
6. Electrical repairs of faulty systems, apparatus or equipment

7. Tracing short circuits in wiring, using test meter
8. Measuring, cutting, bending, threading, assembling and installing electrical conduits
9. Installing, maintaining, and repairing a wide variety of electrical wiring, electrical systems, phone systems, communications gear, security systems, apparatus, equipment and fixtures
10. Observation of installed systems, apparatus or equipment to detect hazards and need for adjustments, relocation or replacement
11. Ensuring that work performed is in accordance with relevant codes
12. Working with City personnel during the design phase of each project (in regards to decision, including, but not limited to, locations of equipment, wiring, cable runs, etc.)
13. Running and terminating Cat5e cable, both indoor and outdoor, to meet or exceed TIA Cat5e standards
14. Running and terminating low voltage cable required for WiFi, VOIP, CCTV, POS and PBX
15. Construction or installation of all types of industrial/commercial electrical systems
16. Citect SCADA system repair and emergency troubleshooting
17. PLC repair/replacement and emergency troubleshooting
18. VFD repair/replacement and emergency troubleshooting

C. SELECTION PROCEDURE

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

1. Statements of contractor's experience, qualifications, and costs shall be submitted in the form defined under SUBMITTAL REQUIREMENTS (Section D).
2. A Selection Committee, composed of City Staff, will evaluate and rank all firms.
3. Firms will be evaluated and ranked in accordance with the – EVALUATION CRITERIA (Section E).
4. If necessary, the Selection Committee at their sole discretion may conduct interviews with the contractor's as a part of the evaluation process.

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 three (3) 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: City of Winchester, Finance Department - Purchasing Division, 15 North Cameron Street, 4th Floor-Rouss City Hall, Winchester, Virginia 22601. 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.
- b. Late Proposals: It is the responsibility of the firm to insure the Purchasing Agent 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.

2. PROPOSAL PREPARATION:

- a. 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 Purchasing Agent 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 by the Purchasing Agent. Mandatory requirements are

those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

- b. 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.
 - c. 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.
 - d. 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.
 - e. Limit your Proposal to a maximum of twenty (20) total pages. Twenty pages shall include: **ALL** exhibits, resumes, letters, attachments, and enclosures. Dividers are allowed and will not count towards your twenty pages.
 - f. Ownership of all data, materials and documentation originated and prepared for the City pursuant to the RFP shall belong exclusively to the 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.
3. **PART I - SUBMITTAL CONTENT:** Written proposals shall contain the following information presented in the following order:
- a. List the five most relevant projects/contracts completed by the firm within the last three years. Include short descriptions, project dates, client name and contact person, address and phone number.
 - b. Describe the resources that the contractor has available to perform work under this contract (personnel and equipment).
 - c. Provide summary of qualifications of key individuals (and office location for each) to be assigned to the work. A project manager/superintendent 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 projects similar in nature to those expected.

- d. Provide details regarding how the contractor will respond to emergency situations and a commitment of a maximum of four (4) hour time frame that the contractor can respond with equipment and personnel to begin work.
- e. Verify that required insurance coverage is available and that the performance and payment bonds can be provided (*insurance certificates and bonds need not be submitted until the award stage*).
- f. Provide costs for emergency work by completing the table in Appendix A and including responses to the two scenarios provided.

E. EVALUATION CRITERIA

Each member of the Selection Committee will individually evaluate each firm on the basis of the following criteria. The Purchasing Agent will then develop a composite ranking of each firm and rank the firms from first to last.

Evaluation Criteria

Criteria	Possible Points
Experience, Qualifications, and Resources of Contractor	30
Experience and Qualifications of Key Individuals Assigned to Contract	30
Ability of Contractor to Respond During Emergencies or After Hours	25
Emergency Work Costs – Appendix A	15
Total	100

F. QUESTIONS

Questions regarding this solicitation must be submitted in writing at least five (5) days prior to the proposal due date. The City will issue a written addendum to any inquiries that alter the scope of the proposal. All other contacts with City personnel concerning this solicitation are discouraged. Submit inquiries via e-mail to:

Don Riggleman
 Water Supply and Wastewater Treatment Division Manager
 City of Winchester
 15 N. Cameron St
 Winchester, VA 22601
Don.Riggleman@winchesterva.gov

G. SPECIAL TERMS AND CONDITIONS:

- a. **AWARD:** The City intends to make multiple awards as a result of this solicitation. Should the City determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to only that offeror. The Selection Committee shall recommend the appropriate firms to the City Manager for award.
- b. **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.
- c. **RENEWAL OF CONTRACT:** This contract may be renewed by the City of Winchester for four (4) successive twelve (12) month periods under the terms and conditions of the original contract except as stated in i. and ii. 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 90 days prior to the expiration date of each contract period.
 - i. If the City of Winchester elects to exercise the option to renew the contract for an additional twelve-month period, the contract price(s) for emergency work during the additional term shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the construction cost index published by ENR for the previous five year period.
 - ii. If during any subsequent renewal periods, the City of Winchester elects to exercise the option to renew the contract, the contract price(s) for emergency work during 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 construction cost index published by ENR for the latest two years for which statistics are available.
- d. **COOPERATIVE PROCUREMENT:** Any successful Bidder/Offeror, may at his 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.
- e. **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.
- f. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for (60) days. At the end of the (60) 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.
- g. **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.
- h. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Public Services Director or designee. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the Public Services Director, 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.

- i. **OWNERSHIP OF INTELLECTUAL PROPERTY:** All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the City of Winchester. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the City to evidence the City's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.
- j. **EXECUTION OF WORK:** All work shall be scheduled at times directed by the City and shall be completed at times to minimize the disruption of normal operations.
- k. **WRITTEN QUOTES AND PURCHASE ORDERS FOR NON-EMERGENCY WORK:** Written quotes and a detailed schedule will be requested for all non-emergency work from all the Contractors under this Contract. The City will select the Contractor with the lowest quote that can meet the schedule specified by the City to complete the work. A purchase order detailing the work to be completed and the total costs shall be issued to the Contractor before the work begins. The City makes no guarantee to any Contractor to a minimum amount of work that will be authorized during the period of the Contract.
- l. **EMERGENCY WORK:** For emergency work that cannot be scheduled in advance and must be completed immediately, the City, at its sole discretion, shall select the Contractor best able to complete the work in a timely and efficient manner. The costs for any emergency work shall be determined based upon the schedule of rates for emergency work submitted in the proposal from the Contractor that completes the work. The Contractor shall provide the City with contact information to be able to respond to emergencies within four (4) hours (24/7/365).
- m. **PERFORMANCE AND PAYMENT BONDS:** The Contractor shall continually maintain Performance and Payment Bonds in the amount of \$50,000 for all work completed under this Contract. Failure to maintain these bonds shall result in termination of the Contract.
- n. **WARRANTY:** All work completed shall be warranted as free from defects in workmanship for one (1) year following the completion of the work and acceptance by the City.
- o. **CORRECTION OF WORK:** All work completed under this contract shall be completed in a skillful and workmanlike manner. The Contractor shall promptly correct all work not accepted by the City due to defects or the failure to conform to the specifications.
- p. **SAFETY:** The Contractor shall be solely responsible for complying with all applicable safety regulations, including those established by the Occupational Safety and Health Administration (OSHA), during the execution of this contract.
- q. **SPECIFICATIONS:** All work shall be quality work performed according to the standards of the industry and to the satisfaction of the City of Winchester. All work completed shall be performed in accordance with the uniform Statewide Building Code of the Commonwealth of Virginia and the meet all other applicable specifications including the latest editions of the following, whichever is most stringent:
 - i. National Electrical Code (NEC)
 - ii. National Fire Protection Association (NFPA)
 - iii. Building Officials & Code Administration (BOCA)
 - iv. American National Standards Institute (ANSI)
 - v. American Society of Testing Materials (ASTM)

H. CITY OF WINCHESTER REQUIRED GENERAL TERMS AND CONDITIONS:

- 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 OR OFFERORS
- M. TESTING AND INSPECTION
- N. ASSIGNMENT OF CONTRACT
- O. SEVERABILITY
- 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.
- D. **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.
- E. **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.
- F. **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.
- G. **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.
- H. **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 working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent, or designee.
- I. **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 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 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. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an 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/offerors) 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/offeror) 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/offeror) 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/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. 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 these insurance coverages 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:

Profession/Service Limits

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 *Code of Virginia*.

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 Purchasing Agent will publicly post such notice on the City of Winchester's web site (www.winchesterva.gov/purchasing) for a minimum of 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.



City of Winchester, Virginia

Office of the City Attorney
Rouss City Hall
22601
540-667-1815
Fax: 667-2259

I. CONTRACT #202011

THIS CONTRACT WAS MADE AND ENTERED INTO THIS ____ DAY OF _____, 2020, BY AND BETWEEN _____, F.I.N. OR S.S. NUMBER _____ (“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 202011 (RFP #”202011”), DATED SEPTEMBER 21, 2020 TO PROVIDE ELECTRICAL MAINTENANCE AND REPAIR SERVICES TO THE CITY OF WINCHSTER, AS MORE FULLY DESCRIBED AND REQUESTED IN THE RFP, AND;

WHEREAS, CONTRACTOR HAS SUBMITTED A PROPOSAL IN RESPONSE TO THE RFP DATED _____ 2020, SIGNED BY _____ WHICH STATES QUALIFICATIONS, SERVICES AND NEGOTIATED PRICING ASSIGNED TO THE CITY.

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 #202011, WHICH IS INCORPORATED IN ITS ENTIRETY HEREIN BY REFERENCE. THE CITY SHALL PAY THE CONTRACTOR FOR THE WORK COMPLETED AT THE PRICES ESTABLISHED UNDER THIS CONTRACT. THE CONTRACTOR SHALL FORWARD AN INVOICE FOR SUCH WORK TO THE PUBLIC SERVICES DIRECTOR REQUESTING SERVICES FOLLOWING THE COMPLETION OF THE WORK AND ACCEPTANCE BY THE CITY. THE 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 A PERIOD OF FIVE (5) YEARS FROM DATE OF AWARD. 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 TWO (2) YEAR 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 #202011. 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.

6. THE CONTRACTOR HAS, AT THE TIME OF EXECUTION OF THIS CONTRACT, PROVIDED THE CITY WITH PAYMENT AND PERFORMANCE BONDS IN THE AMOUNT OF \$50,000 THAT SHALL REMAIN IN FULL FORCE AND EFFECT THROUGHOUT THE TERM OF THIS CONTRACT.

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: _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____

_____ as Principal, hereinafter

called Contractor, and _____

Surety Company, with General Offices in _____

_____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Virginia as Surety, hereinafter called Surety, are held and firmly bound onto the City of Winchester, Virginia, hereinafter called Owner, in the penal sum of Fifty Thousand (\$50,000) Dollars, lawful money of the United States, for the payment of which sum, will and truly be made, the Said Contractor and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and delivered this _____ day of _____, 2020.

WHEREAS, the above named and bounded Contractor has entered into a written contract with the Owner, dated _____, 2020 for:

On-Call Electrical Maintenance and Repair Services

in accordance with the specifications prepared by the Public Services Department, City of Winchester, Virginia, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a

succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of contract price," as used in this paragraph, shall mean the total amount payable by the Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this _____ day of _____ 2020.

PRINCIPAL

SURETY

TITLE

TITLE

WITNESS

WITNESS

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____

_____ as Principal, hereinafter

called Contractor, and _____

Surety Company, with General Offices in _____

_____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Virginia as Surety, hereinafter called Surety, are held and firmly bound unto the City of Winchester, Virginia, hereinafter called Owner, in the penal sum of Fifty Thousand (\$50,000) Dollars, lawful money of the United States, for the payment of which sum, will and truly be made, the Said Contractor and Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and delivered this _____ day of _____ 2020.
WHEREAS, the above named and bounded Contractor has entered into a written contract with the Owner, dated _____, 2020 for:

On-Call Electrical Maintenance and Repair Services

in accordance with the specifications prepared by the Public Services Department, City of Winchester, Virginia, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a) Unless claimant, other than the one having a direct Contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage paid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

- b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

- c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

Signed and sealed this _____ day of _____, 2020.

PRINCIPAL

TITLE

WITNESS

SURETY

TITLE

WITNESS

APPENDIX A

COST PROPOSAL – EMERGENCY WORK

- (a) The Contractor shall fill out the table below of rates that will be charged for any emergency work completed under this Contract. This Bid Table shall be included within the proposal submitted to the City.
- (b) There is no guarantee regarding the amount of work that will be completed under this contract.
- (c) Any items not listed or described in the Bid Table will be negotiated between the City and the Contractor at the time of need. Once a negotiated price is established, it will be used for the remainder of the contract.

BID TABLE – EMERGENCY WORK

ITEM NO.	DESCRIPTION	UNITS	TOTAL BID COST
LABOR RATES			
1	Electrician	\$/Hour	
2	SCADA Technician	\$/Hour	
3	SCADA Programmer	\$/Hour	
MISC. EQUIPMENT RATES			
4		\$/Hour	
5		\$/Hour	
Misc. Costs			
6	Mobilization	%	
7	Markup on Parts/Materials	%	
8	Markup on Subcontractor's Work	%	