



DEPARTMENT OF FINANCE

INVITATION TO BID
December 1, 2023

BID#	L00223
BID TITLE:	ANNUAL PAVING
BID DUE / OPENING DATE:	January 9, 2024, 2:00 P.M.
BID BOND REQUIRED:	YES

The City of Staunton is seeking written sealed bids from qualified Class A contractors to furnish all labor, materials, supervision and equipment necessary to complete the ANNUAL PAVING, in accordance with the attached specifications.

Right is reserved to accept or reject bids on each item separately or as a whole, to reject any or all bids, to waive informalities or irregularities, to negotiate contract terms and options with the successful low bidder, and to contract for the bid to other than the lowest bidder in the best interest of City of Staunton.

Please quote lowest price and best delivery on items listed. Advise what discount, if any will be allowed for payment within a specified time. Terms and delivery date must be specified.

The City of Staunton does not discriminate against small and minority businesses or faith-based organizations.

All bids must be in an opaque, sealed envelope or box and clearly marked: “**Bid # L00223 – Annual Paving**”. Bids shall clearly indicate the legal name, address and telephone number of the Offeror (company, firm, partnership, or individual). and shall be accompanied by complete specifications for the items offered.

No responsibility will attach the Owner or any official or employee thereof for the pre-opening of, post-opening of, or the failure to open a bid not properly addressed and identified. All expenses for bidding shall be borne by the Offeror.

Bid documents shall be mailed to addressee below or hand-delivered to the **City of Staunton Finance Office located at 116 W. Beverley Street, 3rd Floor City Hall, Staunton, Virginia**. Office hours are Monday through Friday, 8:00am to 5:00pm. **E-Mail and facsimile responses are not acceptable.**

BIDS MUST BE SEALED, MARKED, AND DELIVERED TO:

Mail To:

Chad Horvat
Finance Business Manager
P.O. Box 58
Staunton, VA 24402-0058
(540) 332-3819

Overnight To:

Chad Horvat
Finance Business Manager
116 W. Beverley St., 3rd Floor
Staunton, VA 24401
(540) 332-3819

ALL BIDS MUST BE RECEIVED BY 2:00 P.M. LOCAL TIME, January 9, 2024
BIDS RECEIVED AFTER THE DATE AND TIME SPECIFIED WILL BE REJECTED

Questions regarding the specifications for this bid should be directed to **Jeff Johnston, Director of Public Works**, johnstonjm@ci.staunton.va.us .

INFORMATION FOR BIDDERS

1. BID SUBMITTAL

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw his bid within sixty (60) days after the actual date of the opening thereof.

The attention of bidders is invited to Title 2, Chapter 43 of the Code of Virginia. The procedure for withdrawal of bids shall conform to Procedure (A), Section 2.2-4330 of the Code of Virginia.

2. PREPARATION OF BID

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in, in ink or typewritten and the foregoing certification must be fully completed and executed when submitted.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Bidder must write on outside of envelope: "REGISTERED CONTRACTOR, VIRGINIA CERTIFICATE NO. _____."

3. SUBCONTRACTS

The bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this contract must be acceptable to the Owner.

4. METHOD OF BIDDING

This is a unit price bid for: an indefinite quantity of work to be performed during fiscal years 2024 thru 2029 (refer to Special Conditions).

(See Bid Schedule)

5. QUALIFICATIONS OF BIDDER

The Owner may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder indicates that the bidder is not properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.

6. BID SECURITY

Each bid must be accompanied by a bid bond in the amount of five percent (5%) of the bid submitted, or a certified check of the Bidder in an amount not less than five percent (5%) of the amount of the bid, payable to the order of the City of Staunton, Virginia. Such bid bonds or checks will be returned to all, except the three bidders submitting the most favorable bids,

within three (3) days after the formal opening of the bids. The remaining bid bonds or checks will be returned to the three most favorable bidders within forty-eight (48) hours after the Owner and the accepted Bidder have executed the Contract, or if no contract has been so executed, within sixty (60) days after the date of the opening of the bids.

7. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

8. TIME AND COMPLETION AND LIQUIDATED DAMAGES

Bidder must agree to commence work on or before a date to be specified on a written "Notice to Proceed" of the Owner and to fully complete the paving as directed by individual Purchase Orders. Working days refer to Monday through Fridays, except weekends and holidays. However, if there is a definite need to work on weekends and holidays, it will be upon a mutual agreement between the Contractor and the Owner. Work done on weekends and holidays will be counted within the allotted time of completion mentioned above for the project. Bidder must agree also to pay liquidated damages, the sum of \$500.00 for each consecutive calendar day thereafter.

9. CONDITIONS OF WORK

Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of this obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the contractor, in carrying out his work, must employ such methods or needs as will not cause any interruption of or interference with the work of any other contractor.

10. ADDENDA AND INTERPRETATIONS

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to Attention: Jeff Johnston, via email johnstonjm@ci.staunton.va.us, request must be received by December 15, 2023 by 5:00pm. Any and all such interpretations and any supplemental instructions will be issued, and posted at <https://www.ci.staunton.va.us/departments/finance/procurement> not later than December 18, 2023 by 5pm. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under this bid as submitted. All addenda so issued shall become part of the contract document.

11. SECURITY FOR FAITHFUL PERFORMANCE

Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under the contract and furnishing materials in connection with this contract. Both payment bond and performance bond shall be in the amount of 100% of the contract price.

All bonds shall be on forms provided in the Contract Documents and written by companies LICENSED TO DO BUSINESS IN VIRGINIA and shall be administered through agent(s) registered in Virginia.

12. POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

13. NOTICE OF SPECIAL CONDITIONS

Attention is particularly called to those parts of the contract documents and specifications, which deal with the following:

- a) Inspection and testing of materials
- b) Insurance requirements

14. LAWS AND REGULATIONS

The bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the contract will be deemed to be included in the contract as though herein written out in full.

15. METHOD OF AWARD - LOWEST QUALIFIED BIDDER

- a) the contract will be awarded on the basis of the sum of the Base Bid and the accepted Alternates.
- b) The award will be made to the lowest responsible bidder whose bid conforms to the invitation and whose qualifications indicate the award will be most advantageous to the City.
- c) The City reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.
- d) The City will notify all bidders of the award and return bid sureties to all but the successful bidder.
- e) After notice from the City, the successful bidder has ten (10) days to enter into a contract or forfeit as liquidated damages the security deposit. By executing the contract, the Contractor certifies that he has reviewed the Contract Documents and the project area and accepts the conditions of each.

16. OBLIGATION TO BIDDER

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda).

The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect of his bid.

Under Section 2.2-4330, Procedure A of the Code of Virginia, a bidder for a contract with the State or any department, institution or agency thereof, or with any county, city, town, school board, or any agency thereof for the construction, demolition, alteration, repair or improvement

may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, evidenced by the inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

The bidder must give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure.

17. ADJUSTMENT OF CONTRACT

The Owner reserves the right to make, at any time during the progress of the work, such increases or decreases in contract quantities as deemed in the best interest of the Owner. Adjustments of contract unit prices will not be considered for overruns or underruns of the original bid quantities. Unit price adjustments will not be made in the event of the elimination of any other associated bid item.

18. CONTRACT RENEWALS/EXTENSIONS

The contract shall be from date of award through December 15, 2024. The City reserves the right to renew this contract for up to four (4) additional one (1) year renewals, through December 15, 2028. The contract shall be subject to cancellation for cause or convenience with written notice 30 days prior to the effective date of the cancellation.

19. PRE-BID MEETING

No Pre-Bid meeting has been scheduled.

20. SCHEDULE OF WORK

There is no published paving schedule at this time. Work for which bids are to be submitted is based on an estimated 15,000 Ton bituminous concrete pavement overlay and 110,000 SY of pavement milling. A more complete description of the work and full information for contract bidders is given in the Specifications and Contract Documents. Quantities are estimates and may increase or decrease depending on requirements. Quantities will change from year to year.

Specifications and Contract Documents may be examined at the Public Works Department, 1876 Shutterlee Mill Road, Staunton, Virginia 24401-0034, between the hours of 8:30 a.m. and 4:00 p.m., excepting weekends.

CITY OF STAUNTON

BID FORMS

BID

TO: City of Staunton
 City Hall
 P.O. Box 58
 Staunton, Virginia 24402

Gentlemen:

The undersigned, as Bidder, does hereby declare that the only person, persons, company or parties interested in this Bid are named herein; that this Bid is made and that the Contract will be executed without collusion with any other person or persons presenting any Bid for the same work, labor and materials; that this Bid is in all respects fair and just and that no person prohibited therefrom by law is directly or indirectly interested in this Bid, nor in the labor and materials to which it relates, nor in any portion of the profits thereof.

The undersigned does further declare that he has personally examined the site of the proposed work and made such investigation as is necessary to determine the general and local conditions and the character of the work to be encountered; that he has carefully examined each and every item of the annexed Contract Documents and the Plans and Specifications pertaining hereto, and that he fully understands the same, and will make no claim, other than as stated therein, because of any misunderstanding or misconception concerning the nature, charter or amount of work to be done.

The undersigned does hereby offer and agree to execute and perform the Contract attached hereto, and of which this Bid forms a part; and to furnish all of the labor, materials, tools, equipment, transportation and superintendence for the construction; in strict conformity with the drawings and specifications. The undersigned further proposes to perform the work at the prices set opposite each item, it being understood that the quantities given are estimates only and payment will be made on the basis of actual quantities as developed during the construction.

BID SCHEDULE
ESTIMATED ANNUAL PAVING

BID NO.	ITEM	ESTIMATED ANNUAL QUANTITY*	UNITS	UNIT PRICE *	TOTAL PRICE
1. *	SM-9.5A Asphalt Concrete, VDOT approved mix	3,000	TONS		
2. *	SM 12.5 Asphalt Concrete, VDOT approved mix	15,000	TONS		
3.	Asphalt Concrete Milling per 1" Depth	110,000	SYS		
4.	Aggregate Base (21A) (Shoulder Reconstruction)	200	TONS		
5.	Mobilization (Purchase Orders under \$15,000)	1	EA		
6.	Mobilization (Purchase Orders over \$15,000)	1	EA		
7.*	BM-25.0 Asphalt Concrete Pavement (Pavement Profiling) VDOT approved mix	1000	TONS		
TOTAL					

***PRICE ADJUSTMENT ITEMS – REFER TO SPECIAL CONDITIONS.**

TOTAL BASE BID

WORDS

FIGURES

AMOUNTS ARE TO BE SHOWN IN BOTH WORDS AND FIGURES.

IN CASE OF DISCREPANCY, THE AMOUNT SHOWN IN WORDS WILL GOVERN.

The undersigned agrees to complete the work enumerated herein **in accordance with Paragraph 8 of Information for Bidders**. Working days refer to Mondays through Fridays excepting weekends and holidays. However, if there is a definite need to work on weekends and holidays, it will be upon a mutual agreement between the Contractor and the Owner. Work done on weekends and holidays will be counted within the allotted time of completion mentioned above for the project. It is expressly understood and

agreed that the time of beginning, rate of progress, and the date of completion are essential conditions, and that in the event of failure to complete the work within the above specified time, the Contractor will be liable for the payment of liquidated damages as provided in the Contract Documents. Extensions may be granted, upon written request, for inclement weather and for any other cause not the fault of the Contractor. The City reserves the right to shut the project down for extended periods due to inclement weather. Deadline extensions will be made to equally compensate for periods of shut down.

The undersigned likewise agrees that he will execute and deliver the Contract hereto attached within ten (10) days, Sundays and holidays excepted, after notification of the acceptance of this Bid and award of the Contract; and will furnish a performance and a payment bond for the total amount of the accepted Bid on the forms provided in the Contract Documents, satisfactory to the Owner as surety for the faithful performance and completion of the Contract and the payment of all subcontractors, material dealers and labor.

The undersigned certifies that he understands that it is the intent of the drawings, and the Contract Documents, that the work be completed in every respect and that no additional compensation will be allowed for minor tasks necessary to completely perform the work.

The undersigned acknowledges Addenda:

Addenda No. _____ Addenda No. _____ Addenda No. _____

The undersigned has checked carefully all the above figures and understands that the Owner will not be responsible for any errors or omissions in making up this Bid.

_____ Contractor	By: _____ Printed Name: _____ Title _____	
_____ Registered Virginia Contract Number	Address: _____ _____	
_____ Contractor's IRS Number	Telephone: _____ _____	
_____ Contractor's SCC Number		

Dated this _____ day of _____, 2024

**GENERAL CONDITIONS
CITY OF STAUNTON**

1. Intent

- 1.1. The Contract Documents comprise the entire agreement between the City and Contractor concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.
- 1.2. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe Work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning.
- 1.3. Plans and Specifications – All Work that may be called for in the Specifications and not shown on the Plans, or shown on the Plans and not called for in the Specifications, shall be executed and furnished by the Contractor as if described in both these ways; and should any work or materials be required which are not detailed in the Specifications or Plans, either directly or indirectly, but which are nevertheless necessary for the proper carrying out of the intent thereof, the Contractor is to understand the same to be implied and required, and shall perform all such work and furnish any such materials as fully as if they were particularly delineated and described. The Contractor shall keep one copy of all Plans and Specifications on the project at all times.

2. Availability of Lands

- 2.1. City shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of Contractor. Upon reasonable written request, City shall furnish Contractor with a correct statement of record legal title and legal description of the lands upon which the Work is to be performed and City's interest therein as necessary for giving notice of or filing a mechanic's lien against such lands in accordance with applicable Laws and Regulations. City shall identify any encumbrances or restrictions not of general application but specifically related to use of lands so furnished with which Contractor will have to comply in performing the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by City, unless otherwise provided in the Contract Documents. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- 2.2. CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY - The Contractor shall perform all his operations in a manner that will cause the minimal possible disruption to the normal vehicular and pedestrian traffic. The Contractor shall not block streets or highway to traffic without the prior consent of the City. Flagmen, lights, barricades, and construction signs shall be provided as directed by City. All barricades, signs, cones, etc. must conform to the guidelines established by the Manual of Uniform Traffic Control Devices (M.U.T.C.D.) and the Virginia

Work Area Protection Manual. All flagmen must be Virginia Department of Transportation certified. A person certified in intermediate work zone safety shall be on site at all times. Pavement, shoulders, ditches, drainage structures and all other facilities disturbed during the construction shall be restored to their original condition, at the Contractor's expense except for work specifically itemized in the proposal. The Performance Bond shall cover all work on the City's rights-of-way and easements and the Contractor shall be responsible for the repair and maintenance of all areas disturbed within said rights-of-way and easements. No open ditches shall be permitted overnight in public rights-of-way.

- 2.3. CONSTRUCTION ON PRIVATE AND PUBLIC PROPERTY** - The area of the construction shall be left in the same condition as it was found. All private and public utilities pipes, wires, lines, fences, walls, walks, pavements, curb and gutter, graveled areas, driveways, drainage structures, trees, shrubs, mailboxes, guy wires, septic systems, etc., encountered during the work whether shown on the Plans or not, shall be protected from damage by the Contractor. Should any facilities be damaged, the Contractor shall repair, replace, or pay damages for same. The surface of the construction area shall be graded, stoned, paved, seeded, etc.; to fit original conditions encountered. Payment for this work shall be included in the Proposal price of the item under construction.

3. Existing Utilities

- 3.1.** The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to the City or by the owners of such Underground Facilities or by others, unless otherwise expressly provided in the Supplementary Conditions.
- 3.2.** City shall not be responsible for the accuracy or completeness of any such information or data; and
- 3.3.** The cost of all of the following will be included in the Contract Price and Contractor shall have full responsibility for: (i) reviewing and checking all such information and data, (ii) locating all Underground Utilities shown or indicated in the Contract Documents, (iii) coordination of the Work with the owners of such Underground Facilities during construction, and (iv) the safety and protection of all Underground Facilities and repairing any damage thereto resulting from the Work.
- 3.4. EXISTING UTILITY LINES** - The Contractor shall not disturb or damage any existing utility lines found above or below ground whether shown on the Plans or not. If during the course of the work any disturbance, or breakage should occur, the Contractor shall replace, at his own expense, the affected utility lines to the satisfaction of the City and the proper utility company. The Contractor shall bear full responsibility for any damage to life and/or property incurred as a result of such disturbance or damage to existing utility lines. Special attention should be paid to the Code of Virginia, Sections 59.1-406 - 59.1-414 - "Overhead High Voltage Line Safety Act".

4. Schedule

- 4.1. SCHEDULE OF CONSTRUCTION** – Commencement of construction shall begin by the date determined by the City. Prior to initiation of construction, the Contractor shall have submitted a detailed work schedule to the City and have received approval of same. The Contractor must proceed according to the approved schedule unless the changes are approved by the City.

- 4.2. Contractor shall submit to City for acceptance proposed adjustments in the progress schedule that will not change the Contract Times. Such adjustments will conform generally to the progress schedule.

5. Shop Drawing, Material Data Sheets

- 5.1. Contractor shall submit Shop Drawings to City for review and approval. All submittals will be identified as City may require and in the number of copies specified. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to show City the materials and equipment Contractor proposes to provide and to enable City to review the information.
- 5.2. Contractor shall also submit Material Data Sheets to City for review and approval. Each submittal will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended and otherwise as City may require to enable City to review the submittal.
- 5.3. Before submitting each Shop Drawing or Material Data Sheet, Contractor shall have determined and verified:
 - 5.3.1. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto,
 - 5.3.2. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the Work, and
 - 5.3.3. all information relative to Contractor's sole responsibilities in respect of means, methods, techniques, sequences and procedures of construction and safety precautions and programs incident thereto.
- 5.4. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be accepted by City under the following circumstances:
- 5.5. "Or-Equal": If in City's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by City as an "or-equal" item, in which case review and approval of the proposed item may, in City's sole discretion, be accomplished without compliance with some or all of the requirements for acceptance of proposed substitute items.
- 5.6. *Substitute Items*: If in City's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" it will be considered a proposed substitute item. Contractor shall submit sufficient information as provided below to allow City to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall first make written application to City for acceptance

thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified and be suited to the same use as that specified. The application will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice Contractor's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other Contractors affected by the resulting change, all of which will be considered by City in evaluating the proposed substitute. City may require Contractor to furnish additional data about the proposed substitute.

6. Contractor's Responsibilities

- 6.1.** It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and locations of the work, the conformation of the ground to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions and all other matters which in any way effect the work under this Contract. No verbal agreement or conversation with any officer, agent or employee of the City either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.
- 6.2.** The Contractor shall keep on the work during its progress, a competent superintendent, satisfactory to the City and any directions given to such superintendent shall be as binding as if given to the Contractor. If the Contractor, in the course of the work, finds any discrepancy between the drawings and the physical conditions of the locality or any errors or omissions in drawings or in the layout as given by Points and Instructions, it shall be his duty to immediately inform the City in writing, and the City shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor's risk.
- 6.3.** Contractor shall supervise, inspect and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor shall be responsible to see that the completed Work complies accurately with the Contract Documents.
- 6.4.** Unless otherwise specified in the Contract Documents, Contractor shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.
- 6.5.** All materials and equipment shall be good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of the City. If required Contractor shall furnish

satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

- 6.6. Throughout the course of the construction, the Contractor shall maintain the project free from any conditions, which may result in danger or nuisance to the public, including but not limited to dust and street disrepair.
- 6.7. The Contractor shall be responsible for the condition of all excavations made by him. All slides and cave-ins shall be removed without extra compensation, at whatever time and under whatever circumstances they may occur.
 - 6.7.1. The neglect, failure, or refusal of the City to order the use of bracing or sheeting, or a better quality, grade, or section, or larger sizes of steel or timber, or to order sheeting, bracing, struts, or shoring to be left in place, or the giving or failing to give orders or directions as to the manner or methods of placing or driving sheeting, bracing, jacks, wales, rangers, etc., shall not in any way or to any extent relieve the Contractor of any responsibility concerning the condition of excavation or any of his obligations under the Contract; nor shall any delay, whether caused by any action or want of action on the part of the Contractor, or any acts of the City, or his agents, or employees, resulting in the keeping of an excavation open longer than would otherwise have been necessary, relieve the Contractor from the necessity of properly and adequately protecting the excavation from caving or slipping, nor from any of his obligations under the Contract relating to injury of persons or property, nor entitle him to any claim for extra compensation. IT SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO MAINTAIN PROPER AND SUFFICIENT SHEETING, SHORING AND BRACING TO PROTECT ALL PERSONS CONNECTED WITH THE WORK FROM INJURY.
- 6.8. Adequate sanitary conveniences for the use of persons employed on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such a manner and at such points as shall be approved by the City. These conveniences shall be maintained at all times without nuisance and their use shall be strictly enforced; upon completion of the work they shall be removed leaving the area clean and free from nuisance.
- 6.9. The Contractor will be required to comply with the City's Erosion and Sediment Control Ordinance. Special care shall be taken to prevent siltation of existing sewer, streets, drainage ditches, and private property.
- 6.10. Contractor shall obtain and pay for all construction permits and licenses. City shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening Bids, or, if there are no Bids, on the Effective Date of the Agreement.
- 6.11. The Contractor shall provide all field engineering services necessary for laying out the Project. All such services shall be performed by a Professional Surveyor registered with the State of Virginia. Control points shall be established and maintained during the execution of the

Project. All documentation and control points shall be made available to the City throughout the execution of the Project.

- 6.12. The Contractor shall provide at their cost testing service, approved by the City, to perform all testing required by the Contract Documents. Written reports shall be provided to the City.
- 6.13. The Contractor shall provide “as built” plans within 30 days of project completion. Such plans shall be prepared by a Licensed Surveyor and shall show such items as final elevations, grades, structure locations, etc.
- 6.14. Representatives of the City, as well as representatives of Local, State and Federal agencies and parties having an interest in the project shall have access to the work wherever it is in preparation or progress and the Contractor shall provide proper facilities for such access and review.
- 6.15. 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 and 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 \$10,000.00, so that such provisions will be binding upon each Subcontractor or vendor.
- 6.16. During the performance of this contract, contractor agrees that they will not, and shall not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

7. Subcontracts

- 7.1. Contractor shall not employ any Subcontractor, Supplier or other person or organization whether initially or as a substitute, against whom City may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom Contractor has reasonable objection.
- 7.2. Contractor shall be fully responsible to City for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor’s own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier or other person or organization any contractual relationship between City and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the City to pay or to see the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.
- 7.3. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor shall require all

Subcontractors, Suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with the City through Contractor.

- 7.4. The Contractor shall, as directed by the Owner, remove from all public and private property, at his own expense, all temporary structures, rubbish and waste materials, resulting from his operations; and shall leave the site in a neat, orderly condition.

8. Owner's Responsibility

- 8.1. The Owner through his designated representatives shall have general supervision and direction of the work. He has the authority to stop the work whenever such stoppage may be necessary to ensure the proper execution of the Contract. He shall also have authority to reject all work and materials which do not conform to the Contract, to direct the application of forces to any portion of the work as in his judgment is required, to order the force increased or diminished and to decide questions which arise in the execution of the work.
- 8.2. Wherever work being done by the City's forces or by other Contractors is contiguous to work covered by this Contract the respective rights of the various interests involved shall be established by the City to secure the completion of the various portions of the work in general harmony.
- 8.3. If the Contractor should neglect to execute the work properly or fail to perform any provision of this Contract, the City after three days written notice to the Contractor, may without prejudice to any other remedy make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
- 8.4. City shall promptly furnish the data required under the Contract Documents and shall make payments to Contractor promptly when they are due.
- 8.5. City shall provide inspection of the Contractors Work.
- 8.6. The City shall have the right at any time, for reasons which appear good to them, to annul this Contract upon giving written notice to the Contractor, in which event the Contractor shall be entitled to the full amount of the estimate for the work done by him under this Contract up to the time of such annulment, including the retained percentage. The Contractor shall be reimbursed by the City for such expenditures that are not otherwise compensated for, and as are required in preparing for and moving to and from the work; the intent being that an equitable settlement shall be made with the Contractor.

9. Changes in Work

- 9.1. Without invalidating the Agreement and without notice to any surety, City may, at any time or from time to time, order additions, deletions or revisions in the work. Any additions, deletions or revisions will be authorized by a Change Order. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents.
- 9.2. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented.
- 9.3. City and Contractor shall execute appropriate Change Orders covering:
- 9.3.1. changes in the Work which are ordered by City;

- 9.3.2. changes in the Contract Price or Contract Times which are agreed to by the parties; and
- 9.3.3. changes in the Contract Price or Contract Times, which embody the substance of any written decision, rendered by City.

10. Changes in Contract Price

- 10.1. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in Contract Price.
- 10.2. The Contract Price may only be changed by a Change Order. Any claim for an adjustment in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to City promptly after the start of the occurrence or event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 20 days after the start of such occurrence or event and shall be accompanied by claimant's written statement that the adjustment claimed covers all known amounts to which the claimant is entitled as a result of said occurrence or event. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this paragraph 11.2.
- 10.3. The value of any Work covered by a Change Order or of any claim for an adjustment in the Contract Price will be determined as follows:
 - 10.3.1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved.
 - 10.3.2. Where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum.

11. Changes in Contract Times

- 11.1. The Contract Times may only be changed by a Change Order except for inclement weather days as determined by the City. Such inclement weather days shall be maintained by the City and added to the number of days permitted for completion of the Project. Any claim for an adjustment of the Contract Times shall be based on written notice delivered by the party making the claim to the other party and to City promptly after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within 20 days after such occurrence and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Times shall be determined by City. No claim for an adjustment in the Contract Times will be valid if not submitted in accordance with the requirements of this paragraph 12.1.
- 11.2. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a claim is made therefor as provided in paragraph 12.1. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by City, acts or neglect of utility owners, fires, floods, epidemics, abnormal

weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within control of Contractor.

- 11.3.** Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of both City and Contractor, an extension of the Contract Times in an amount equal to the time lost due to such delay shall be Contractor's sole and exclusive remedy for such delay. In no event shall City be liable to Contractor, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from (I) delays caused by or within the control of Contractor, or (ii) delays beyond the control of both parties including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God or acts or neglect by utility owners.

12. Separate Contracts

- 12.1.** The City reserves the right to let other contracts in connection with this work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.

**ANNUAL PAVING
SPECIAL CONDITIONS**

1. The intent of these Contract Documents is to obtain unit prices for all work items associated with asphalt concrete pavement for the period from contract award through December 15, 2024. The primary scope of work is pavement milling and overlay with the intent to also be able to do miscellaneous pavement structure reconstruction.
2. Quantities on the Bid Schedule are estimates only for the purpose of obtaining bid prices. Quantities will vary and some bid items may not be used.
3. This agreement shall remain in effect from the date of award through December 15, 2024, and may be renewed for up to four (4) additional one year terms if agreed upon in writing by both parties. Prior to the expiration date of the initial contract or any subsequent renewal, the Contractor may request price adjustments to be effective during the upcoming contract period. Price increases may be negotiated only at the time of renewal.
4. **LIQUID ASPHALT PRICE ADJUSTMENT:** Due to the fluctuation in liquid asphalt prices this contract will be administered and based on the Virginia Department of Transportation (VDOT) Price adjustment index for type PG-64-22 asphalt cement. This index is published monthly on the VDOT web site under Asphalt and Fuel adjustment indices. The base index for this contract will be the posted asphalt index for the month in which the project is bid. Subsequently this base index will govern the adjustment increase or decrease of the life of the contract. It will be adjusted each month that work is performed. The following percentages of liquid asphalt used in each mix will be applied to calculate the adjustment:
 - Surface mixes 6%
 - Intermediate and base mixes 5%
5. **OTHER ITEMS PRICE ADJUSTMENT:** For unit/pay items other than “tons laid in place”, the Contractor may increase unit prices limited to no more than the percentage increase in the Consumer Price Index, Urban Wage Earners and Clerical Workers (CPE-W), U.S. City Average, All Services, for the most recently published twelve months as published by the U.S. Department of Labor, Bureau of Labor Statistics. The base price to which any adjustments will be made shall be the prices in effect during the contract term prior to the proposed term
6. Separate purchase orders shall be issued incrementally as the scope of work develops.
7. All materials and methods shall conform to the Virginia Department of Transportation Road and Bridge Specifications, latest Edition, or as otherwise specified in this section.
8. Measurement and payment will be only for those items listed in the Bid Schedule. All other associated and required work will be considered incidental to the specific bid item.
9. The contractor and the project superintendent shall attend a preconstruction meeting with the Director of Public Works and the Superintendent of Streets prior to beginning any milling or paving operations. The contractor shall provide a traffic control plan ten days prior to this meeting for review and approval by the City.

10. Traffic control devices, and certified flagmen (all flagmen must possess the VDOT flagging certification) shall be provided and maintained by the contractor in accordance with all pertinent State and Federal safety guidelines.
11. Flagmen shall be used during milling and paving operations in accordance with the Virginia Work Area Protection Manual (WAPM). Flaggers shall be equipped in accordance with the same VAPM.
12. The contractor shall have a person certified in intermediate work zone safety on the job at all times. All of the work zones set up for both milling and paving operations shall conform to the Virginia Work Area Protection Manual.
13. Limestone aggregate or granite greenstone shall be used in all mixes and the City will specify which aggregate to be used.
14. The contractor shall condition the existing street surface by any combination of milling and profile scratching as directed by the City. The mix design used for profile scratching shall be determined by the City based on the depth of the scratch coat. The pavement overlay shall not be laid down until the City has approved the surface conditioning.
15. The finish surface tolerance shall be $\frac{1}{4}$ ", including tie-ins to street structures, including manhole covers, valve boxes, centerline monuments, and grate drop inlets. This shall be accomplished by any combination of milling, feathering, or installation by the contractor of City supplied paving rings. The contractor shall not be required to make structural adjustment of any structure. Final tolerance compliance is the contractor's responsibility.
16. The contractor shall clean each manhole cover and valve box of asphalt material and remove and replace the lid.
17. The contractor shall sweep all milling debris from the streets and adjacent sidewalks as the work progresses to the satisfaction of the City.
18. The contractor shall take provisions to protect adjacent surfaces from discoloration from tar and be responsible for cleaning any discoloration.
19. The contractor shall replace existing asphalt berms as directed by the City. Method of replacement shall be a paver screed gate. Berms shall be reconstructed /overlaid bituminous with the paving operation. There is no separate payment.
20. Joints shall be cut to provide a smooth transition into existing pavement at the end of each overlay and into all paved driveways and entrances.
21. All longitudinal seams shall be along the centerline or other lane separation.
22. The City will install all permanent lane markings however the contractor may be required to do so at the discretion of the City.
23. The contractor shall coordinate with the City to provide the time and all necessary traffic control for the City to install new/replacement signal detection loops.
24. Paving and milling operations are limited to between the hours of 7:00 a.m. and 7:00 p.m. Operations on arterial streets are limited to between the hours of 9:00 a.m. and 4:00 p.m. however both the paving and milling operations may be performed after the above hours by the request of the City or by the contractors request with approval by the City.

25. All milled streets shall be overlaid within ten calendar days of the milling operation.
26. The contractor shall coordinate with the Department of Public Works and Superintendent of Streets, on the repair of existing potholes and the reworking of existing insufficient surface and base prior to beginning work at a location. The Superintendent of Streets shall have potholes repaired and base reworked by City crews.
27. The contractor shall broom sweep all surfaces with a rotary type broom before applying tack.
28. Tie-in into curb and gutter shall have a tolerance of ¼” and shall be accomplished by pre-overlay milling. Shoulders shall not have a drop off greater than 1.5”. The contractor shall reconstruct shoulders with 21A aggregate within ten calendar days of the paving operation.
29. Mobilization shall be paid for each individual purchase order issued by the City based on the bid price.
30. All asphalt concrete pavement mixes shall be produced in a VDOT certified plant. Tests shall be conducted on all mixes every 500 tons produced. Each test shall meet or exceed VDOT specifications for the mix being produced. All test results are to be provided to the City.
31. The contractor shall have a written drug policy in place and enforced as written.
32. Temporary pavement devices (“TOMS”) shall be used at all locations where existing markings have been removed or covered by new pavement. The markings shall stay in place until the permanent markings are restored.
33. The contractor shall be able to respond to emergency situations within 12 hours of notification by the City.
34. The City reserves the right to request a portion of the material produced from the milling operation to be hauled to the Public Works Facility for storage and use by the City.
35. Paving Schedule
There is no published paving schedule at this time. Annual quantities are estimated. General questions regarding expected streets to be paved shall be directed to the Mr. Jeff Johnston, Director of Public Works, at johnstonjm@ci.staunton.va.us .

CONTRACT

THIS CONTRACT, dated this _____ day of _____, **2024**, for identification, is made by and between the **CITY OF STAUNTON, VIRGINIA** (the “OWNER”), a municipal corporation of the Commonwealth of Virginia acting by and through its City Manager, and _____ (the “CONTRACTOR”), a Virginia Corporation licensed and registered to do business in the Commonwealth of Virginia, (SCC # _____).

WITNESSETH: That for and in consideration of the payments and contract hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

PROJECT: ANNUAL PAVING

Hereafter called the **PROJECT**, for a sum not to exceed _____ under the terms of the contract documents.

For said price, the CONTRACTOR is to furnish all materials, labor, superintendence, equipment, tools, machinery, and other accessories and services necessary to complete the said PROJECT.

The Contract Documents, which comprise the entire CONTRACT between OWNER and CONTRACTOR, consist of the following:

- 1. This Contract**
- 2. Invitation to Bid**
- 3. Information for Bidders**
- 4. Bid Forms and Addenda**
- 5. General Conditions**
- 6. Special Conditions**
- 7. Procurement Guidelines**
- 8. Vendor References Form**
- 9. Performance and Payment Bonds**
- 10. Certification of Interest & Relationships with City of Staunton, Staunton City Council, School Board, and Staunton Public School Employees**
- 11. State Corporation Commission Form**

Said documents are those prepared by the CITY Public Works Department or their assigned representative for the specific PROJECT.

The CITY agrees to make payment to the CONTRACTOR in accordance with the General Conditions and for the price specified in the bid for work completed.

OWNER and CONTRACTOR stipulate that **TIME IS OF THE ESSENCE** and that delay by the CONTRACTOR in completion would have significant adverse consequences for the PROJECT; that, however, the actual damages to OWNER from such delay are uncertain and would be impossible and not susceptible to reasonable determination; and that liquidated damages of such failure by CONTRACTOR to perform in a timely manner are a reasonable way and not a penalty to address such adverse consequences. CONTRACTOR also stipulates that it shall not challenge, either directly or indirectly, this liquidated damages provision. OWNER, therefore, may require CONTRACTOR to pay liquidated damages of in the total amount of **\$300.00** per day for the CONTRACTOR's failure to perform timely in strict accordance with the CONTRACT.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions as provided in the Proposal and to make payments on account thereof as provided in the General Conditions, Special Conditions, and Procurement Guidelines.

IN WITNESS WHEREOF, the parties to these presents have executed this contract, in the year and day first above mentioned.

Department Director Initials

Director of Finance Initials

Approved as to Legality and Form:

City Attorney

Secretary

Witness

City Manager or Authorized Representative

Contractor (Seal)

By: _____

Title

Address

NOTE: Secretary of the CITY should attest. If CONTRACTOR is a corporation, Secretary should attest.

PROCUREMENT GUIDELINES

A. CHARGES AND PAYMENTS

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 purchase order number.
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after satisfactory 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 the contract, which are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency 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, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 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 Staunton 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 City of Staunton of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).

2. Payment to Subcontractors:

- a. An offeror awarded a contract under this solicitation is hereby obligated:
- b. To pay the subcontractor(s) within thirty (30) days of the offeror's receipt of payment from the City of Staunton for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
- c. To notify the agency and the subcontractor(s), in writing, of the offeror's intention to withhold payment and the reason.
- d. The offeror 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 offeror that remain unpaid thirty (30) days following receipt of payment from the City of Staunton, 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. An offeror's obligation to

pay an interest charge to a subcontractor may not be construed to be an obligation of the City of Staunton.

B. TESTING AND INSPECTION

The City of Staunton reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

C. ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the offeror in whole or in part without the written consent of the City of Staunton.

D. DEFAULT

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

E. TAXES

Sales to the City of Staunton are exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, as the City of Staunton determines appropriate. Any deliveries under this contract shall be free of Federal excise and transportation taxes.

F. INDEMNIFICATION

The Offeror agrees to indemnify, defend, and hold harmless the City of Staunton and its Council members, officers, directors, agents and employees against any and all claims, liabilities, losses, damages, costs and expenses (including reasonable attorney fees) arising out of, or resulting from any and all injuries to persons or damage to property or intellectual infringement claim arising out of services performed hereunder or by reason of the intentional or negligent acts or omissions of the Offeror, its employees, agents or sub-contractors, including any independent contractors. The provisions of this section shall survive the completion, terminations or expiration of the contract.

G. LIABILITY AND LITIGATION

The City shall not indemnify or hold harmless any contractor or other third party. The City does not waive any right or release any party from liability, whether on its own behalf or on behalf of any boards, employees or agents. The City does not waive the right to trial by jury for any cause of action arising from the Contract and shall not submit any Contract claim to binding arbitration or mediation. The City shall not be liable to contractor for any special, punitive or exemplary damages arising from the performance of the contract, including, but not limited to, incidental damages, and lost profit and lost wages, even if such special damages are reasonably foreseeable. Any provision(s) in the Contract contrary to these statements is/are hereby deleted and rendered void.

H. COPYRIGHTS

The Offeror hired pursuant to this contract is prohibited from copyrighting any papers, interim reports, forms, or other materials resulting from performance under this agreement, without the written permission of the Purchasing Agency. Data and their analysis, forms, and images gathered or developed during

fulfillment of this contract may be used by the Offeror in subsequent copyrighted publications, provided the copyrights do not in any way restrict or limit the Purchasing Agency's ownership, use, or distribution of said information, forms, or images.

I. AWARDING THE CONTRACT

The award of a contract shall be determined in the sole discretion of the City based upon evaluation of all information as the City may request. The City reserves the right to waive any informality in bids submitted in response to this Invitation to Bid when such waiver is in the best interest of the City.

The City of Staunton shall endeavor to award the contract within thirty (30) days from receipt of bids. Notice of award will be posted on the City Web Site at <http://www.staunton.va.us/solicitation-results>

J. PUBLIC INSPECTION OF PROCUREMENT RECORDS

1. Bids submitted shall be subject to public inspection only in accordance with Section 2.2-4342 of the Code of Virginia, which reads, in essence, as follows:
2. Public inspection of certain records:
 - a. Except as provided in this section, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.
 - b. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
 - c. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the evaluation and negotiations of bids are completed but prior to award, except in the event that the City decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.
 - d. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
 - e. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall
 - i) invoke the protections of this section prior to or upon submission of the data or other materials,
 - ii) identify the data or other materials to be protected, and
 - iii) state the reasons why protection is necessary.

Bidder may not invoke this protection on the entire bid – only on those sections or data which are considered trade secrets or proprietary.

K. ETHICS IN PUBLIC CONTRACTING

By submitting their bid, all offerors certify that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or sub-contractor in connection with their bid, 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.

L. FORUM SELECTION

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without reference to conflict of laws principles or rules of construction. Any action, proceeding, or claim in any way related to this agreement or the relationship between the parties shall be filed and maintained solely in the General District Court or the Circuit Court of the City of Staunton, Virginia.

M. PROMPT PAYMENT ACT

Any contract awarded as a result of this Invitation to Bid shall incorporate the terms and conditions of Article 4 of the Virginia Public Procurement Act with respect to Prompt Payment.

N. REJECTION OF BIDS

The City reserves the right, at any time prior to award of the contract, to reject any and all bids, or any part thereof, to make no award, and/or to issue a new Invitation to Bid, or make modifications, corrections of additions to the information contained herein.

Offerors are cautioned this is an Invitation to Bid, NOT a request to contract.

O. COSTS FOR BID PREPARATION

Any costs incurred by offerors in preparing or submitting bids are the offeror's sole responsibility; the City will not reimburse any offeror for any costs incurred as a result of the preparation of this Invitation to Bid.

P. APPROPRIATIONS

The obligations of the City of Staunton are subject to and contingent upon annual appropriation by City Council of sufficient funds for the purposes of this contract. In the absence of such annual appropriation, either the City of Staunton or offeror may terminate the contract by giving not less than ten (10) days prior notice to the other, specifying this reason for the termination, and upon effective termination pursuant to this provision, any compensation due shall be equitably adjusted by mutual agreement.

Q. CONTRACTOR REGISTRATION

If a contract is for construction, removal, repair, or improvement of a building or other real property, bidders, whether residents or nonresidents of Virginia, will be required to show evidence of a certificate or registration as required by Chapter 7 of Title 54 of the Code of Virginia before their Bids will be considered. If a Bid is \$120,000 or more, or if the Contractor's annual volume is \$750,000 or more, the Contractor must be licensed as a "Class A Contractor." If a Bid is \$7,500 or more but less than \$120,000, the Contractor must be licensed as at least a "Class B Contractor". If a Bid is \$1,000 or more but less than \$7,500, the Contractor must be licensed as at least a "Class C Contractor". The Bidder shall place license on the outside of the envelope containing the Bid and shall place license in the Bid, at the place provided, whichever of the following notations is appropriate:

Licensed Class A Virginia Contractor No. _____

Licensed Class B Virginia Contractor No. _____

Licensed Class C Virginia Contractor No. _____

Contract is less than \$1,000 therefore licensure is not required.

R. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid the identification number issued to it by the State Corporation Commission (SCC). **(Attachment E)**

Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid a statement describing why the bidder or offeror is not required to be so authorized. Link to the Virginia State Corporation Commission site: (<http://www.scc.virginia.gov/>).

S. ANTITRUST

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City 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 under said contract.

T. QUALIFICATIONS OF (BIDDERS/OFFERORS)

The City 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 all such information and data for this purpose as may be requested. The City 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 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 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.

U. CANCELLATION OF THE CONTRACT

The City may terminate any agreement resulting from this solicitation at any time, for any reason or for no reason, upon thirty days advance written notice to the contractor. In the event of such termination the contractor shall be compensated for services and work performed prior to termination.

V. AVAILABILITY OF FUNDS

Agreements are made subject to the appropriation of funds by the Staunton City Council and are null and void in the event of non-appropriation by the City Council. Non-appropriation of funds shall not be deemed a cancellation and shall terminate this agreement without recourse and with no liability on the part of the City.

W. SELECTION PROCESS/AWARD

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the department will publicly post such notice for a minimum of ten (10) days, or will notify all responsive bidders/offerors.

X. SAFETY AND OSHA STANDARDS

All parties performing services for the City shall comply with all Occupational Safety and Health Administration (OSHA), State Occupational Health Standards, and any other applicable rules and regulations. All parties shall be held responsible for the training, supervision, and safety of their employees. Any unsafe acts or hazardous conditions that may cause injury or damage to any persons or property within and around the work site areas under this contract shall be remedied per the regulatory agency's guidelines.

Y. MODIFICATION & WITHDRAWAL OF BID

An offeror may modify or withdraw his bid, either personally or by written request, at any time prior to the scheduled time for opening of bids. After bid opening, Code of Virginia 2.2-4330 B. 1. shall apply: "The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice."

Z. CONTRACT TERM

The Offeror whose Bid is found to be the most advantageous to the City will be offered the opportunity to enter into an Agreement with the City. The scope, terms, and conditions of that Agreement shall be in substantial conformance with the terms, conditions, and specifications described in this Invitation to Bid.

If, through any cause, the contractor shall fail to fulfill in a timely and proper manner the obligations agreed to, the City shall have the right to terminate the contract by specifying the date of termination in a written notice to the contractor at least thirty (30) days prior to the termination date. The City may terminate this contract without cause in the event funds are not appropriated the City of Staunton.

Part of the consideration will be the capability of the Offeror to immediately begin work and meet the proposed timetable above.

The City reserves the right to negotiate the Agreement, to include any portion or portions of the services covered by this Invitation to Bid, and to reject any and all Bids in total or by components.

The contractor shall not assign or transfer any interest in the contract without prior written consent of the City.

AA. COMPENSATION AND RECORD KEEPING

Total compensation for services will be negotiated between the City and the successful Offeror. The City retains the right to terminate contract negotiations if insufficient progress is being made to establish contract terms. The Offeror selected will be paid on a percentage of progress completed basis, as provided for in the contract or lump sum at completion or project. The contract will be written on a "cost not to exceed" basis. Records are to be kept by the Offeror in such detail as to properly reflect all direct or indirect costs of labor and material for which payment will be claimed.

BB. PAYMENT

Appropriate personnel will make payment for all completed work only after final approval and acceptability of the work completed.

CC. BID BOND

If required, the Bid Bond shall be in the amount of 5% and shall be submitted on the City of Staunton's Bid Bond form (Attachment A) provided in this bid package.

DD. PERFORMANCE AND PAYMENT BONDS

If required, successful contractor agrees to provide a performance bond (Attachment B) and a payment bond (Attachment C) for any contract signed which exceeds \$50,000. When required, performance bonds and payment bonds shall be submitted on the City of Staunton's bond forms provided in this bid package (Attachment B and Attachment C).

EE. BID ADDENDA

Prior to submitting their bid, it is the bidder's responsibility to check the City web-site for any addenda associated with this Invitation for Bid.

FF. INSURANCE REQUIREMENTS

Prior to contract award, the Contractor shall furnish certificates of General Liability, Vehicle Liability, and Worker's Compensation Insurance in amounts not less than \$2,000,000, \$1,000,000, and \$1,000,000 respectively, to the City. All insurance coverages shall be written by companies licensed to do business in Virginia and shall be administered by a Virginia registered agent. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the City."

GG. CONTRACT TERMINATION

This contract will not be awarded to any vendor who has had a previous contract with the City of Staunton terminated for substantial non-compliance within the last three (3) years.

HH. DEBARMENT STATUS

By submitting their bids/proposals, all bidders or offerors certify that they are not currently debarred from submitting bids or proposals on contracts by any public body of the Commonwealth of Virginia, nor are they an agent of any person or entity that is currently debarred from submitting bids on contracts by any public body of the Commonwealth of Virginia.

II. CONTRACTOR UNDERSTANDING

It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and locations of the work, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions and all other matters which in any way effect the work under this contract. No verbal agreement or conversation with any officer, agent or employee of the City either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.

JJ. DRUG-FREE WORKPLACE

During the performance of this contract, the contractor agrees to:

1. provide a drug-free workplace for the contractor's employees;
2. post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, 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;
3. 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 include the provisions of

the foregoing clauses in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

KK. 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, sexual orientation, gender identity, 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.

LL. ANTI-DISCRIMINATION:

By submitting their (bids/proposals), (bidders/offerors) certify to the City of Staunton 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 sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 the requirements of this section.
- d.** If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees

providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.

f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.

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.

a. 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.

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

The contractor will include the provisions of the foregoing paragraphs 1 and 2 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

MM. PERMITS AND LICENSES

Any required City permits must be obtained by the contractor but will be provided at no cost. The successful contractor must obtain at his/her own expense, the required business license from the City of Staunton, Commissioner of Revenue's Office prior to beginning work. All equipment and/or installation must meet all applicable local, State, and Federal codes.

NN. NEGOTIATION WITH SUCCESSFUL BIDDER

The City reserves the right to negotiate contract terms with the successful offeror for items/services other than those specifically stated in this IFB in the best interest of the City and agreed to by the contractor, in accordance with § 2.2-4318 of the Code of Virginia. Additional work of reasonable scale shall be priced consistent with bid to allow for additions and future expansions.

OO. COOPERATIVE PROCUREMENT

This procurement is being conducted on behalf of other public bodies, in accordance with § 2.2-4304 (A) of the Code of Virginia. If authorized by the bidder, the resultant contract may be extended to any public body in the Commonwealth of Virginia in accordance with contract terms.

PP. IMMIGRATION REFORM AND CONTROL ACT OF 1986

During the performance of this contract, contractor agrees that they will not, and shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986. (per 2.2-4311.1)

QQ. CERTIFICATION OF INTEREST & RELATIONSHIPS WITH CITY OF STAUNTON, STAUNTON CITY COUNCIL, SCHOOL BOARD, AND STAUNTON PUBLIC SCHOOL EMPLOYEES

The extent that either Contractor or any of Contractor's officers, directors, or executive employees, maintains a financial or familial relationship with any person acting for, or employed by, the City of Staunton, Staunton City Council, School Board or Staunton Public Schools, Contractor shall reveal such relationships. In accordance with this paragraph, Contractor shall execute the certification attached hereto as **(Attachment D)** and submit the certification contemporaneously with the executed Contract.

RR. CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (IF APPLICABLE)

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

1. Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by *41 U.S.C. 1908*, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.
 - a. **Termination for Convenience.** Contract is terminated due to reasons known to COS, i.e., program changes, changes in state-of-the art equipment or technology, insufficient funding, etc. Termination is utilized when the contractor is not in violation of the contract terms and conditions.
 - b. **Termination for Cause.** Contract is terminated due to actions by the contractor, i.e., failure to perform, financial difficulty, slipped schedules, etc. In certain instances, termination settlement may include re-procurement costs to be paid by the contractor.
3. Equal Employment Opportunity. Except as otherwise provided under *41 CFR Part 60*, all contracts that meet the definition of "federally assisted construction contract" in *41 CFR Part 60-1.3* must include the equal opportunity clause provided under *41 CFR 60-1.4(b)*, in accordance with Executive Order 11246, "Equal Employment Opportunity" (*30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339*), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at *41 CFR part 60*, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
4. Davis-Bacon Act, as amended (*40 U.S.C. 3141-3148*). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (*40 U.S.C. 3141-3144*, and

3146-3148) as supplemented by Department of Labor regulations (29 *CFR Part 5*, “*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 *CFR Part 3*, “*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 *CFR Part 5*). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 *CFR § 401.2 (a)* and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 *CFR Part 401*, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7675) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1388), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7675) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

8. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (*see 2 CFR 180.220*) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at *2 CFR 180* that implement Executive Orders 12549 (*3 CFR part 1986 Comp., p. 189*) and 12689 (*3 CFR part 1989 Comp., p. 235*), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment (*31 U.S.C. 1352*) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by *31 U.S.C. 1352*. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
10. §200-323 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at *40 CFR part 247* that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
11. To the extent that a procurement award or transaction for goods or services under this purchase order or other contract is funded with federal funds under American Rescue Plan Act (ARPA), the successful bidder or proposer or awardee must comply with the federal domestic preference for procurements requirements of the federal regulations prescribed in Section 200.322 of Title 2 of the Code of Federal Regulations (CFR). The successful bidder or proposer or awardee certifies that any contracts, as well as any subcontracts, shall include this requirement, which mandates that to the greatest extent practicable there shall be a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Definition of the terms “produced in the United States” and “manufactured products” may be found in the CFRS at: Electronic Code of Federal Regulations (eCFR) or successor url. And to the extent not in compliance with such requirements, the successful bidder or proposer or awardee shall indemnify, defend and hold harmless the City of Staunton, to the fullest extent permitted by law
12. § 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.
 - a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 1. Procure or obtain;

2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See Public Law 115-232, section 889 for additional information.
- d. See also § 200.471.

VENDOR REFERENCES FORM

Note: The following information is required as part of your response to this solicitation. Failure to complete and provide this sheet may result in finding your bid nonresponsive.

- 1) Qualification: The vendor must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

- 2) Vendor's Primary Contact:

Name: _____ Phone: _____

- 3) Years in Business: Indicate the length of time you have been in business providing this type of good or service:

_____ Years _____ Months

- 4) Vendor Information:

Vendor SCC Registration #: _____

- 5) Indicate below a listing of at least four (4) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods. Include the length of service and the name, address, and telephone number of the point of contact.

A. Company: _____ Contact: _____
Phone: () _____ E-Mail: _____
Project: _____
Dates of Service: _____ \$ Value: _____

B. Company: _____ Contact: _____
Phone: () _____ E-Mail: _____
Project: _____
Dates of Service: _____ \$ Value: _____

Continued on next page.

VENDOR REFERENCES FORM

(Cont.)

C.	Company:	_____	Contact:	_____
	Phone:	()	E-Mail:	_____
	Project:	_____		
	Dates of	_____		
	Service:	_____	\$ Value:	_____
D.	Company:	_____	Contact:	_____
	Phone:	()	E-Mail:	_____
	Project:	_____		
	Dates of	_____		
	Service:	_____	\$ Value:	_____

I certify the accuracy of this information.

Signed: _____ Title: _____ Date: _____

ATTACHMENT A**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

_____ as Principal, and
_____ as Surety, are hereby held and firmly
bound unto _____ as Owner in the penal sum of _____
_____ for the payment of which, well and truly to be
made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors
and assigns.

Signed, this _____ day of _____ 2024

The condition of the above obligation is such that whereas the Principal has submitted to
_____ a certain bid attached hereto
and hereby made a part of hereof to enter into a contract in writing, for the _____

NOW THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The surety for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)
Principal

Surety

By: _____

Seal

**ATTACHMENT B
PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: that _____

(Insert full name or legal title and address of Contractor)

as Principal, hereinafter called Contractor,

and _____

(Insert full name or legal title and address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto _____

(Insert Name and Address of Owner)

as Obligee in the amount of: _____ dollars (\$ _____)
(Insert sum equal to contract price in both words and figures)

for the payment where of Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____, 2024,
entered into a Contract with Owner for:

Staunton, Virginia
(Insert name or description and location of project)

in accordance with Drawings and Specifications as prepared by:

(Insert full name or legal title and address)

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 Contractor shall promptly and faithfully perform said Contract, in strict conformity with the Drawings, Specifications and Contract Documents, then this obligation shall be null and void. Otherwise, it shall remain in full force and effect for one (1) year after completion of all work:

- a. The Surety hereby waives notice of any alternation or extension of time made by the Owner.
- b. Any suit under this bond must be instituted, (1) before the expiration of one (1) year after completion of the Contract including the expiration of all warranties and guarantees, or (2) before the expiration of one (1) year after a defect or breach of warranty is discovered, if the action be for such.
- c. 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 successors or assigns of Owner and every action brought hereon shall be filed and maintained solely in the General District Court or the Circuit Court of the City of Staunton, Virginia.

SIGNED AND SEALED THIS _____ day of _____, 2024

In the presence of:

PRINCIPAL (SEAL)

WITNESS

BY TITLE

SURETY

WITNESS

BY TITLE

Surety: (Attach power of attorney)

CONTRACTOR'S PERFORMANCE BOND
Project: _____

ATTACHMENT C**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

that _____

(Insert full name or legal title and address of Contractor)

as Principal, hereinafter called Contractor,

and _____

(Insert full name or legal title and address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto

(Insert full name or legal title and address of Owner)

as Obligee for the use and benefit of claimants as herein below defined in the amount of: _____
_____ (\$_____).
(Insert sum equal to contract price in both words and figures)

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____, 2024,
entered into a Contract with Owner for:

(Insert name or description and location of project)

in accordance with Drawings and Specifications as prepared by: _____

(Insert full name or legal title and address)

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 materials used or reasonable required for use in the performance of the Contract, then this obligation shall be void. Otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

- a. A Claimant is defined as one having a direct contract with the Contractor 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.
- b. The above-named Contractor 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 of labor was done or performed, or materials were furnished by such claimant, may sue on this bond, prosecute the suit to final judgment for such sum or sums as many 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.
- c. Any suit or action hereunder by any claimant:
 1. Shall not be commenced after the expiration of one (1) year following the date on which the claimant last performed labor or last supplied materials.
 2. Shall be filed and maintained solely in the General District Court or the Circuit Court of the City of Staunton, Virginia.

SIGNED AND SEALED THIS _____ day of _____, 2024,
in the presence of:

_____(SEAL)
PRINCIPAL

WITNESS

BY _____
TITLE

_____(SEAL)
SURETY

WITNESS

BY _____
TITLE

Surety:
(Attach power of attorney)

CONTRACTOR'S LABOR AND MATERIAL
PAYMENT BOND
Project _____

ATTACHMENT D

**CERTIFICATION OF INTEREST & RELATIONSHIPS
WITH CITY OF STAUNTON, STAUNTON CITY COUNCIL,
SCHOOL BOARD AND STAUNTON PUBLIC SCHOOL EMPLOYEES**

Contractor hereby certifies that neither Contractor, nor any of Contractor's officers, directors, or executive employees maintain a financial or familial relationship with any person acting for, or employed by, the City of Staunton, Staunton City Council, School Board, or Staunton Public Schools (City Employee).

To the extent that such relationships exist, Contractor shall reveal the relationship below by describing the nature of the relationship and identifying the person with whom such relationship exists.

- ☐ Neither Contractor nor any of its officers, directors, or executive employees maintain a financial or familial relationship with any person acting for, or employed by, the City of Staunton, Staunton City Council, School Board, or Staunton Public Schools.
- ☐ The following individuals currently maintain a **financial** relationship with Contractor.

City Employee's Name: _____

Position with City: _____

Nature of Relationship: _____

- ☐ The following individuals currently maintain a **familial** relationship with Contractor.

City Employee's Name: _____

Position with City: _____

Nature of Relationship: _____

Contractor

Date

By: _____

Name: _____

Title: _____

ATTACHMENT E
STATE CORPORATION COMMISSION FORM

Virginia State Corporation Commission (“SCC”) registration information:

The undersigned Offeror:

- ☐ is a corporation or other business entity with the following SCC identification number:
_____ -OR-
- ☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust -OR-
- ☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) -OR-
- ☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia. Attach opinion of legal counsel to this form.

****NOTE** Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):**

Signature: _____ Date: _____

Name: _____

Title:

Name of Firm:

****This document must be completed & returned with bid submission.****

END OF STATE CORPORATION COMMISSION FORM